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### 19 CFR Part 4

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### 33 CFR Part 27

### Transportation Security Administration

### 49 CFR Part 1503

RIN 1601-AA80

### Civil Monetary Penalty Adjustments for Inflation

**AGENCY:** Department of Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** In this final rule, the Department of Homeland Security (DHS) is making the 2019 annual inflation adjustment to its civil monetary penalties. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act) was signed into law on November 2, 2015. Pursuant to the 2015 Act, all agencies must adjust civil monetary penalties annually and publish the adjustment in the **Federal Register**. Accordingly, this final rule adjusts DHS's civil monetary penalties for 2019 pursuant to the 2015 Act and OMB guidance. The new penalties will be effective for penalties assessed after April 5, 2019 whose associated violations occurred after November 2, 2015.

**DATES:** This rule is effective on April 5, 2019.

**FOR FURTHER INFORMATION CONTACT:**

Megan Westmoreland, Attorney-Advisor, Office of the General Counsel,

U.S. Department of Homeland Security.  
Phone: 202-447-4384.

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**I. Statutory and Regulatory Background**

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114-74 section 701 (Nov. 2, 2015)) (2015 Act).<sup>1</sup> The 2015 Act amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note) to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The 2015 Act required agencies to: (1) Adjust the level of civil monetary penalties with an initial “catch-up” adjustment through issuance of an Interim Final Rule (IFR) and (2) make subsequent annual adjustments for inflation. Through the “catch-up” adjustment, agencies were required to adjust the maximum amounts of civil monetary penalties to more accurately reflect inflation rates.

For the subsequent annual adjustments, the 2015 Act requires agencies to increase the penalty amounts by a cost-of-living adjustment. The 2015 Act directs OMB to provide guidance to agencies each year to assist agencies in making the annual adjustments. The 2015 Act requires agencies to make the annual adjustments no later than January 15 of each year and to publish the adjustments in the **Federal Register**.

Pursuant to the 2015 Act, DHS undertook a review of the civil penalties that DHS and its components

administer.<sup>2</sup> On July 1, 2016, DHS published an IFR adjusting the maximum civil monetary penalties with an initial “catch-up” adjustment, as required by the 2015 Act.<sup>3</sup> DHS calculated the adjusted penalties based upon nondiscretionary provisions in the 2015 Act and upon guidance that OMB issued to agencies on February 24, 2016.<sup>4</sup> The adjusted penalties were effective for civil penalties assessed after August 1, 2016 (the effective date of the IFR) whose associated violations occurred after November 2, 2015 (the date of enactment of the 2015 Act). On January 27, 2017, DHS published a final rule finalizing the IFR and making the annual adjustment for 2017.<sup>5</sup> DHS made the 2018 annual inflation adjustment on April 2, 2018.<sup>6</sup>

**II. Overview of the Final Rule**

This final rule makes the 2019 annual inflation adjustments to civil monetary penalties pursuant to the 2015 Act and pursuant to guidance OMB issued to agencies on December 14, 2018.<sup>7</sup> The penalty amounts in this final rule will be effective for penalties assessed after April 5, 2019 where the associated violation occurred after November 2, 2015. Consistent with OMB guidance, the 2015 Act does not change previously assessed penalties that the agency is actively collecting or has collected.

The adjusted penalty amounts will apply to penalties assessed after the effective date of this final rule. We discuss civil penalties by DHS component in Section III below. For

<sup>2</sup> The 2015 Act applies to all agency civil penalties except for any penalty (including any addition to tax and additional amount) under the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*) and the Tariff Act of 1930 (19 U.S.C. 1202 *et seq.*). See sec. 4(a)(1) of the 2015 Act. In the case of DHS, several civil penalties that are assessed by U.S. Customs and Border Protection (CBP) and the U.S. Coast Guard fall under the Tariff Act of 1930, and thus DHS did not adjust those civil penalties in this rulemaking.

<sup>3</sup> See 81 FR 42987.

<sup>4</sup> OMB, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Table A, 24 February 2016. <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2016/m-16-06.pdf> (last accessed Dec. 5, 2017).

<sup>5</sup> See 82 FR 8572.

<sup>6</sup> See 83 FR 13826.

<sup>7</sup> OMB Memorandum M-19-04, Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 14, 2018. Available at [https://www.whitehouse.gov/wp-content/uploads/2017/11/m\\_19\\_04.pdf](https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf).

<sup>1</sup> The 2015 Act was enacted as part of the Bipartisan Budget Act of 2015, Public Law 114-74 (Nov. 2, 2015).

each component identified in Section III, below, we briefly describe the relevant civil penalty (or penalties), and we provide a table showing the increase in the penalties for 2019. In the table for each component, we show (1) the penalty name, (2) the penalty statutory and/or regulatory citation, (3) the penalty amount as adjusted in the 2017 final rule, (4) the cost-of-living adjustment multiplier for 2019 that OMB provided in its December 14, 2018 guidance, and (5) the new 2019 adjusted penalty. The 2015 Act instructs agencies to round penalties to the nearest \$1. For a more complete discussion of the method used for calculating the initial “catch-up” inflation adjustments and a

component-by-component breakdown to the nature of the civil penalties and relevant legal authorities, please see the IFR preamble at 81 FR 42987–43000.

**III. Adjustments by Component**

In the following sections, we briefly describe the civil penalties that DHS and its components assess. We include tables at the end of each section, which list the individual adjustments for each penalty.

*A. Cybersecurity and Infrastructure Security Agency*

The Cybersecurity and Infrastructure Security Agency (CISA) (formerly the National Protection and Programs

Directorate (NPPD))<sup>8</sup> administers only one civil penalty that the 2015 Act affects. That penalty assesses fines for violations of the Chemical Facility Anti-Terrorism Standards (CFATS). CFATS is a program that regulates the security of chemical facilities that, in the discretion of the Secretary, present high levels of security risk. DHS established the CFATS program in 2007 pursuant to section 550 of the Department of Homeland Security Appropriations Act of 2007 (Pub. L. 109–295).<sup>9</sup> The CFATS regulation is located in part 27 of title 6 of the Code of Federal Regulations (CFR). Below is a table showing the 2019 adjustment for the CFATS penalty that CISA administers.

TABLE 1—CFATS CIVIL PENALTY ADJUSTMENT

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Penalty for non-compliance with CFATS regulations ..	6 U.S.C. 624(b)(1); 6 CFR 27.300(b)(3).	\$34,013 per day ....	1.02522	\$34,871

\* OMB Memorandum M–19–04, Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 14, 2018. [https://www.whitehouse.gov/wp-content/uploads/2017/11/m\\_19\\_04.pdf](https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf).

*B. U.S. Customs and Border Protection*

U.S. Customs and Border Protection (CBP) assesses civil monetary penalties under various titles of the United States Code and the CFR. These include penalties for certain violations of title 8 of the CFR regarding the Immigration and Nationality Act of 1952 (Pub. L. 82–414, as amended) (INA). The INA contains provisions that impose penalties on persons, including carriers and aliens, who violate specified provisions of the INA. The relevant penalty provisions are located in numerous sections of the INA, however CBP has enumerated these penalties in regulation in one location—8 CFR

280.53. For a complete list of the INA sections for which penalties are assessed, in addition to a brief description of each violation, see the IFR preamble at 81 FR 42989–42990.

On December 8, 2017, CBP adjusted three non-INA penalties inadvertently left out of the IFR and 2017 final rule.<sup>10</sup> The three penalties concerned the following violations: Transporting passengers between coastwise points in the United States by a non-coastwise qualified vessel; towing a vessel between coastwise points in the United States by a non-coastwise qualified vessel; and dealing in or using an empty stamped imported liquor container after it has already been used once. On

December 28, 2018, CBP adjusted two additional non-INA penalties inadvertently left out of the IFR and 2018 final rule.<sup>11</sup> The two penalties concern the following violations: Transporting passengers coastwise for hire by certain vessels (known as Bowaters vessels) that do not meet specified conditions; and employing a vessel in a trade without a required Certificate of Documentation. This final rule incorporates these penalties, in addition to the other CBP penalties, and adjusts them according to the 2019 multiplier.

Below is a table showing the 2019 adjustment for the penalties that CBP administers.

TABLE 2—U.S. CUSTOMS AND BORDER PROTECTION CIVIL PENALTIES ADJUSTMENTS

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Penalties for non-compliance with arrival and departure manifest requirements for passengers, crewmembers, or occupants transported on commercial vessels or aircraft arriving to or departing from the United States.	8 U.S.C. 1221(g); 8 CFR 280.53(b)(1) (INA section 231(g)).	\$1,360 .....	1.02522	\$1,394.

<sup>8</sup> On November 16, 2018, the Cybersecurity and Infrastructure Security Agency Act of 2018 (Pub. L. 115–278), was enacted to redesignate NPPD as CISA. Henceforth, CISA is the DHS operational component responsible for overseeing critical infrastructure protection, cybersecurity, and other related programs.

<sup>9</sup> Section 550 has since been superseded by the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014 (Pub. L. 113–254). The new legislation codified the statutory authority for the CFATS program within Title XXI of the Homeland Security Act of 2002, as amended. See 6 U.S.C. 621 *et seq.* Public Law 113–254 authorized the CFATS program from January 18, 2015 to

January 17, 2019. The Chemical Facility Anti-Terrorism Standards Program Extension Act (Pub. L. 116–2) extends the CFATS program authorization to April 17, 2020. DHS is adding these citations to the authority citation for part 27 of title 6 of the Code of Federal Regulations.

<sup>10</sup> See 82 FR 57821.

<sup>11</sup> See 83 FR 67069.

TABLE 2—U.S. CUSTOMS AND BORDER PROTECTION CIVIL PENALTIES ADJUSTMENTS—Continued

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier*	New penalty as adjusted by this final rule
Penalties for non-compliance with landing requirements at designated ports of entry for aircraft transporting aliens.	8 U.S.C. 1224; 8 CFR 280.53(b)(2); (INA section 234).	3,695 .....	1.02522	3,788.
Penalties for failure to depart voluntarily .....	8 U.S.C. 1229c(d); 8 CFR 280.53(b)(3) (INA section 240B(d)).	1,558–7,791 .....	1.02522	1,597–7,987.
Penalties for violations of removal orders relating to aliens transported on vessels or aircraft under section 241(d) of the INA, or for costs associated with removal under section 241(e) of the INA.	8 U.S.C. 1253(c)(1)(A); 8 CFR 280.53(b)(4); (INA section 243(c)(1)(A)).	3,116 .....	1.02522	3,195.
Penalties for failure to remove alien stowaways under section 241(d)(2) of the INA.	8 U.S.C. 1253(c)(1)(B); 8 CFR 280.53(b)(5) (INA section 243(c)(1)(B)).	7,791 .....	1.02522	7,987.
Penalties for failure to report an illegal landing or desertion of alien crewmen, and for each alien not reported on arrival or departure manifest or lists required in accordance with section 251 of the INA.	8 U.S.C. 1281(d); 8 CFR 280.53(b)(6); (INA section 251(d)).	369 for each alien ..	1.02522	378.
Penalties for use of alien crewmen for longshore work in violation of section 251(d) of the INA.	8 U.S.C. 1281(d); 8 CFR 280.53(b)(6); (INA section 251(d)).	9,239 .....	1.02522	9,472.
Penalties for failure to control, detain, or remove alien crewmen.	8 U.S.C. 1284(a); 8 CFR 280.53(b)(7) (INA section 254(a)).	924–5,543 .....	1.02522	947–5,683.
Penalties for employment on passenger vessels of aliens afflicted with certain disabilities.	8 U.S.C. 1285; 8 CFR 280.53(b)(8) (INA section 255).	1,848 .....	1.02522	1,895.
Penalties for discharge of alien crewmen .....	8 U.S.C. 1286; 8 CFR 280.53(b)(9) (INA section 256).	2,771–5,543 .....	1.02522	2,841–5,683.
Penalties for bringing into the United States alien crewmen with intent to evade immigration laws.	8 U.S.C. 1287; 8 CFR 280.53(b)(10); (INA section 257).	18,477 .....	1.02522	18,943.
Penalties for failure to prevent the unauthorized landing of aliens.	8 U.S.C. 1321(a); 8 CFR 280.53(b)(11) (INA section 271(a)).	5,543 .....	1.02522	5,683.
Penalties for bringing to the United States aliens subject to denial of admission on a health-related ground.	8 U.S.C. 1322(a); 8 CFR 280.53(b)(12) (INA section 272(a)).	5,543 .....	1.02522	5,683.
Penalties for bringing to the United States aliens without required documentation.	8 U.S.C. 1323(b); 8 CFR 280.53(b)(13) (INA section 273(b)).	5,543 .....	1.02522	5,683.
Penalties for failure to depart .....	8 U.S.C. 1324d; 8 CFR 280.53(b)(14) (INA section 274D).	779 .....	1.02522	799.
Penalties for improper entry .....	8 U.S.C. 1325(b); 8 CFR 280.53(b)(15) (INA section 275(b)).	78–390 .....	1.02522	80–400.
Penalty for dealing in or using empty stamped imported liquor containers.	19 U.S.C. 469 .....	518 .....	1.02522	*** 531.
Penalty for employing a vessel in a trade without a required Certificate of Documentation**.	19 U.S.C. 1706a; 19 CFR 4.80(i).	1296 .....	1.02522	1329.
Penalty for transporting passengers coastwise for hire by certain vessels (known as Bowaters vessels) that do not meet specified conditions**.	46 U.S.C. 12118(f)(3) .....	518 .....	1.02522	*** 531.
Penalty for transporting passengers between coastwise points in the United States by a non-coastwise qualified vessel.	46 U.S.C. 55103(b); 19 CFR 4.80(b)(2).	778 .....	1.02522	798.
Penalty for towing a vessel between coastwise points in the United States by a non-coastwise qualified vessel.	46 U.S.C. 55111(c); 19 CFR 4.92.	907–2852, plus 155 per ton.	1.02522	930–2,924, plus 159 per ton.

\* OMB Memorandum M–19–04, Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 14, 2018. [https://www.whitehouse.gov/wp-content/uploads/2017/11/m\\_19\\_04.pdf](https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf).

\*\* Adjustments made in the December 28, 2018 final rule, 83 FR 67069.

\*\*\* No applicable conforming edit to regulatory text.

*C. U.S. Immigration and Customs Enforcement*

U.S. Immigration and Customs Enforcement (ICE) assesses civil monetary penalties for certain employment-related violations arising from the INA. ICE's civil penalties are located in title 8 of the CFR.

There are three different sections in the INA that impose civil monetary penalties for violations of the laws that relate to employment actions: Sections 274A, 274B, and 274C. ICE has primary

enforcement responsibilities for two of these civil penalty provisions (sections 274A and 274C), and the Department of Justice (DOJ) has enforcement responsibilities for one of these civil penalty provisions (section 274B). The INA, in sections 274A and 274C, provides for imposition of civil penalties for various specified unlawful acts pertaining to the employment eligibility verification process (Form I-9, Employment Eligibility Verification), the employment of unauthorized aliens, and document fraud.

Because both DHS and DOJ implement the three employment-related penalty sections in the INA, both Departments' implementing regulations reflect the civil penalty amounts. For a complete description of the civil money penalties assessed and a discussion of DHS's and DOJ's efforts to update the penalties in years past, see the IFR preamble at 81 FR 42991. Below is a table showing the 2019 adjustment for the penalties that ICE administers.<sup>12</sup>

TABLE 3—U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT CIVIL PENALTIES ADJUSTMENTS

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Civil penalties for failure to depart voluntarily, INA section 240B(d).	8 U.S.C. 1229c(d); 8 CFR 280.53(b)(3).	\$1,558–\$7,791	1.02522	\$1,597–\$7,987
Civil penalties for violation of INA sections 274C(a)(1)–(a)(4), penalty for first offense.	8 CFR 270.3(b)(1)(ii)(A) ...	461–3,695	1.02522	473–3,788
Civil penalties for violation of INA sections 274C(a)(5)–(a)(6), penalty for first offense.	8 CFR 270.3(b)(1)(ii)(B) ...	390–3,116	1.02522	400–3,195
Civil penalties for violation of INA sections 274C(a)(1)–(a)(4), penalty for subsequent offenses.	8 CFR 270.3(b)(1)(ii)(C) ...	3,695–9,239	1.02522	3,788–9,472
Civil penalties for violation of INA sections 274C(a)(5)–(a)(6), penalty for subsequent offenses.	8 CFR 270.3(b)(1)(ii)(D) ...	3,116–7,791	1.02522	3,195–7,987
Violation/prohibition of indemnity bonds .....	8 CFR 274a.8(b) .....	2,236	1.02522	2,292
Civil penalties for knowingly hiring, recruiting, referral, or retention of unauthorized aliens—Penalty for first offense (per unauthorized alien).	8 CFR 274a.10(b)(1)(ii)(A)	559–4,473	1.02522	573–4,586
Penalty for second offense (per unauthorized alien) ...	8 CFR 274a.10(b)(1)(ii)(B)	4,473–11,181	1.02522	4,586–11,463
Penalty for third or subsequent offense (per unauthorized alien).	8 CFR 274a.10(b)(1)(ii)(C)	6,709–22,363	1.02522	6,878–22,927
Civil penalties for I–9 paperwork violations .....	8 CFR 274a.10(b)(2) .....	224–2,236	1.02522	230–2,292
Civil penalties for failure to depart, INA section 274D	8 U.S.C. 1324d; 8 CFR 280.53(b)(14).	779	1.02522	<sup>13</sup> 799

\* OMB Memorandum M–19–04, Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 14, 2018. [https://www.whitehouse.gov/wp-content/uploads/2017/11/m\\_19\\_04.pdf](https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf).

*D. U.S. Coast Guard*

The Coast Guard is authorized to assess close to 150 penalties involving maritime safety and security and environmental stewardship that are critical to the continued success of Coast Guard missions. Various statutes in titles 14, 16, 19, 33, 42, 46, and 49 of the United States Code authorize these penalties. Titles 33 and 46 authorize the vast majority of these penalties as these statutes deal with navigation, navigable waters, and shipping. Beyond titles 33 and 46, the Coast Guard is also authorized to collect civil monetary penalties related to the

organization and management of the Coast Guard, aquatic species conservation, obstruction of revenue, and hazardous substances and materials. For a complete discussion of the civil monetary penalties assessed by the Coast Guard, see the IFR preamble at 81 FR 42992.

The Coast Guard has identified the penalties it administers, adjusted those penalties for inflation, and is listing those new penalties in a table located in the CFR—specifically, Table 1 in 33 CFR 27.3. Table 1 in 33 CFR 27.3 identifies the statutes that provide the Coast Guard with civil monetary penalty authority and sets out the inflation-adjusted maximum penalty that the

Coast Guard may impose pursuant to each statutory provision. Table 1 in 33 CFR 27.3 provides the current maximum penalty for violations that occurred after November 2, 2015.<sup>14</sup>

The applicable civil penalty amounts for violations occurring on or before November 2, 2015 are set forth in previously published regulations amending 33 CFR part 27. To find the applicable penalty amount for a violation that occurred on or before November 2, 2015, look to the prior versions of the CFR that pertain to the date on which the violation occurred. Table 4 below shows the 2019 adjustment for the penalties that the Coast Guard administers.

<sup>12</sup> Table 3 also includes two civil penalties that are also listed as penalties administered by CBP. These are penalties for failure to depart voluntarily, INA section 240B(d), and failure to depart after a final order of removal, INA section 274D. Both CBP and ICE may administer these penalties, but as ICE is the DHS component primarily responsible for assessing and collecting them, they are also listed among the penalties ICE administers.

<sup>13</sup> As written prior to this final rule, the regulatory text at 8 CFR 280.53(b)(14) did not make clear that the amount stated is a maximum. The statutory authority for the penalty, 8 U.S.C. 1324d, is clear that the amount reflects a maximum penalty. Thus, consistent with the statutory authority, and to prevent any confusion, DHS is making a technical clarification with this final rule by adding the word “maximum” to paragraph (b)(14).

<sup>14</sup> The Frank LoBiondo Coast Guard Authorization Act of 2018 re-designated certain existing sections of the United States Code, including 14 U.S.C. 88 (now 14 U.S.C. 521) and 33 U.S.C. 1232 and 1236 (now 46 U.S.C. 70036 and 70041). The revised table reflects those changes to the statutory citations.

TABLE 4—U.S. COAST GUARD CIVIL PENALTIES ADJUSTMENTS

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Saving Life and Property .....	14 U.S.C. 521(c) .....	\$10,389	1.02522	\$10,651
Saving Life and Property; Intentional Interference with Broadcast.	14 U.S.C. 521(e) .....	1,066	1.02522	1,093
Confidentiality of Medical Quality Assurance Records (first offense).	14 U.S.C. 645(i); 33 CFR 27.3.	5,218	1.02522	5,350
Confidentiality of Medical Quality Assurance Records (subsequent offenses).	14 U.S.C. 645(i); 33 CFR 27.3.	34,791	1.02522	35,668
Aquatic Nuisance Species in Waters of the United States.	16 U.S.C. 4711(g)(1); 33 CFR 27.3.	38,954	1.02522	39,936
Obstruction of Revenue Officers by Masters of Vessels.	19 U.S.C. 70; 33 CFR 27.3.	7,779	1.02522	7,975
Obstruction of Revenue Officers by Masters of Vessels—Minimum Penalty.	19 U.S.C. 70; 33 CFR 27.3.	1,815	1.02522	1,861
Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge.	19 U.S.C. 1581(d) .....	** 5,000	N/A	** 5,000
Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge—Minimum Penalty.	19 U.S.C. 1581(d) .....	** 1,000	N/A	** 1,000
Anchorage Ground/Harbor Regulations General .....	33 U.S.C. 471; 33 CFR 27.3.	11,279	1.02522	11,563
Anchorage Ground/Harbor Regulations St. Mary's river.	33 U.S.C. 474; 33 CFR 27.3.	778	1.02522	798
Bridges/Failure to Comply with Regulations .....	33 U.S.C. 495(b); 33 CFR 27.3.	28,474	1.02522	29,192
Bridges/Drawbridges .....	33 U.S.C. 499(c); 33 CFR 27.3.	28,474	1.02522	29,192
Bridges/Failure to Alter Bridge Obstructing Navigation	33 U.S.C. 502(c); 33 CFR 27.3.	28,474	1.02522	29,192
Bridges/Maintenance and Operation .....	33 U.S.C. 533(b); 33 CFR 27.3.	28,474	1.02522	29,192
Bridge to Bridge Communication; Master, Person in Charge or Pilot.	33 U.S.C. 1208(a); 33 CFR 27.3.	2,074	1.02522	2,126
Bridge to Bridge Communication; Vessel .....	33 U.S.C. 1208(b); 33 CFR 27.3.	2,074	1.02522	2,126
Oil/Hazardous Substances: Discharges (Class I per violation).	33 U.S.C. 1321(b)(6)(B)(i); 33 CFR 27.3.	18,477	1.02522	18,943
Oil/Hazardous Substances: Discharges (Class I total under paragraph).	33 U.S.C. 1321(b)(6)(B)(i); 33 CFR 27.3.	46,192	1.02522	47,357
Oil/Hazardous Substances: Discharges (Class II per day of violation).	33 U.S.C. 1321(b)(6)(B)(ii); 33 CFR 27.3.	18,477	1.02522	18,943
Oil/Hazardous Substances: Discharges (Class II total under paragraph).	33 U.S.C. 1321(b)(6)(B)(ii); 33 CFR 27.3.	230,958	1.02522	236,783
Oil/Hazardous Substances: Discharges (per day of violation) Judicial Assessment.	33 U.S.C. 1321(b)(7)(A); 33 CFR 27.3.	46,192	1.02522	47,357
Oil/Hazardous Substances: Discharges (per barrel of oil or unit discharged) Judicial Assessment.	33 U.S.C. 1321(b)(7)(A); 33 CFR 27.3.	1,848	1.02522	1,895
Oil/Hazardous Substances: Failure to Carry Out Removal/Comply With Order (Judicial Assessment).	33 U.S.C. 1321(b)(7)(B); 33 CFR 27.3.	46,192	1.02522	47,357
Oil/Hazardous Substances: Failure to Comply with Regulation Issued Under 1321(j) (Judicial Assessment).	33 U.S.C. 1321(b)(7)(C); 33 CFR 27.3.	46,192	1.02522	47,357
Oil/Hazardous Substances: Discharges, Gross Negligence (per barrel of oil or unit discharged) Judicial Assessment.	33 U.S.C. 1321(b)(7)(D); 33 CFR 27.3.	5,543	1.02522	5,683
Oil/Hazardous Substances: Discharges, Gross Negligence—Minimum Penalty (Judicial Assessment).	33 U.S.C. 1321(b)(7)(D); 33 CFR 27.3.	184,767	1.02522	189,427
Marine Sanitation Devices; Operating .....	33 U.S.C. 1322(j); 33 CFR 27.3.	7,779	1.02522	7,975
Marine Sanitation Devices; Sale or Manufacture .....	33 U.S.C. 1322(j); 33 CFR 27.3.	20,742	1.02522	21,265
International Navigation Rules; Operator .....	33 U.S.C. 1608(a); 33 CFR 27.3.	14,543	1.02522	14,910
International Navigation Rules; Vessel .....	33 U.S.C. 1608(b); 33 CFR 27.3.	14,543	1.02522	14,910
Pollution from Ships; General .....	33 U.S.C. 1908(b)(1); 33 CFR 27.3.	72,718	1.02522	74,552
Pollution from Ships; False Statement .....	33 U.S.C. 1908(b)(2); 33 CFR 27.3.	14,543	1.02522	14,910

TABLE 4—U.S. COAST GUARD CIVIL PENALTIES ADJUSTMENTS—Continued

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Inland Navigation Rules; Operator .....	33 U.S.C. 2072(a); 33 CFR 27.3.	14,543	1.02522	14,910
Inland Navigation Rules; Vessel .....	33 U.S.C. 2072(b); 33 CFR 27.3.	14,543	1.02522	14,910
Shore Protection; General .....	33 U.S.C. 2609(a); 33 CFR 27.3.	51,302	1.02522	52,596
Shore Protection; Operating Without Permit .....	33 U.S.C. 2609(b); 33 CFR 27.3.	20,521	1.02522	21,039
Oil Pollution Liability and Compensation .....	33 U.S.C. 2716a(a); 33 CFR 27.3.	46,192	1.02522	47,357
Clean Hulls .....	33 U.S.C. 3852(a)(1)(A); 33 CFR 27.3.	42,292	1.02522	43,359
Clean Hulls-related to false statements .....	33 U.S.C. 3852(a)(1)(A); 33 CFR 27.3.	56,391	1.02522	57,813
Clean Hulls—Recreational Vessel .....	33 U.S.C. 3852(c); 33 CFR 27.3.	5,639	1.02522	5,781
Hazardous Substances, Releases, Liability, Compensation (Class I).	42 U.S.C. 9609(a); 33 CFR 27.3.	55,907	1.02522	57,317
Hazardous Substances, Releases, Liability, Compensation (Class II).	42 U.S.C. 9609(b); 33 CFR 27.3.	55,907	1.02522	57,317
Hazardous Substances, Releases, Liability, Compensation (Class II subsequent offense).	42 U.S.C. 9609(b); 33 CFR 27.3.	167,722	1.02522	171,952
Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment).	42 U.S.C. 9609(c); 33 CFR 27.3.	55,907	1.02522	57,317
Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment subsequent offense).	42 U.S.C. 9609(c); 33 CFR 27.3.	167,722	1.02522	171,952
Safe Containers for International Cargo .....	46 U.S.C. App 1505(a)(2) (codified as 46 U.S.C. 80509); 33 CFR 27.3.	6,111	1.02522	6,265
Suspension of Passenger Service .....	46 U.S.C. App 1805(c)(2) (codified 46 U.S.C. 70305); 33 CFR 27.3.	61,115	1.02522	62,656
Vessel Inspection or Examination Fees .....	46 U.S.C. 2110(e); 33 CFR 27.3.	9,239	1.02522	9,472
Alcohol and Dangerous Drug Testing .....	46 U.S.C. 2115; 33 CFR 27.3.	7,520	1.02522	7,710
Negligent Operations: Recreational Vessels .....	46 U.S.C. 2302(a); 33 CFR 27.3.	6,802	1.02522	6,974
Negligent Operations: Other Vessels .....	46 U.S.C. 2302(a); 33 CFR 27.3.	34,013	1.02522	34,871
Operating a Vessel While Under the Influence of Alcohol or a Dangerous Drug.	46 U.S.C. 2302(c)(1); 33 CFR 27.3.	7,520	1.02522	7,710
Vessel Reporting Requirements: Owner, Charterer, Managing Operator, or Agent.	46 U.S.C. 2306(a)(4); 33 CFR 27.3.	11,712	1.02522	12,007
Vessel Reporting Requirements: Master .....	46 U.S.C. 2306(b)(2); 33 CFR 27.3.	2,343	1.02522	2,402
Immersion Suits .....	46 U.S.C. 3102(c)(1); 33 CFR 27.3.	11,712	1.02522	12,007
Inspection Permit .....	46 U.S.C. 3302(i)(5); 33 CFR 27.3.	2,443	1.02522	2,505
Vessel Inspection; General .....	46 U.S.C. 3318(a); 33 CFR 27.3.	11,712	1.02522	12,007
Vessel Inspection; Nautical School Vessel .....	46 U.S.C. 3318(g); 33 CFR 27.3.	11,712	1.02522	12,007
Vessel Inspection; Failure to Give Notice IAW 3304(b)	46 U.S.C. 3318(h); 33 CFR 27.3.	2,343	1.02522	2,402
Vessel Inspection; Failure to Give Notice IAW 3309(c)	46 U.S.C. 3318(i); 33 CFR 27.3.	2,343	1.02522	2,402
Vessel Inspection; Vessel ≥1,600 Gross Tons .....	46 U.S.C. 3318(j)(1); 33 CFR 27.3.	23,426	1.02522	24,017
Vessel Inspection; Vessel <1,600 Gross Tons .....	46 U.S.C. 3318(j)(1); 33 CFR 27.3.	4,685	1.02522	4,803
Vessel Inspection; Failure to Comply with 3311(b) .....	46 U.S.C. 3318(k); 33 CFR 27.3.	23,426	1.02522	24,017
Vessel Inspection; Violation of 3318(b)–3318(f) .....	46 U.S.C. 3318(l); 33 CFR 27.3.	11,712	1.02522	12,007
List/count of Passengers .....	46 U.S.C. 3502(e); 33 CFR 27.3.	244	1.02522	250

TABLE 4—U.S. COAST GUARD CIVIL PENALTIES ADJUSTMENTS—Continued

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Notification to Passengers .....	46 U.S.C. 3504(c); 33 CFR 27.3.	24,421	1.02522	25,037
Notification to Passengers; Sale of Tickets .....	46 U.S.C. 3504(c); 33 CFR 27.3.	1,220	1.02522	1,251
Copies of Laws on Passenger Vessels; Master .....	46 U.S.C. 3506; 33 CFR 27.3.	489	1.02522	501
Liquid Bulk/Dangerous Cargo .....	46 U.S.C. 3718(a)(1); 33 CFR 27.3.	61,055	1.02522	62,595
Uninspected Vessels .....	46 U.S.C. 4106; 33 CFR 27.3.	10,260	1.02522	10,519
Recreational Vessels (maximum for related series of violations).	46 U.S.C. 4311(b)(1); 33 CFR 27.3.	323,027	1.02522	331,174
Recreational Vessels; Violation of 4307(a) .....	46 U.S.C. 4311(b)(1); 33 CFR 27.3.	6,460	1.02522	6,623
Recreational vessels .....	46 U.S.C. 4311(c); 33 CFR 27.3.	2,443	1.02522	2,505
Uninspected Commercial Fishing Industry Vessels .....	46 U.S.C. 4507; 33 CFR 27.3.	10,260	1.02522	10,519
Abandonment of Barges .....	46 U.S.C. 4703; 33 CFR 27.3.	1,739	1.02522	1,783
Load Lines .....	46 U.S.C. 5116(a); 33 CFR 27.3.	11,181	1.02522	11,463
Load Lines; Violation of 5112(a) .....	46 U.S.C. 5116(b); 33 CFR 27.3.	22,363	1.02522	22,927
Load Lines; Violation of 5112(b) .....	46 U.S.C. 5116(c); 33 CFR 27.3.	11,181	1.02522	11,463
Reporting Marine Casualties .....	46 U.S.C. 6103(a); 33 CFR 27.3.	38,954	1.02522	39,936
Reporting Marine Casualties; Violation of 6104 .....	46 U.S.C. 6103(b); 33 CFR 27.3.	10,260	1.02522	10,519
Manning of Inspected Vessels; Failure to Report Deficiency in Vessel Complement.	46 U.S.C. 8101(e); 33 CFR 27.3.	1,848	1.02522	1,895
Manning of Inspected Vessels .....	46 U.S.C. 8101(f); 33 CFR 27.3.	18,477	1.02522	18,943
Manning of Inspected Vessels; Employing or Serving in Capacity not Licensed by USCG.	46 U.S.C. 8101(g); 33 CFR 27.3.	18,477	1.02522	18,943
Manning of Inspected Vessels; Freight Vessel <100 GT, Small Passenger Vessel, or Sailing School Vessel.	46 U.S.C. 8101(h); 33 CFR 27.3.	2,443	1.02522	2,505
Watchmen on Passenger Vessels .....	46 U.S.C. 8102(a) .....	2,443	1.02522	2,505
Citizenship Requirements .....	46 U.S.C. 8103(f) .....	1,220	1.02522	1,251
Watches on Vessels; Violation of 8104(a) or (b) .....	46 U.S.C. 8104(i) .....	18,477	1.02522	18,943
Watches on Vessels; Violation of 8104(c), (d), (e), or (h).	46 U.S.C. 8104(j) .....	18,477	1.02522	18,943
Staff Department on Vessels .....	46 U.S.C. 8302(e) .....	244	1.02522	250
Officer's Competency Certificates .....	46 U.S.C. 8304(d) .....	244	1.02522	250
Coastwise Pilotage; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	46 U.S.C. 8502(e) .....	18,477	1.02522	18,943
Coastwise Pilotage; Individual .....	46 U.S.C. 8502(f) .....	18,477	1.02522	18,943
Federal Pilots .....	46 U.S.C. 8503 .....	58,562	1.02522	60,039
Merchant Mariners Documents .....	46 U.S.C. 8701(d) .....	1,220	1.02522	1,251
Crew Requirements .....	46 U.S.C. 8702(e) .....	18,477	1.02522	18,943
Small Vessel Manning .....	46 U.S.C. 8906 .....	38,954	1.02522	39,936
Pilotage: Great Lakes; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	46 U.S.C. 9308(a) .....	18,477	1.02522	18,943
Pilotage: Great Lakes; Individual .....	46 U.S.C. 9308(b) .....	18,477	1.02522	18,943
Pilotage: Great Lakes; Violation of 9303 .....	46 U.S.C. 9308(c) .....	18,477	1.02522	18,943
Failure to Report Sexual Offense .....	46 U.S.C. 10104(b) .....	9,819	1.02522	10,067
Pay Advances to Seamen .....	46 U.S.C. 10314(a)(2) .....	1,220	1.02522	1,251
Pay Advances to Seamen; Remuneration for Employment.	46 U.S.C. 10314(b) .....	1,220	1.02522	1,251
Allotment to Seamen .....	46 U.S.C. 10315(c) .....	1,220	1.02522	1,251
Seamen Protection; General .....	46 U.S.C. 10321 .....	8,465	1.02522	8,678
Coastwise Voyages: Advances .....	46 U.S.C. 10505(a)(2) .....	8,465	1.02522	8,678
Coastwise Voyages: Advances; Remuneration for Employment.	46 U.S.C. 10505(b) .....	8,465	1.02522	8,678
Coastwise Voyages: Seamen Protection; General .....	46 U.S.C. 10508(b) .....	8,465	1.02522	8,678
Effects of Deceased Seamen .....	46 U.S.C. 10711 .....	489	1.02522	501
Complaints of Unfitness .....	46 U.S.C. 10902(a)(2) .....	1,220	1.02522	1,251
Proceedings on Examination of Vessel .....	46 U.S.C. 10903(d) .....	244	1.02522	250

TABLE 4—U.S. COAST GUARD CIVIL PENALTIES ADJUSTMENTS—Continued

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier *	New penalty as adjusted by this final rule
Permission to Make Complaint .....	46 U.S.C. 10907(b) .....	1,220	1.02522	1,251
Accommodations for Seamen .....	46 U.S.C. 11101(f) .....	1,220	1.02522	1,251
Medicine Chests on Vessels .....	46 U.S.C. 11102(b) .....	1,220	1.02522	1,251
Destitute Seamen .....	46 U.S.C. 11104(b) .....	244	1.02522	250
Wages on Discharge .....	46 U.S.C. 11105(c) .....	1,220	1.02522	1,251
Log Books; Master Failing to Maintain .....	46 U.S.C. 11303(a) .....	489	1.02522	501
Log Books; Master Failing to Make Entry .....	46 U.S.C. 11303(b) .....	489	1.02522	501
Log Books; Late Entry .....	46 U.S.C. 11303(c) .....	366	1.02522	375
Carrying of Sheath Knives .....	46 U.S.C. 11506 .....	122	1.02522	125
Vessel Documentation .....	46 U.S.C. 12151(a)(1) .....	15,995	1.02522	16,398
Documentation of Vessels—Related to Activities involving mobile offshore drilling units.	46 U.S.C. 12151 (a)(2) .....	26,659	1.02522	27,331
Vessel Documentation; Fishery Endorsement .....	46 U.S.C. 12151(c) .....	122,231	1.02522	125,314
Numbering of Undocumented Vessels—Willful violation.	46 U.S.C. 12309(a) .....	12,211	1.02522	12,519
Numbering of Undocumented Vessels .....	46 U.S.C. 12309(b) .....	2,443	1.02522	2,505
Vessel Identification System .....	46 U.S.C. 12507(b) .....	20,521	1.02522	21,039
Measurement of Vessels .....	46 U.S.C. 14701 .....	44,727	1.02522	45,855
Measurement; False Statements .....	46 U.S.C. 14702 .....	44,727	1.02522	45,855
Commercial Instruments and Maritime Liens .....	46 U.S.C. 31309 .....	20,521	1.02522	21,039
Commercial Instruments and Maritime Liens; Mortgagor.	46 U.S.C. 31330(a)(2) .....	20,521	1.02522	21,039
Commercial Instruments and Maritime Liens; Violation of 31329.	46 U.S.C. 31330(b)(2) .....	51,302	1.02522	52,596
Ports and Waterway Safety Regulations .....	46 U.S.C. 70036(a); 33 CFR 27.3.	91,901	1.02522	94,219
Vessel Navigation: Regattas or Marine Parades; Unlicensed Person in Charge.	46 U.S.C. 70041(d)(1)(B); 33 CFR 27.3.	9,239	1.02522	9,472
Vessel Navigation: Regattas or Marine Parades; Owner Onboard Vessel.	46 U.S.C. 70041(d)(1)(C); 33 CFR 27.3.	9,239	1.02522	9,472
Vessel Navigation: Regattas or Marine Parades; Other Persons.	46 U.S.C. 70041(d)(1)(D); 33 CFR 27.3.	4,619	1.02522	4,735
Port Security .....	46 U.S.C. 70119(a) .....	34,013	1.02522	34,871
Port Security—Continuing Violations .....	46 U.S.C. 70119(b) .....	61,115	1.02522	62,656
Maritime Drug Law Enforcement .....	46 U.S.C. 70506(c) .....	5,639	1.02522	5,781
Hazardous Materials: Related to Vessels .....	49 U.S.C. 5123(a)(1) .....	79,976	1.02522	81,993
Hazardous Materials: Related to Vessels—Penalty from Fatalities, Serious Injuries/Illness or substantial Damage to Property.	49 U.S.C. 5123(a)(2) .....	186,610	1.02522	191,316
Hazardous Materials: Related to Vessels; Training .....	49 U.S.C. 5123(a)(3) .....	481	1.02522	493

\* OMB Memorandum M–19–04, Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 14, 2018. [https://www.whitehouse.gov/wp-content/uploads/2017/11/m\\_19\\_04.pdf](https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf).  
 \*\* Enacted under the Tariff Act; exempt from inflation adjustments.

*E. Transportation Security Administration*

The Transportation Security Administration (TSA) is updating its civil penalties regulation in accordance with the 2015 Act. Pursuant to its statutory authority in 49 U.S.C. 46301(a)(1), (4), (5), 49 U.S.C. 46301(d)(8), and 49 U.S.C. 114(v),<sup>15</sup>

TSA may impose penalties for violations of any statute that TSA administers, whether an implementing regulation or order imposes the penalty. TSA assesses these penalties for a wide variety of aviation and surface security requirements, including violations of TSA’s requirements applicable to Transportation Worker Identification Credentials (TWIC),<sup>16</sup> as well as

violations of requirements described in chapter 449 of title 49 of the United States Code. These penalties can apply to a wide variety of situations, as described in the statutory and regulatory provisions, as well as in guidance that TSA publishes. Below is a table showing the 2019 adjustment for the penalties that TSA administers.

<sup>15</sup> As amended by sec. 1302 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–53, 121 Stat. 266 (Aug. 3, 2007)).

<sup>16</sup> See, e.g., 46 U.S.C. 70105, 49 U.S.C. 46302 and 46303, and 49 U.S.C. chapter 449.

TABLE 5—TRANSPORTATION SECURITY ADMINISTRATION CIVIL PENALTIES ADJUSTMENTS

Penalty name	Citation	Penalty amount as adjusted in the 2018 FR	Multiplier*	New penalty as adjusted by this final rule
Violation of 49 U.S.C. ch. 449 (except secs. 44902, 44903(d), 44907(a)–(d)(1)(A), 44907(d)(1)(C)–(f), 44908, and 44909), or 49 U.S.C. 46302 or 46303, a regulation prescribed, or order issued thereunder by a person operating an aircraft for the transportation of passengers or property for compensation.	49 U.S.C. 46301(a)(1), (4), (5); 49 U.S.C. 46301(d)(8); 49 CFR 1503.401(c)(3)	\$33,333 (up to a total of \$533,324 per civil penalty action).	1.02522	\$34,174 (up to a total of \$546,774 per civil penalty action).
Violation of 49 U.S.C. ch. 449 (except secs. 44902, 44903(d), 44907(a)–(d)(1)(A), 44907(d)(1)(C)–(f), 44908, and 44909), or 49 U.S.C. 46302 or 46303, a regulation prescribed, or order issued thereunder by an individual (except an airman serving as an airman), any person not operating an aircraft for the transportation of passengers or property for compensation, or a small business concern.	49 U.S.C. 46301(a)(1), (4), (5); 49 U.S.C. 46301(d)(8); 49 CFR 1503.401(c)(1) and (2).	\$13,333 (up to a total of \$66,666 total for small businesses, \$533,324 for others).	1.02522	\$13,669 (up to a total of \$68,347 total for small business, \$546,774 for others).
Violation of any other provision of title 49 U.S.C. or of 46 U.S.C. ch. 701, a regulation prescribed, or order issued thereunder.	49 U.S.C. 114(v); 49 CFR 1503.401(b).	\$11,410 (up to a total of \$57,051 total for small businesses, \$456,409 for others).	1.02522	\$11,698 (up to a total of \$58,490 total for small businesses, \$467,920 for others).

\* OMB Memorandum M–19–04, Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 14, 2018. [https://www.whitehouse.gov/wp-content/uploads/2017/11/m\\_19\\_04.pdf](https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf).

#### IV. Administrative Procedure Act

DHS is promulgating this final rule to ensure that the amount of civil penalties that DHS assesses or enforces reflects the statutorily mandated ranges as adjusted for inflation. The 2015 Act provides a clear formula for adjustment of the civil penalties, leaving DHS and its components with little room for discretion. DHS and its components have been charged only with performing ministerial computations to determine the amounts of adjustments for inflation to civil monetary penalties. In these annual adjustments DHS is merely updating the penalty amounts by applying the cost-of-living adjustment multiplier that OMB has provided to agencies. Furthermore, the 2015 Act specifically instructed that agencies make the required annual adjustments notwithstanding section 553 of title 5 of the United States Code. Thus, as specified in the 2015 Act, the prior public notice-and-comment procedures and delayed effective date requirements of the Administrative Procedure Act (APA) do not apply to this rule. Further, as described above, this rule also makes to minor amendments to the regulations to reflect clear statutory authority, and DHS finds that prior notice and comment procedures for these amendments are unnecessary.

#### V. Regulatory Analyses

##### A. Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory

alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. OMB has not designated this final rule a “significant regulatory action” under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed this rule.

This final rule makes nondiscretionary adjustments to existing civil monetary penalties in accordance with the 2015 Act and OMB guidance.<sup>17</sup> DHS therefore did not consider alternatives and does not have the flexibility to alter the adjustments of the civil monetary penalty amounts as provided in this rule. To the extent this final rule increases civil monetary penalties, it would result in an increase in transfers from persons or entities assessed a civil monetary penalty to the government.

##### B. Regulatory Flexibility Act

The Regulatory Flexibility Act applies only to rules for which an agency publishes a notice of proposed

rulemaking pursuant to 5 U.S.C. 553(b). See 5 U.S.C. 601–612. The Regulatory Flexibility Act does not apply to this final rule, because a notice of proposed rulemaking was not required for the reasons stated above.

##### C. 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. This final rule will not result in such an expenditure.

##### D. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule, because this final rule does not trigger any new or revised recordkeeping or reporting.

#### VI. Signing Authority

The amendments to 19 CFR part 4 in this document are issued in accordance with 19 CFR 0.2(a), which provides that the authority of the Secretary of the Treasury with respect to CBP regulations that are not related to customs revenue functions was transferred to the Secretary of Homeland Security pursuant to Section 403(l) of the Homeland Security Act of 2002. Accordingly, this final rule to amend

<sup>17</sup> OMB Memorandum M–19–04, Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Dec. 14, 2018. [https://www.whitehouse.gov/wp-content/uploads/2017/11/m\\_19\\_04.pdf](https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf).

such regulations may be signed by the Secretary of Homeland Security (or his or her delegate).

List of Subjects

6 CFR Part 27

Reporting and recordkeeping requirements, Security measures.

8 CFR Part 270

Administrative practice and procedure, Aliens, Employment, Fraud, Penalties.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

8 CFR Part 280

Administrative practice and procedure, Immigration, Penalties.

19 CFR Part 4

Exports, Freight, Harbors, Maritime carriers, Oil pollution, Reporting and recordkeeping requirements, Vessels.

33 CFR Part 27

Administrative practice and procedure, Penalties.

49 CFR Part 1503

Administrative practice and procedure, Investigations, Law enforcement, Penalties.

Amendments to the Regulations

Accordingly, for the reasons stated in the preamble, DHS is amending 6 CFR part 27, 8 CFR parts 270, 274a, and 280, 19 CFR part 4, 33 CFR part 27, and 49 CFR part 1503 as follows:

Title 6—Domestic Security

PART 27—CHEMICAL FACILITY ANTI-TERRORISM STANDARDS

■ 1. The authority citation for part 27 is revised to read as follows:

Authority: 6 U.S.C. 624; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 114–74, 129 Stat. 599; Pub. L. 113–254, 128 Stat. 2898, as amended by Pub. L. 116–2, 133 Stat. 5.

■ 2. In § 27.300, revise paragraph (b)(3) to read as follows:

§ 27.300 Orders.

\* \* \* \* \*

(b) \* \* \*

(3) Where the Assistant Secretary determines that a facility is in violation of an Order issued pursuant to paragraph (a) of this section and issues an Order Assessing Civil Penalty pursuant to paragraph (b)(1) of this section, a chemical facility is liable to

the United States for a civil penalty of not more than \$25,000 for each day during which the violation continues, if the violation of the Order occurred on or before November 2, 2015, or \$34,871 for each day during which the violation of the Order continues, if the violation occurred after November 2, 2015.

\* \* \* \* \*

Title 8—Aliens and Nationality

PART 270—PENALTIES FOR DOCUMENT FRAUD

■ 3. The authority citation for part 270 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, and 1324c; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321 and Pub. L. 114–74, 129 Stat. 599.

■ 4. In § 270.3, revise paragraphs (b)(1)(ii)(A) through (D) to read as follows:

§ 270.3 Penalties.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) \* \* \*

(A) First offense under section 274C(a)(1) through (a)(4). Not less than \$275 and not exceeding \$2,200 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act before March 27, 2008; not less than \$375 and not exceeding \$3,200 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act on or after March 27, 2008 and on or before November 2, 2015; and not less than \$473 and not exceeding \$3,788 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act after November 2, 2015.

(B) First offense under section 274C(a)(5) or (a)(6). Not less than \$250 and not exceeding \$2,000 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act before March 27, 2008; not less than \$275 and not exceeding \$2,200 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act on or after March 27, 2008 and on or before November 2, 2015; and not less than \$400 and not exceeding \$3,195 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act after November 2, 2015.

(C) Subsequent offenses under section 274C(a)(1) through (a)(4). Not less than \$2,200 and not more than \$5,500 for each fraudulent document or each proscribed activity described in section

274C(a)(1) through (a)(4) of the Act before March 27, 2008; not less than \$3,200 and not exceeding \$6,500 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act occurring on or after March 27, 2008 and on or before November 2, 2015; and not less than \$3,788 and not more than \$9,472 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act after November 2, 2015.

(D) Subsequent offenses under section 274C(a)(5) or (a)(6). Not less than \$2,000 and not more than \$5,000 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act before March 27, 2008; not less than \$2,200 and not exceeding \$5,500 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act occurring on or after March 27, 2008 and on or before November 2, 2015; and not less than \$3,195 and not more than \$7,987 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act after November 2, 2015.

\* \* \* \* \*

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

■ 5. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 48 U.S.C. 1806; 8 CFR part 2; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 114–74, 129 Stat. 599.

■ 6. In § 274a.8, revise paragraph (b) to read as follows:

§ 274a.8 Prohibition of indemnity bonds.

\* \* \* \* \*

(b) Penalty. Any person or other entity who requires any individual to post a bond or security as stated in this section shall, after notice and opportunity for an administrative hearing in accordance with section 274A(e)(3)(B) of the Act, be subject to a civil monetary penalty of \$1,000 for each violation before September 29, 1999, of \$1,100 for each violation occurring on or after September 29, 1999 but on or before November 2, 2015, and of \$2,292 for each violation occurring after November 2, 2015, and to an administrative order requiring the return to the individual of any amounts received in violation of this section or, if the individual cannot be located, to the general fund of the Treasury.

■ 7. In § 274a.10, revise paragraphs (b)(1)(ii)(A) through (C) and the first

sentence of paragraph (b)(2) to read as follows:

**§ 274a.10 Penalties.**

\* \* \* \* \*

- (b) \* \* \*  
(1) \* \* \*  
(ii) \* \* \*

(A) First offense—not less than \$275 and not more than \$2,200 for each unauthorized alien with respect to whom the offense occurred before March 27, 2008; not less than \$375 and not exceeding \$3,200, for each unauthorized alien with respect to whom the offense occurred occurring on or after March 27, 2008 and on or before November 2, 2015; and not less than \$573 and not more than \$4,586 for each unauthorized alien with respect to whom the offense occurred occurring after November 2, 2015;

(B) Second offense—not less than \$2,200 and not more than \$5,500 for each unauthorized alien with respect to whom the second offense occurred before March 27, 2008; not less than \$3,200 and not more than \$6,500, for each unauthorized alien with respect to whom the second offense occurred on or after March 27, 2008 and on or before November 2, 2015; and not less than \$4,586 and not more than \$11,463 for each unauthorized alien with respect to whom the second offense occurred after November 2, 2015; or

(C) More than two offenses—not less than \$3,300 and not more than \$11,000 for each unauthorized alien with respect to whom the third or subsequent offense occurred before March 27, 2008; not less than \$4,300 and not exceeding \$16,000, for each unauthorized alien with respect to whom the third or subsequent offense occurred on or after March 27, 2008 and on or before November 2, 2015; and not less than \$6,878 and not more than \$22,927 for each unauthorized alien with respect to whom the third or subsequent offense occurred after November 2, 2015; and

\* \* \* \* \*

(2) A respondent determined by the Service (if a respondent fails to request a hearing) or by an administrative law judge, to have failed to comply with the employment verification requirements as set forth in § 274a.2(b), shall be subject to a civil penalty in an amount of not less than \$100 and not more than \$1,000 for each individual with respect to whom such violation occurred before September 29, 1999; not less than \$110 and not more than \$1,100 for each individual with respect to whom such violation occurred on or after September 29, 1999 and on or before November 2, 2015; and not less than \$230 and not more than \$2,292 for each individual

with respect to whom such violation occurred after November 2, 2015. \* \* \*

**PART 280—IMPOSITION AND COLLECTION OF FINES**

■ 8. The authority citation for part 280 continues to read as follows:

**Authority:** 8 U.S.C. 1103, 1221, 1223, 1227, 1229, 1253, 1281, 1283, 1284, 1285, 1286, 1322, 1323, 1330; 66 Stat. 173, 195, 197, 201, 203, 212, 219, 221–223, 226, 227, 230; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 114–74, 129 Stat. 599.

■ 9. In § 280.53 revise paragraphs (b)(1) through (15) to read as follows:

**§ 280.53 Civil monetary penalties inflation adjustment.**

\* \* \* \* \*

(b) \* \* \*

(1) Section 231(g) of the Act, Penalties for non-compliance with arrival and departure manifest requirements for passengers, crewmembers, or occupants transported on commercial vessels or aircraft arriving to or departing from the United States: From \$1,360 to \$1,394.

(2) Section 234 of the Act, Penalties for non-compliance with landing requirements at designated ports of entry for aircraft transporting aliens: From \$3,695 to \$3,788.

(3) Section 240B(d) of the Act, Penalties for failure to depart voluntarily: From \$1,558 minimum/\$7,791 maximum to \$1,597 minimum/\$7,987 maximum.

(4) Section 243(c)(1)(A) of the Act, Penalties for violations of removal orders relating to aliens transported on vessels or aircraft, under section 241(d) of the Act, or for costs associated with removal under section 241(e) of the Act: From \$3,116 to \$3,195.

(5) Penalties for failure to remove alien stowaways under section 241(d)(2): From \$7,791 to \$7,987.

(6) Section 251(d) of the Act, Penalties for failure to report an illegal landing or desertion of alien crewmen, and for each alien not reported on arrival or departure manifest or lists required in accordance with section 251 of the Act: From \$369 to \$378; and penalties for use of alien crewmen for longshore work in violation of section 251(d) of the Act: From \$9,239 to \$9,472.

(7) Section 254(a) of the Act, Penalties for failure to control, detain, or remove alien crewmen: From \$924 minimum/\$5,543 maximum to \$947 minimum/\$5,683 maximum.

(8) Section 255 of the Act, Penalties for employment on passenger vessels of aliens afflicted with certain disabilities: From \$1,848 to \$1,895.

(9) Section 256 of the Act, Penalties for discharge of alien crewmen: From

\$2,771 minimum/\$5,543 maximum to \$2,841 minimum/\$5,683 maximum.

(10) Section 257 of the Act, Penalties for bringing into the United States alien crewmen with intent to evade immigration laws: From \$18,477 maximum to \$18,943 maximum.

(11) Section 271(a) of the Act, Penalties for failure to prevent the unauthorized landing of aliens: From \$5,543 to \$5,683.

(12) Section 272(a) of the Act, Penalties for bringing to the United States aliens subject to denial of admission on a health-related ground: From \$5,543 to \$5,683.

(13) Section 273(b) of the Act, Penalties for bringing to the United States aliens without required documentation: From \$5,543 to \$5,683.

(14) Section 274D of the Act, Penalties for failure to depart: From \$779 maximum to \$799 maximum, for each day the alien is in violation.

(15) Section 275(b) of the Act, Penalties for improper entry: From \$78 minimum/\$390 maximum to \$80 minimum/\$400 maximum, for each entry or attempted entry.

**Title 19—Customs Duties**

**PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES**

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

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624, 2071 note; 46 U.S.C. 501, 6105.

\* \* \* \* \*

Sections 4.80, 4.80a, and 4.80b also issued under 19 U.S.C. 1706a; 28 U.S.C. 2461 note; 46 U.S.C. 12112, 12117, 12118, 50501–55106, 55107, 55108, 55110, 55114, 55115, 55116, 55117, 55119, 56101, 55121, 56101, 57109; Pub. L. 108–7, Division B, Title II, § 211;

\* \* \* \* \*

Section 4.92 also issued under 28 U.S.C. 2461 note; 46 U.S.C. 55111;

\* \* \* \* \*

■ 11. In § 4.80, revise paragraphs (b)(2) and (i) to read as follows:

**§ 4.80 Vessels entitled to engage in coastwise trade.**

\* \* \* \* \*

(b) \* \* \*

(2) The penalty imposed for the unlawful transportation of passengers between coastwise points is \$300 for each passenger so transported and landed on or before November 2, 2015, and \$798 for each passenger so transported and landed after November 2, 2015 (46 U.S.C. 55103, as adjusted by the Federal Civil Penalties Inflation

Adjustment Act Improvements Act of 2015).  
 \* \* \* \* \*  
 (i) Any vessel, entitled to be documented and not so documented, employed in a trade for which a Certificate of Documentation is issued under the vessel documentation laws (see § 4.0(c)), other than a trade covered by a registry, is liable to a civil penalty of \$500 for each port at which it arrives without the proper Certificate of Documentation on or before November 2, 2015, and \$1329 for each port at which it arrives without the proper Certificate of Documentation after November 2, 2015 (19 U.S.C. 1706a, as adjusted by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015). If such a vessel has on board any foreign merchandise (sea stores excepted), or any domestic taxable alcoholic beverages, on which the duty and taxes have not been paid

or secured to be paid, the vessel and its cargo are subject to seizure and forfeiture.

■ 12. In § 4.92, revise the second and third sentences to read as follows:

**§ 4.92 Towing.**

\* \* \* The penalties for violation of this provision occurring on or before November 2, 2015, are a fine of from \$350 to \$1,100 against the owner or master of the towing vessel and a further penalty against the towing vessel of \$60 per ton of the towed vessel. The penalties for violation of this provision occurring after November 2, 2015, are a fine of from \$930 to \$2,924 against the owner or master of the towing vessel and a further penalty against the towing vessel of \$159 per ton of the towed vessel (46 U.S.C. 55111, as adjusted by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015).

**Title 33—Navigation and Navigable Waters**

**PART 27—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION**

■ 13. The authority citation for part 27 continues to read as follows:

**Authority:** Secs. 1–6, Pub. L. 101–410, 104 Stat. 890, as amended by Sec. 31001(s)(1), Pub. L. 104–134, 110 Stat. 1321 (28 U.S.C. 2461 note); Department of Homeland Security Delegation No. 0170.1, sec. 2 (106).

■ 14. In § 27.3, revise the third sentence of the introductory text and table 1 to read as follows:

**§ 27.3 Penalty adjustment table.**

\* \* \* The adjusted civil penalty amounts listed in Table 1 are applicable for penalty assessments issued after April 5, 2019, with respect to violations occurring after November 2, 2015. \* \* \*

TABLE 1—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

U.S. Code citation	Civil monetary penalty description	2019 Adjusted maximum penalty amount (\$)
14 U.S.C. 521(c)	Saving Life and Property	\$10,651
14 U.S.C. 521(e)	Saving Life and Property; Intentional Interference with Broadcast	1,093
14 U.S.C. 645(i)	Confidentiality of Medical Quality Assurance Records (first offense)	5,350
14 U.S.C. 645(i)	Confidentiality of Medical Quality Assurance Records (subsequent offenses)	35,668
16 U.S.C. 4711(g)(1)	Aquatic Nuisance Species in Waters of the United States	39,936
19 U.S.C. 70	Obstruction of Revenue Officers by Masters of Vessels	7,975
19 U.S.C. 70	Obstruction of Revenue Officers by Masters of Vessels—Minimum Penalty	1,861
19 U.S.C. 1581(d)	Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge <sup>1</sup>	5,000
19 U.S.C. 1581(d)	Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge—Minimum Penalty <sup>1</sup> .	1,000
33 U.S.C. 471	Anchorage Ground/Harbor Regulations General	11,563
33 U.S.C. 474	Anchorage Ground/Harbor Regulations St. Mary's River	798
33 U.S.C. 495(b)	Bridges/Failure to Comply with Regulations	29,192
33 U.S.C. 499(c)	Bridges/Drawbridges	29,192
33 U.S.C. 502(c)	Bridges/Failure to Alter Bridge Obstructing Navigation	29,192
33 U.S.C. 533(b)	Bridges/Maintenance and Operation	29,192
33 U.S.C. 1208(a)	Bridge to Bridge Communication; Master, Person in Charge or Pilot	2,126
33 U.S.C. 1208(b)	Bridge to Bridge Communication; Vessel	2,126
33 U.S.C. 1321(b)(6)(B)(i)	Oil/Hazardous Substances: Discharges (Class I per violation)	18,943
33 U.S.C. 1321(b)(6)(B)(i)	Oil/Hazardous Substances: Discharges (Class I total under paragraph)	47,357
33 U.S.C. 1321(b)(6)(B)(ii)	Oil/Hazardous Substances: Discharges (Class II per day of violation)	18,943
33 U.S.C. 1321(b)(6)(B)(ii)	Oil/Hazardous Substances: Discharges (Class II total under paragraph)	236,783
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per day of violation) Judicial Assessment	47,357
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per barrel of oil or unit discharged) Judicial Assessment.	1,895
33 U.S.C. 1321(b)(7)(B)	Oil/Hazardous Substances: Failure to Carry Out Removal/Comply With Order (Judicial Assessment).	47,357
33 U.S.C. 1321(b)(7)(C)	Oil/Hazardous Substances: Failure to Comply with Regulation Issued Under 1321(j) (Judicial Assessment).	47,357
33 U.S.C. 1321(b)(7)(D)	Oil/Hazardous Substances: Discharges, Gross Negligence (per barrel of oil or unit discharged) Judicial Assessment.	5,683
33 U.S.C. 1321(b)(7)(D)	Oil/Hazardous Substances: Discharges, Gross Negligence—Minimum Penalty (Judicial Assessment).	189,427
33 U.S.C. 1322(j)	Marine Sanitation Devices; Operating	7,975
33 U.S.C. 1322(j)	Marine Sanitation Devices; Sale or Manufacture	21,265
33 U.S.C. 1608(a)	International Navigation Rules; Operator	14,910
33 U.S.C. 1608(b)	International Navigation Rules; Vessel	14,910
33 U.S.C. 1908(b)(1)	Pollution from Ships; General	74,552
33 U.S.C. 1908(b)(2)	Pollution from Ships; False Statement	14,910
33 U.S.C. 2072(a)	Inland Navigation Rules; Operator	14,910
33 U.S.C. 2072(b)	Inland Navigation Rules; Vessel	14,910
33 U.S.C. 2609(a)	Shore Protection; General	52,596

TABLE 1—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. Code citation	Civil monetary penalty description	2019 Adjusted maximum penalty amount (\$)
33 U.S.C. 2609(b)	Shore Protection; Operating Without Permit	21,039
33 U.S.C. 2716a(a)	Oil Pollution Liability and Compensation	47,357
33 U.S.C. 3852(a)(1)(A)	Clean Hulls; Civil Enforcement	43,359
33 U.S.C. 3852(a)(1)(A)	Clean Hulls; related to false statements	57,813
33 U.S.C. 3852(c)	Clean Hulls; Recreational Vessels	5,781
42 U.S.C. 9609(a)	Hazardous Substances, Releases, Liability, Compensation (Class I)	57,317
42 U.S.C. 9609(b)	Hazardous Substances, Releases, Liability, Compensation (Class II)	57,317
42 U.S.C. 9609(b)	Hazardous Substances, Releases, Liability, Compensation (Class II subsequent offense)	171,952
42 U.S.C. 9609(c)	Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment)	57,317
42 U.S.C. 9609(c)	Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment subsequent offense)	171,952
46 U.S.C. 80509(a)	Safe Containers for International Cargo	6,265
46 U.S.C. 70305(c)	Suspension of Passenger Service	62,656
46 U.S.C. 2110(e)	Vessel Inspection or Examination Fees	9,472
46 U.S.C. 2115	Alcohol and Dangerous Drug Testing	7,710
46 U.S.C. 2302(a)	Negligent Operations: Recreational Vessels	6,974
46 U.S.C. 2302(a)	Negligent Operations: Other Vessels	34,871
46 U.S.C. 2302(c)(1)	Operating a Vessel While Under the Influence of Alcohol or a Dangerous Drug	7,710
46 U.S.C. 2306(a)(4)	Vessel Reporting Requirements: Owner, Charterer, Managing Operator, or Agent	12,007
46 U.S.C. 2306(b)(2)	Vessel Reporting Requirements: Master	2,402
46 U.S.C. 3102(c)(1)	Immersion Suits	12,007
46 U.S.C. 3302(i)(5)	Inspection Permit	2,505
46 U.S.C. 3318(a)	Vessel Inspection; General	12,007
46 U.S.C. 3318(g)	Vessel Inspection; Nautical School Vessel	12,007
46 U.S.C. 3318(h)	Vessel Inspection; Failure to Give Notice IAW 3304(b)	2,402
46 U.S.C. 3318(i)	Vessel Inspection; Failure to Give Notice IAW 3309(c)	2,402
46 U.S.C. 3318(j)(1)	Vessel Inspection; Vessel ≥1,600 Gross Tons	24,017
46 U.S.C. 3318(j)(1)	Vessel Inspection; Vessel <1,600 Gross Tons	4,803
46 U.S.C. 3318(k)	Vessel Inspection; Failure to Comply with 3311(b)	24,017
46 U.S.C. 3318(l)	Vessel Inspection; Violation of 3318(b)–3318(f)	12,007
46 U.S.C. 3502(e)	List/count of Passengers	250
46 U.S.C. 3504(c)	Notification to Passengers	25,037
46 U.S.C. 3504(c)	Notification to Passengers; Sale of Tickets	1,251
46 U.S.C. 3506	Copies of Laws on Passenger Vessels; Master	501
46 U.S.C. 3718(a)(1)	Liquid Bulk/Dangerous Cargo	62,595
46 U.S.C. 4106	Uninspected Vessels	10,519
46 U.S.C. 4311(b)(1)	Recreational Vessels (maximum for related series of violations)	331,174
46 U.S.C. 4311(b)(1)	Recreational Vessels; Violation of 4307(a)	6,623
46 U.S.C. 4311(c)	Recreational Vessels	2,505
46 U.S.C. 4507	Uninspected Commercial Fishing Industry Vessels	10,519
46 U.S.C. 4703	Abandonment of Barges	1,783
46 U.S.C. 5116(a)	Load Lines	11,463
46 U.S.C. 5116(b)	Load Lines; Violation of 5112(a)	22,927
46 U.S.C. 5116(c)	Load Lines; Violation of 5112(b)	11,463
46 U.S.C. 6103(a)	Reporting Marine Casualties	39,936
46 U.S.C. 6103(b)	Reporting Marine Casualties; Violation of 6104	10,519
46 U.S.C. 8101(e)	Manning of Inspected Vessels; Failure to Report Deficiency in Vessel Complement	1,895
46 U.S.C. 8101(f)	Manning of Inspected Vessels	18,943
46 U.S.C. 8101(g)	Manning of Inspected Vessels; Employing or Serving in Capacity not Licensed by USCG.	18,943
46 U.S.C. 8101(h)	Manning of Inspected Vessels; Freight Vessel <100 GT, Small Passenger Vessel, or Sailing School Vessel.	2,505
46 U.S.C. 8102(a)	Watchmen on Passenger Vessels	2,505
46 U.S.C. 8103(f)	Citizenship Requirements	1,251
46 U.S.C. 8104(i)	Watches on Vessels; Violation of 8104(a) or (b)	18,943
46 U.S.C. 8104(j)	Watches on Vessels; Violation of 8104(c), (d), (e), or (h)	18,943
46 U.S.C. 8302(e)	Staff Department on Vessels	250
46 U.S.C. 8304(d)	Officer's Competency Certificates	250
46 U.S.C. 8502(e)	Coastwise Pilotage; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	18,943
46 U.S.C. 8502(f)	Coastwise Pilotage; Individual	18,943
46 U.S.C. 8503	Federal Pilots	60,039
46 U.S.C. 8701(d)	Merchant Mariners Documents	1,251
46 U.S.C. 8702(e)	Crew Requirements	18,943
46 U.S.C. 8906	Small Vessel Manning	39,936
46 U.S.C. 9308(a)	Pilotage: Great Lakes; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	18,943
46 U.S.C. 9308(b)	Pilotage: Great Lakes; Individual	18,943

TABLE 1—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. Code citation	Civil monetary penalty description	2019 Adjusted maximum penalty amount (\$)
46 U.S.C. 9308(c)	Pilotage: Great Lakes; Violation of 9303	18,943
46 U.S.C. 10104(b)	Failure to Report Sexual Offense	10,067
46 U.S.C. 10314(a)(2)	Pay Advances to Seamen	1,251
46 U.S.C. 10314(b)	Pay Advances to Seamen; Remuneration for Employment	1,251
46 U.S.C. 10315(c)	Allotment to Seamen	1,251
46 U.S.C. 10321	Seamen Protection; General	8,678
46 U.S.C. 10505(a)(2)	Coastwise Voyages: Advances	8,678
46 U.S.C. 10505(b)	Coastwise Voyages: Advances; Remuneration for Employment	8,678
46 U.S.C. 10508(b)	Coastwise Voyages: Seamen Protection; General	8,678
46 U.S.C. 10711	Effects of Deceased Seamen	501
46 U.S.C. 10902(a)(2)	Complaints of Unfitness	1,251
46 U.S.C. 10903(d)	Proceedings on Examination of Vessel	250
46 U.S.C. 10907(b)	Permission to Make Complaint	1,251
46 U.S.C. 11101(f)	Accommodations for Seamen	1,251
46 U.S.C. 11102(b)	Medicine Chests on Vessels	1,251
46 U.S.C. 11104(b)	Destitute Seamen	250
46 U.S.C. 11105(c)	Wages on Discharge	1,251
46 U.S.C. 11303(a)	Log Books; Master Failing to Maintain	501
46 U.S.C. 11303(b)	Log Books; Master Failing to Make Entry	501
46 U.S.C. 11303(c)	Log Books; Late Entry	375
46 U.S.C. 11506	Carrying of Sheath Knives	125
46 U.S.C. 12151(a)(1)	Vessel Documentation	16,398
46 U.S.C. 12151(a)(2)	Documentation of Vessels- Related to activities involving mobile offshore drilling units	27,331
46 U.S.C. 12151(c)	Vessel Documentation; Fishery Endorsement	125,314
46 U.S.C. 12309(a)	Numbering of Undocumented Vessels—Willful violation	12,519
46 U.S.C. 12309(b)	Numbering of Undocumented Vessels	2,505
46 U.S.C. 12507(b)	Vessel Identification System	21,039
46 U.S.C. 14701	Measurement of Vessels	45,855
46 U.S.C. 14702	Measurement; False Statements	45,855
46 U.S.C. 31309	Commercial Instruments and Maritime Liens	21,039
46 U.S.C. 31330(a)(2)	Commercial Instruments and Maritime Liens; Mortgagor	21,039
46 U.S.C. 31330(b)(2)	Commercial Instruments and Maritime Liens; Violation of 31329	52,596
46 U.S.C. 70036(a)	Ports and Waterways Safety Regulations	94,219
46 U.S.C. 70041(d)(1)(B)	Vessel Navigation: Regattas or Marine Parades; Unlicensed Person in Charge	9,472
46 U.S.C. 70041(d)(1)(C)	Vessel Navigation: Regattas or Marine Parades; Owner Onboard Vessel	9,472
46 U.S.C. 70041(d)(1)(D)	Vessel Navigation: Regattas or Marine Parades; Other Persons	4,735
46 U.S.C. 70119(a)	Port Security	34,871
46 U.S.C. 70119(b)	Port Security—Continuing Violations	62,656
46 U.S.C. 70506	Maritime Drug Law Enforcement; Penalties	5,781
49 U.S.C. 5123(a)(1)	Hazardous Materials: Related to Vessels—Maximum Penalty	81,993
49 U.S.C. 5123(a)(2)	Hazardous Materials: Related to Vessels—Penalty from Fatalities, Serious Injuries/Il- ness or Substantial Damage to Property.	191,316
49 U.S.C. 5123(a)(3)	Hazardous Materials: Related to Vessels—Training	493

<sup>1</sup> Enacted under the Tariff Act of 1930, exempt from inflation adjustments.

**Title 49—Transportation**

**PART 1503—INVESTIGATIVE AND ENFORCEMENT PROCEDURES**

■ 15. The authority citation for part 1503 continues to read as follows:

**Authority:** 6 U.S.C. 1142; 18 U.S.C. 6002; 28 U.S.C. 2461 (note); 49 U.S.C. 114, 20109, 31105, 40113–40114, 40119, 44901–44907, 46101–46107, 46109–46110, 46301, 46305, 46311, 46313–46314; Pub. L. 104–134, as amended by Pub. L. 114–74.

■ 16. In § 1503.401, revise paragraphs (b)(1) and (2) and (c)(1) through (3) to read as follows:

**§ 1503.401 Maximum penalty amounts.**

\* \* \* \* \*

(b) \* \* \*

(1) For violations that occurred on or before November 2, 2015, \$10,000 per violation, up to a total of \$50,000 per civil penalty action, in the case of an individual or small business concern, as defined in section 3 of the Small Business Act (15 U.S.C. 632). For violations that occurred after November 2, 2015 \$11,698 per violation, up to a total of \$58,490 per civil penalty action, in the case of an individual or small business concern; and

(2) For violations that occurred on or before November 2, 2015, \$10,000 per violation, up to a total of \$400,000 per civil penalty action, in the case of any other person. For violations that occurred after November 2, 2015, \$11,698 per violation, up to a total of

\$467,920 per civil penalty action, in the case of any other person.

(c) \* \* \*

(1) For violations that occurred on or before November 2, 2015, \$10,000 per violation, up to a total of \$50,000 per civil penalty action, in the case of an individual or small business concern, as defined in section 3 of the Small Business Act (15 U.S.C. 632). For violations that occurred after November 2, 2015, \$13,669 per violation, up to a total of \$68,347 per civil penalty action, in the case of an individual (except an airman serving as an airman), or a small business concern.

(2) For violations that occurred on or before November 2, 2015, \$10,000 per violation, up to a total of \$400,000 per civil penalty action, in the case of any

other person (except an airman serving as an airman) not operating an aircraft for the transportation of passengers or property for compensation. For violations that occurred after November 2, 2015, \$13,669 per violation, up to a total of \$546,774 per civil penalty action, in the case of any other person (except an airman serving as an airman) not operating an aircraft for the transportation of passengers or property for compensation.

(3) For violations that occurred on or before November 2, 2015, \$25,000 per violation, up to a total of \$400,000 per civil penalty action, in the case of a person operating an aircraft for the transportation of passengers or property for compensation (except an individual serving as an airman). For violations that occurred after November 2, 2015, \$34,174 per violation, up to a total of \$546,774 per civil penalty action, in the case of a person (except an individual serving as an airman) operating an aircraft for the transportation of passengers or property for compensation.

**John M. Mitnick,**  
General Counsel.

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BILLING CODE 9110-9-P, 9111-14-P, 9111-28-P, 9110-04-P, 9110-05-P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 956

[Doc. No.: AMS-SC-18-0028; SC-18-956-1]

#### Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Amendments to Marketing Order 956

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends Marketing Order No. 956, which regulates the handling of sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon. The three amendments, which were proposed by the Walla Walla Sweet Onion Marketing Committee (Committee), were approved by producers in a referendum. This action also updates the term of office and staggered term limits for producers and handlers.

**DATES:** This rule is effective May 6, 2019.

**FOR FURTHER INFORMATION CONTACT:** Geronimo Quinones, Marketing Specialist, or Patty Bennett, Director, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or Email: [Geronimo.Quinones@usda.gov](mailto:Geronimo.Quinones@usda.gov) or [Patty.Bennett@usda.gov](mailto:Patty.Bennett@usda.gov).

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

**SUPPLEMENTARY INFORMATION:** This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This rule is issued under Marketing Order No. 956, as amended (7 CFR part 956), regulating the handling of sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon. Part 956 (referred to as the "Order") is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act." The Committee, which is responsible for the local administration of the Order, is comprised of sweet onion producers and handlers operating within the area of production and a public member. Section 608c(17) of the Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900) authorize amendment of the Order through this informal rulemaking action.

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

This rule has been reviewed under Executive Order 12988, Civil Justice

Reform. This rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act (7 U.S.C. 608c(15)(A)), any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed no later than 20 days after the date of entry of the ruling.

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

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

The proposed amendments were unanimously recommended by the Committee following deliberations at two public meetings held on November 14, 2017, and March 3, 2018. A proposed rule soliciting comments on the amendment was issued on July 19, 2018, and published in the **Federal Register** on July 24, 2018 (83 FR 34953). One comment in support of the amendments was received. As a result, no changes to the proposed rule were made. A proposed rule and referendum order was then issued on December 11, 2018, and published in the **Federal Register** on December 14, 2018 (83 FR 64296). This document directed that a referendum among Walla Walla sweet

onion producers be conducted December 17, 2018, through December 31, 2018, to determine whether they favored the proposals. To become effective, the amendments had to be approved by two-thirds of producers voting or by those producers voting in the referendum who represented at least two-thirds of the volume of Walla Walla sweet onions.

The amendments were favored by 100 percent of the producers voting and by 100 percent of the volume represented; both exceed the two-thirds requirement.

The amendments in this final rule change the Committee's size, quorum, and voting requirements. The amendments also change the term of office and stagger term limits for producers and handlers.

#### Final Regulatory Flexibility Analysis

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

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

There are eight handlers of Walla Walla sweet onions subject to regulation under the Order and approximately 15 producers in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than \$7,500,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000 (13 CFR 121.201).

The Committee reported that approximately 390,000 50-pound bags or equivalents of Walla Walla sweet onions were shipped into the fresh market in 2017. Based on information reported by USDA's Market News Service, the average 2017 marketing year f.o.b. shipping point price for the Walla Walla sweet onions was \$14.90 per 50-pound equivalent. Multiplying the \$14.90 average price by the shipment quantity of 390,000 50-pound equivalents yields an annual crop revenue estimate of \$5,811,000. The average annual revenue for each of the eight handlers is therefore calculated to be \$726,375 (\$5,811,000 divided by eight), which is less than the SBA

threshold of \$7,500,000. Consequently, all the Walla Walla sweet onion handlers could be classified as small entities.

In addition, based on information provided by the National Agricultural Statistics Service (NASS), the average producer price for Walla Walla sweet onions for the 2012 through 2016 marketing years is \$15.27 per 50-pound equivalent. NASS has not released data regarding the 2017 marketing year at this time. Multiplying the 2012–2016 marketing year average price of \$15.27 by the 2017 marketing year shipments of 390,000 50-pound equivalents yields an annual crop revenue estimate of \$5,955,300. The estimated average annual revenue for each of the 15 producers is therefore calculated to be approximately \$397,020 (\$5,955,300 divided by 15), which is less than the SBA threshold of \$750,000. In view of the foregoing, the majority of Walla Walla sweet onion producers and all of the Walla Walla sweet onion handlers may be classified as small entities.

The amendments, which were unanimously recommended by the Committee at two public meetings on November 14, 2017, and March 3, 2018, will change the Committee's size, quorum, and voting requirements. They also change the term of office and stagger term limits so that the term of office for producers and handlers will be two fiscal periods instead of three fiscal periods, and one-half instead of one-third of the producer and handler member terms will expire every year.

These amendments will have no direct economic effect on producers or handlers. The number of producers and handlers operating in the industry has decreased, which makes it difficult to find enough members to fill positions on the Committee. Decreasing the Committee's size will make it more reflective of today's industry.

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

The Committee considered alternatives to the proposals, including making no changes at this time. Due to changes in the industry, AMS believes the proposals are justified and necessary to ensure the Committee's ability to locally administer the program. Reducing the size of the Committee will enable it to fulfill membership and quorum requirements fully, thereby ensuring a more efficient and orderly flow of business.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C.

chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178 (Vegetable and Specialty Crops). No changes in those requirements are necessary as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

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

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

The Committee's meetings were widely publicized throughout the Walla Walla sweet onion production area. All interested persons were invited to attend the meetings and encouraged to participate in Committee deliberations on all issues. The Committee meetings were public, and all entities, both large and small, were encouraged to express their views on these proposals.

A proposed rule concerning this action was published in the **Federal Register** on July 24, 2018 (83 FR 34953). Copies of the proposed rule were mailed or sent via facsimile to all Committee members and all interested parties. The proposed rule was made available through the internet by USDA and the Office of the **Federal Register**. A 60-day comment period ending September 24, 2018, was provided to allow interested persons to respond to the proposals. One comment was received. The comment submitted was in support of the proposals; therefore, no changes were made to the proposed amendments.

A proposed rule and referendum order was then issued on December 11, 2018, and published in the **Federal Register** on December 14, 2018 (83 FR 64296). This document directed that a referendum among Walla Walla sweet onion producers be conducted December 17, 2018, through December 31, 2018, to determine whether they favored the proposals. To become effective, the amendments had to be approved by two-thirds of producers voting or by those producers voting in the referendum who represented at least two-thirds of the volume of Walla Walla sweet onions.

The amendments were favored by 100 percent of the producers voting and by 100 percent of the volume represented; both exceed the two-thirds requirement.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide>.

Any questions about the compliance guide should be sent to Richard Lower at his previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

### Order Amending the Order Regulating the Handling of Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon <sup>1</sup>

#### Findings and Determinations

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

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

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

2. The Order, as amended, and as hereby further amended, regulates the handling of sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon in the same manner as, and is applicable only to, persons in the respective classes of commercial and industrial activity specified in the Order;

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

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

production and marketing of onions produced in the production area; and

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

##### (b) Determinations.

It is hereby determined that:

1. Handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping of onions covered under the Order) who during the period June 1, 2017, through May 31, 2018, handled not less than 50 percent of the volume of such onions covered by said Order, as hereby amended, have signed an amended marketing agreement; and

2. The issuance of this amendatory order, further amending the aforesaid Order, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of approval and who, during the period of June 1, 2017, through May 31, 2018, were engaged within the production area in the production of such onions. Such producers also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

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

#### Order Relative to Handling

*It is therefore ordered*, that on and after the effective date hereof, all handling of sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon shall be in conformity to, and in compliance with, the terms and conditions of the said Order as hereby proposed to be amended as follows:

The provisions amending the Order contained in the proposed rule issued by the Administrator on July 19, 2018, and published in the **Federal Register** on July 24, 2018, (83 FR 34953) will be and are the terms and provisions of this order amending the Order and are set forth in full herein.

#### List of Subjects in 7 CFR Part 956

Onions, Marketing agreements, Reporting and recordkeeping requirements.

Dated: April 2, 2019.

**Bruce Summers**,

*Administrator, Agricultural Marketing Service.*

For the reasons set forth in the preamble, 7 CFR part 956 is amended as follows:

#### **PART 956—SWEET ONIONS GROWN IN THE WALLA WALLA VALLEY OF SOUTHEAST WASHINGTON AND NORTHEAST OREGON**

■ 1. The authority citation for 7 CFR part 956 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Amend § 956.20 by revising paragraph (a) to read as follows:

##### **§ 956.20 Establishment and membership.**

(a) The Walla Walla Sweet Onion Marketing Committee, consisting of seven members, is hereby established. The Committee shall consist of four producer members, two handler members, and one public member. Each member shall have an alternate who shall have the same qualifications as the member.

\* \* \* \* \*

■ 3. Amend § 956.21 by revising to read as follows:

##### **§ 956.21 Term of office.**

(a) Except as otherwise provided in paragraph (b) of this section, the term of office of grower and handler Committee members and their respective alternates shall be two fiscal periods beginning on June 1 or such other date as recommended by the Committee and approved by the Secretary. The terms shall be determined so that one-half of the grower membership and one-half of the handler membership shall terminate each year. Members and alternates shall serve during the term of office for which they are selected and have been qualified, or during that portion thereof beginning on the date on which they qualify during such term of office and continuing until the end thereof, or until their successors are selected and have qualified.

(b) The term of office of the initial members and alternates shall begin as soon as possible after May 6, 2019. One-half of the initial industry grower and handler members and alternates shall serve for a one-year term and one-half shall serve for a two-year term. The initial as well as all successive terms of office of the public member and alternate member shall be for three years.

(c) The consecutive terms of office for all members shall be limited to two two-

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

year terms. There shall be no such limitation for alternate members.

■ 4. Amend § 956.28 by revising paragraph (a) to read as follows:

**§ 956.28 Procedure.**

(a) Four members of the Committee shall constitute a quorum, and four concurring votes shall be required to pass any motion or approve any Committee action, except that recommendations made pursuant to § 956.61 shall require five concurring votes.

\* \* \* \*

[FR Doc. 2019-06701 Filed 4-4-19; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

#### 9 CFR Part 381

[Docket No. FSIS-2017-0026]

RIN 0583-AD58

#### Eligibility of Honduras To Export Poultry Products to the United States

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is amending the Federal poultry products inspection regulations to add Honduras to the list of countries eligible to export poultry products to the United States. The FSIS review of Honduras' laws, regulations, and inspection system demonstrated that its poultry slaughter inspection system is equivalent to the system FSIS has established under the Poultry Products Inspection Act (PPIA) and its implementing regulations.

**DATES:** Effective May 6, 2019.

**FOR FURTHER INFORMATION CONTACT:**

Roberta Wagner, Assistant Administrator, Office of Policy and Program Development; Telephone: (202) 720-0089.

**SUPPLEMENTARY INFORMATION:** Under this final rule, Honduras will be permitted to export to the United States only raw poultry products, such as whole carcasses produced in certified Honduran establishments, because FSIS only assessed Honduras' poultry slaughter inspection system. Honduras would need to request an equivalence determination and submit additional information records for FSIS to review before FSIS would allow Honduras to export heat-treated poultry products, such as cooked or canned product, to the United States. All products that

Honduras exports to the United States will be subject to re-inspection at ports of entry by FSIS inspectors. At this time, Honduras is unable to ship raw poultry product to the United States because it is not recognized by APHIS as being free of Newcastle Disease (ND).

#### Background

On April 13, 2016, FSIS published a proposed rule in the **Federal Register** (81 FR 21758) to add Honduras to the list of countries eligible to export poultry products to the United States (9 CFR 381.196(b)). This final rule is consistent with the proposed rule.

As explained in the proposed rule, section 17 of the PPIA (21 U.S.C. 466) prohibits importation into the United States of slaughtered poultry, or parts or products thereof, of any kind unless they are healthful, wholesome, fit for human food, not adulterated, and contain no dye, chemical, preservative, or ingredient that renders them unhealthful, unwholesome, adulterated, or unfit for human food. Under the PPIA and the regulations that implement it, poultry products imported into the United States must be produced under standards for safety, wholesomeness, and labeling accuracy that are equivalent to those of the United States. Under the regulations at 9 CFR 381.196, FSIS sets out the procedures by which foreign countries may become eligible to export poultry and poultry products to the United States.

Section 381.196(a) requires a foreign country's poultry inspection system to include standards equivalent to those of the United States and to provide legal authority for the inspection system and its implementing regulations that is equivalent to that of the United States. Specifically, a country's legal authority and regulations must impose requirements equivalent to those of the United States with respect to: (1) Ante-mortem and post-mortem inspection by, or under the direct supervision of, a veterinarian, or other employees or licensees of the system under the direct supervision of veterinarians; (2) official controls by the national government over establishment construction, facilities, and equipment; (3) direct and continuous official supervision of slaughtering of poultry and processing of poultry products by inspectors to ensure that product is not adulterated or misbranded; (4) complete separation of establishments certified to export from those not certified; (5) maintenance of a single standard of inspection and sanitation throughout certified establishments; (6) requirements for sanitation and for sanitary handling of product at establishments certified to

export; (7) official controls over condemned product; (8) a Hazard Analysis and Critical Control Point (HACCP) system; and (9) any other requirements found in the PPIA and its implementing regulations (9 CFR 381.196(a)(2)(ii)).

The country's inspection system must also impose requirements equivalent to those of the United States with respect to: (1) Organizational structure and staffing, so as to ensure uniform enforcement of the requisite laws and regulations in all certified establishments; (2) ultimate control and supervision by the national government over the official activities of employees or licensees; (3) qualified inspectors; (4) enforcement and certification authority; (5) administrative and technical support; (6) inspection, sanitation, quality, species verification, and residue standards; and (7) any other inspection requirements (9 CFR 381.196(a)(2)(i)).

#### Evaluation of the Honduran Poultry Inspection System

In 2003, the government of Honduras requested approval to export poultry products to the United States. Honduras stated that if approved, its immediate intent was to export raw poultry carcasses to the United States. FSIS then began to evaluate the Honduran poultry slaughter inspection system to determine whether it is equivalent to that of the United States.

FSIS conducted a document review to evaluate the laws, regulations, and other documentation used by Honduras to execute its poultry inspection system. FSIS examined the information submitted by Honduras to verify that the following equivalence components were addressed satisfactorily with respect to standards, activities, resources, and enforcement: (1) Government Oversight; (2) Statutory Authority and Food Safety Regulations; (3) Sanitation; (4) Hazard Analysis and Critical Control Point Systems; (5) Chemical Residue Testing Programs; and (6) Microbiological Testing Programs. The document review was satisfactory to FSIS, and FSIS scheduled an on-site review to evaluate all aspects of the Honduran poultry inspection program.

In November 2005, FSIS conducted an on-site audit of the Honduran poultry inspection program and identified systemic deficiencies within three equivalence components: Government Oversight, Sanitation, and HACCP. In response to this audit, Honduras submitted a corrective action plan that addressed FSIS's findings.

In June 2009, FSIS conducted a second on-site audit to verify whether

all outstanding issues identified during the previous audit had been resolved. Through the 2009 audit, FSIS verified that Honduras implemented corrective actions in response to the previous audit findings, and these corrective actions were working as intended. However, during the 2009 audit, FSIS identified systemic deficiencies not identified in the previous audit. The deficiencies related to the equivalence components of Sanitation, HACCP, and Microbiological Testing Programs.

Following the 2009 on-site audit, Honduras again provided a comprehensive corrective action plan that addressed the findings identified. Corrective actions included implementing new regulations, procedures, measures, and verification activities to ensure uniformity in conducting official inspection activities.

In September 2014, FSIS conducted a third on-site audit to verify that Honduras had satisfactorily addressed all the findings of the November 2005 and June 2009 audits and had met the FSIS criteria for all six equivalence components. The evaluation of all documentation provided by Honduras since the 2009 audit (corrective actions taken in response to the 2009 audit findings, regulatory updates, new performance standards, and new microbiological laboratory procedures and analyses) supported the decision to perform the third audit. The auditor verified that all corrective actions in response to the 2009 audit findings were implemented as described and working as intended. There were no new audit findings from the 2014 on-site audit. The auditor concluded that the Honduran poultry regulatory system cumulatively achieves a level of protection equivalent to that provided by the United States poultry inspection system.

Consequently, on April 13, 2016, FSIS published a proposed rule to add Honduras to the list of countries eligible to export raw poultry products, such as whole carcasses, to the United States, based on its finding that the Honduran poultry slaughter inspection system is equivalent to the United States poultry inspection system. For more detailed information on the FSIS evaluation of the Honduran poultry inspection system, see the proposed rule (81 FR 21758), and for the full audit reports, go to <http://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/importing-products/eligible-countries-products-foreign-establishments/foreign-audit-reports/foreign-audit-reports>.

### Final Rule

After considering the comments received on the proposed rule, discussed below, FSIS has concluded that the Honduran poultry inspection system is equivalent to the United States inspection system for raw poultry products. Therefore, FSIS is amending its poultry products inspection regulations to add Honduras to the list of countries eligible to export poultry products to the United States (in 9 CFR 381.196 (b)). Under the FSIS import regulations, the government of Honduras must certify to FSIS that establishments requesting to export poultry products to the United States are operating under requirements equivalent to those of the United States (9 CFR 381.196(a)).

Although a foreign country may be listed in FSIS regulations as eligible to export poultry to the United States, the exporting country's products must also comply with all other applicable requirements of the United States. These requirements include restrictions under 9 CFR part 94 of the Animal and Plant Health Inspection Service (APHIS) regulations, which also regulate the importation of poultry products from foreign countries into the United States. At this time, Honduras cannot ship poultry products to the United States because APHIS does not recognize Honduras as a region free from ND.

Under this final rule, all slaughtered poultry, or parts and products thereof, exported to the United States from Honduras will be subject to re-inspection at the United States ports of entry for, but not limited to, transportation damage, product and container defects, labeling, proper certification, general condition, and accurate count.

FSIS will conduct other types of re-inspection activities, such as taking product samples for laboratory analysis to detect any drug or chemical residues that may render the product unsafe, as well as any species or product composition violations that would render the product economically adulterated. Products that pass re-inspection will be stamped with the official mark of inspection and allowed to enter United States commerce. If they do not meet U.S. requirements, they will be refused entry and within 45 days will have to be returned to the country of origin, destroyed, or converted to animal food (subject to approval by FDA), depending on the violation. The import re-inspection activities can be found on the FSIS website at <https://www.fsis.usda.gov/wps/portal/fsis/>

*topics/international-affairs/importing-products/port-of-entry-procedures.*

In addition, should Honduras meet APHIS requirements, Honduran poultry products will be eligible for importation into the United States only if they are from animals slaughtered on or after the effective date of this final rule.

### Summary of Comments and Responses

FSIS received nine comments on the proposed rule. Seven of the comments were from individuals; one comment was from a consumer advocacy group; and another comment was from a not-for-profit corporation that promotes poultry industry trade associations in Central America. Of the nine comments, five were against the proposed rule, including the consumer advocacy group. Three individuals and the one trade advocate were in support of the proposed rule.

The following is a discussion of the relevant issues raised in the comments.

*Comments:* Several commenters objected to the rule for economic reasons. Commenters stated that poultry imports could undermine U.S. poultry production leading to decreased demand for domestic supply and unemployment for U.S. poultry producers. The commenters were concerned that the increased competition in the poultry market will negatively impact domestic producers by putting downward pressure on the market price and potentially edging domestic producers out of the market.

An individual commenter questioned whether there is a need for imported poultry and whether the rule is necessary because of a lack of domestic supply. Another commenter expressed concern about using U.S. tax dollars to help Honduras reach equivalency in its inspection systems, so the country could be approved by FSIS for exports.

*Response:* Economic and market realities make it unlikely that the increased amounts of poultry imports from Honduras will lead to unemployment for domestic producers. Should Honduras meet APHIS requirements, FSIS estimates Honduran exports will comprise 0.05 percent of the U.S. market annually the first three years. FSIS does not believe that this rule will adversely affect the U.S. poultry industry because the volume of trade that results from this rule will likely be small and have little effect on supply and prices. Demand for domestically produced poultry will not be affected because FSIS expects the market price to remain stable.

FSIS has conducted a comprehensive cost-benefit analysis of the rule and determined it to be advantageous to

both countries. The preliminary and final analyses recognize that any significant effects of the rule will come through efficiency gains.

Additionally, FSIS has an appropriated annual budget to review documents and audit countries' inspection systems to assess whether they are equivalent to the FSIS inspection system. Other than explaining FSIS requirements, FSIS does not aid countries in becoming equivalent. These activities will not lead to direct competition because there is no expected market price increase resulting from the rule.

*Comment:* One commenter expressed concern about ND in Honduras. This commenter stated that FSIS should test individual poultry products.

*Response:* Although Honduras may be listed in FSIS's regulations as eligible to export poultry products to the United States, the products must also comply with all other applicable requirements of the United States, including those of APHIS, before any products can enter the United States.

APHIS is responsible for preventing the entry of foreign animal diseases into the livestock population of the United States. APHIS determines the animal health status of foreign countries or regions for certain diseases, and this process is outlined in Title 9 CFR part 92. These animal health status determinations help establish the import requirements for livestock and products derived from them.

As is discussed above, at this time, APHIS does not allow Honduras to export raw poultry to the U.S. because Honduras is not recognized by APHIS as a region free of ND. Honduras has requested that APHIS recognize it as free of ND, and APHIS is conducting a review and evaluation. If APHIS determines that Honduras is free of ND, it will make its evaluation available for public comment through a document published in the **Federal Register**.

FSIS and APHIS work closely together to ensure that all poultry products imported into the United States comply with the regulatory requirements of both agencies. In 1985, FSIS and APHIS signed a memorandum of understanding (MOU) in which both agencies agreed to cooperate in meeting their respective needs for information on disease surveillance, diagnostic testing, investigations, trace backs, and animal and public health emergencies. Information exchange between the two agencies is necessary to reduce the spread of animal disease, while providing a wholesome food supply.

The MOU is updated periodically to ensure that it addresses matters of

importance to both agencies. The MOU was last updated November 20, 2014. In accord with this MOU, FSIS and APHIS established procedures for communication between the two agencies regarding the inspection, handling, and disposition of imported poultry products. APHIS and FSIS communicate regularly to ensure that products APHIS has restricted from entering the United States because of animal disease concerns are not imported into the United States.

*Comment:* One commenter expressed concerns about the length of time it took Honduras to achieve equivalence and how Honduras plans to maintain equivalence in the future. The commenter stated that the FSIS 2014 audit report does not contain information about the number of inspectors assigned to poultry slaughter lines, the workload ratio of the assigned inspectors, or the line speeds in Honduras. The commenter also stated concerns about the reliability of establishments'—interventions and the CCA's sampling protocols.

*Response:* Honduras meets current standards with regard to line speeds and the workload ratio of assigned inspectors. During the 2014 audit, FSIS observed online inspection of 140 birds per minute with 4 online inspectors, or 35 birds per minute per inspector. The Honduran food safety system, food safety interventions and sampling protocols were assessed during the FSIS on-site audits.

FSIS assesses a country's food regulatory system in terms of six equivalence components and uses its findings from the assessment in deciding whether to grant eligibility to the country for the importation of its poultry products into the United States. Based on the 2014 follow-up on-site audit, FSIS determined that Honduras fully met the criteria within those six equivalence components, in accordance with 9 CFR 327.2. FSIS tentatively concluded that, as implemented, the Honduran poultry slaughter inspection system is equivalent to the United States poultry inspection system. The details of Honduran compliance with those components can all be found on the FSIS website at: <http://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/importing-products/eligible-countries-products-foreign-establishments/foreign-audit-reports/foreign-audit-reports>.

FSIS ensures that countries maintain equivalence through a three-part process, involving: (1) Recurring equivalence reviews (e.g., through use of the country Self Reporting Tool or other documentation from the Central

Competent Authority) of the exporting country's applicable laws and regulations; (2) periodic on-site equivalence verification audits in the exporting country; and (3) ongoing point-of-entry (POE) re-inspection of shipments received from the exporting country. These POE activities include examination of products for defects, condition-of container examinations, and laboratory analysis of product samples.

For all these reasons, therefore, concerns about the length of time it took Honduras to achieve equivalence and how Honduras plans to maintain equivalence in the future are unwarranted. Honduras has sampled and tested for *Salmonella* in raw poultry since the 2005 and 2009 audits, and has started sampling and testing for *Campylobacter* in raw poultry since—the 2014 audit. Honduras has implemented requirements that are equivalent to FSIS's Poultry Slaughter Rule (79 FR 49565) to ensure pathogen reduction during the slaughter of poultry. The deficiencies have been remedied, and the Honduran inspection system will be subject to ongoing verification to ensure that it continues to maintain standards equivalent to those of the United States.

*Comments:* The commenters who supported the proposed rule generally cited the economic benefits of increased trade.

*Response:* FSIS agrees the rule is mutually beneficial to both the U.S. and Honduran economies.

#### **Executive Orders 12866 and 13563, and the Regulatory Flexibility Act**

Executive Orders (E.O.) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been designated a "non-significant" regulatory action under section 3(f) of E.O. 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget under E.O. 12866.

#### **Expected Costs of the Final Rule**

This final rule adds Honduras to the list of countries eligible to export raw poultry to the United States. However, because of animal disease restrictions,

APHIS regulations currently prohibit Honduras from immediately shipping raw poultry products to the United States. Honduran establishments are currently eligible to export raw and processed beef and veal, raw and processed lamb and mutton, raw and processed goat as well as processed pork. According to data from the government of Honduras, Honduras intends to certify one establishment as eligible to export raw poultry to the United States.<sup>1</sup> Should the country meet APHIS requirements, the expected export volume for this establishment for the first three years is 10,211 Metric Tons (MT). This is expected to increase to 11,231 MT in year four and 12,355 MT in year five.<sup>2</sup>

The U.S. poultry industry is one of the most competitive agricultural industries in the world. U.S. establishments slaughtered 18.6 million MT of young chickens in 2017.<sup>3</sup> Approximately 3.0 million MT of young chickens slaughtered in the United States were exported in 2017 and 0.056 million MT were imported.<sup>4</sup>

The importation of poultry products from Honduras is expected to have a minimal impact on the United States poultry market. Should Honduras meet APHIS requirements, FSIS estimates Honduran exports would comprise 0.05 percent (10,211 MT from Honduras compared to a United States slaughter volume of 18.6 million MT in 2017) of the United States market annually the first three years. FSIS estimates Honduran exports would continue to comprise 0.06 percent of the U.S. market the fourth year and increase to 0.07 percent the fifth year. FSIS projects that Honduras would not alter the U.S. poultry supply and would not have an impact on domestic poultry prices. Therefore, FSIS projects that establishments in the United States would not see the negative effects that could come from a decrease in price as a result of increased competition.

Companies based in Honduras that export to the United States or United States companies that export products from Honduras to the United States

would incur standard costs such as export fees and freight and insurance costs. However, those companies would be willing to bear these costs because of the expected benefits associated with selling their products to the U.S.

#### Expected Benefits of the Final Rule

Should Honduras meet APHIS requirements, FSIS expects to see an increase in trade between Honduras and the United States. The volume of poultry exported from Honduras is likely to be small and is expected to have little to no effect on domestic poultry supplies or prices. Therefore, consumers will not benefit from a decrease in price that would result from increased competition. However, Latin American preferences for dark meat compliment American preferences for white meat. Therefore, Honduran establishments will benefit if they export surplus white meat to the United States. While the export of white meat from Honduras may be minimal compared to overall consumption in the United States, these exports may be significant enough in the long run to influence domestic prices in Honduras.<sup>5</sup>

In addition, the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR), implemented in 2006, sought to level the playing field and increase trade between the United States and the six CAFTA-DR trading partners, including Honduras.<sup>6</sup> FSIS expects this final rule will increase trade, benefiting firms and consumers in the United States and Honduras, especially within the agricultural sector. Providing market access to Honduran establishments ensures similar access will be given to United States firms. American firms have already benefited from CAFTA-DR, with agricultural exports (including wheat, live animals and red meat) to Honduras nearly doubling (82.5 percent) between 2006 and 2017 and is expected to rise even further in the future.<sup>7</sup>

#### Regulatory Flexibility Act Assessment

The FSIS Administrator certifies that, for the purposes of the Regulatory

Flexibility Act (5 U.S.C. 601-602), this final rule will not have a significant impact on a substantial number of small entities in the United States. As mentioned above, the expected trade volume is very small. Therefore, the action should not have a significant impact on small entities that produce poultry products domestically.

#### Paperwork Reduction Act

No new paperwork requirements are associated with this final rule. Foreign countries wanting to export poultry and poultry products to the United States are required to provide information to FSIS certifying that their inspection system provides standards equivalent to those of the United States, and that the legal authority for the system and their implementing regulations are equivalent to those of the United States.

#### E-Government Act

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, *et seq.*) by, among other things, promoting the use of the internet and other information technologies and providing increased opportunities for citizen access to Government information and services, and for other purposes.

#### Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication and officially notify the World Trade Organization's Committee on Sanitary and Phytosanitary Measures (WTO/SPS Committee) in Geneva, Switzerland, of this proposal on-line through the FSIS web page located at: <http://www.fsis.usda.gov/federal-register>.

FSIS also will make copies of this publication available through the FSIS *Constituent Update*, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: <http://www.fsis.usda.gov/subscribe>. Options range from recalls to export information, regulations, directives, and notices.

<sup>1</sup> Honduras currently has only two establishments certified for meat exports to the United States. Therefore, it is unlikely we will see a significant increase in the number of establishments eligible to export poultry from Honduras.

<sup>2</sup> Source: Correspondence with the Government of Honduras.

<sup>3</sup> [https://apps.fas.usda.gov/psdonline/circulars/livestock\\_poultry.pdf](https://apps.fas.usda.gov/psdonline/circulars/livestock_poultry.pdf).

<sup>4</sup> USDA Foreign Agricultural Service. Market and Trade Data/PSD online/Reports and Data: Exports Market year 2017. <https://apps.fas.usda.gov/psdonline/app/index.html#/app/downloads> [http://apps.fas.usda.gov/psdonline/circulars/livestock\\_poultry.pdf](http://apps.fas.usda.gov/psdonline/circulars/livestock_poultry.pdf).

<sup>5</sup> Haley, Mildred M. (May 2001). Changing Consumer Demand for Meat: The U.S. Example, 1970-2000. In A. Regmi, *Changing Structure of Global Food Consumption and Trade* (pp.41-48). (Economic Research Service Outlook No. WRS-01-1) Washington, DC.

<sup>6</sup> United States Department of Agriculture. *FACT SHEET on Dominican Republic-Central America-United States Free Trade Agreement* (Release No. 0237.08). Retrieved on March 18, 2015 from <http://www.usda.gov/wps/portal/usda/usdamedia/fb?contentid=2008/09/0237.xml&printable=true&contentidonly=true>.

<sup>7</sup> Source: FAS Global Agricultural Trade System—FAS Agricultural Total Exports to Honduras.

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#### USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

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Send your completed complaint form or letter to USDA by mail, fax, or email:

*Mail:* U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250-9410.

*Fax:* (202) 690-7442.

*Email:* [program.intake@usda.gov](mailto:program.intake@usda.gov).

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

#### List of Subjects in 9 CFR Part 381

Imported products.

For the reasons set out in the preamble, FSIS is amending 9 CFR part 381 as follows:

#### PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

■ 1. The authority citation for part 381 continues to read as follows:

**Authority:** 7 U.S.C. 138f, 450; 21 U.S.C. 451-470; 7 CFR 2.7, 2.18, 2.53.

##### § 381.196 [Amended]

■ 2. Section 381.196 is amended in paragraph (b) by adding "Honduras" in alphabetical order to the list of countries.

Done in Washington, DC.

**Carmen M. Rottenberg,**  
*Administrator.*

[FR Doc. 2019-06662 Filed 4-4-19; 8:45 am]

BILLING CODE 3410-DM-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

#### Determination of Adjusted Applicable Federal Rates Under Section 1288 and the Adjusted Federal Long-Term Rate Under Section 382

##### CFR Correction

■ In Title 26 of the Code of Federal Regulations, Part 1 (§§ 1.301 to 1.400), revised as of April 1, 2018, on page 670, in § 1.382-1, the introductory text is revised to read as follows:

##### § 1.382-1 Table of Contents.

This section lists the captions that appear in the regulations for §§ 1.382-2 through 1.382-12.

\* \* \* \* \*

[FR Doc. 2019-06831 Filed 4-4-19; 8:45 am]

BILLING CODE 1301-00-D

## DEPARTMENT OF JUSTICE

### 28 CFR Parts 20, 22, 36, 68, 71, 76, and 85

[Docket No. OAG 148; AG Order No. 4424-2019]

#### Civil Monetary Penalties Inflation Adjustment

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** The Department of Justice is finalizing without change an interim rule published on June 30, 2016, adjusting for inflation the civil monetary penalties assessed or enforced by components of the Department, in accordance with the provisions of the Bipartisan Budget Act of 2015.

**DATES:** *Effective date:* This rule is effective April 5, 2019.

**FOR FURTHER INFORMATION CONTACT:** Robert Hinchman, Senior Counsel, Office of Legal Policy, U.S. Department of Justice, Room 4252 RFK Building, 950 Pennsylvania Avenue NW, Washington, DC 20530, telephone (202) 514-8059 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** In this final rule, the Department of Justice (Department) finalizes the interim rule that was published on June 30, 2016 (81 FR 42491). Readers may refer to the **SUPPLEMENTARY INFORMATION** (also known as the preamble) of the Department's interim rule for additional background information regarding the statutory authority for adjustments of civil monetary penalty amounts for

inflation and the Department's past implementation of inflation adjustments. After consideration of the public comments submitted in response to the interim rule, the Department is finalizing the interim rule without change for the reasons discussed below.

This final rule makes no change in the amount of the civil penalties as adjusted in the 2016 interim rule, which is applicable to civil penalties assessed after August 1, 2016. Since the publication of the interim rule, the Department has twice published other rules that have further adjusted the amounts for civil penalties assessed in subsequent calendar years, as required by law. On February 3, 2017 (82 FR 9131), the Department published a final rule adjusting for inflation the civil monetary penalties that it assesses or enforces for penalties assessed after February 3, 2017, and on January 29, 2018 (83 FR 3944), the Department published a final rule adjusting for inflation the civil monetary penalties that it assesses or enforces for penalties assessed after January 29, 2018. But since this final rule finalizes the provisions of the 2016 interim rule without change, there is no need for any revisions to the adjusted civil penalty amounts that are applicable for penalties assessed in 2016, 2017, or 2018.

#### I. Revised Statutory Process for Implementing Annual Inflation Adjustments

Section 701 of the Bipartisan Budget Act of 2015, Public Law 114-74 (Nov. 2, 2015), titled the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 ("2015 Amendments"), 28 U.S.C. 2461 note, substantially revised the prior provisions of the Federal Civil Monetary Penalties Inflation Adjustment Act of 1990, Public Law 101-410 ("Inflation Adjustment Act"), and substituted a different statutory formula for calculating inflation adjustments on an annual basis.

In accordance with the provisions of the 2015 Amendments, on June 30, 2016 (81 FR 42491), the Department of Justice published an interim final rule with request for comments ("interim rule") to adjust for inflation the civil monetary penalties assessed or enforced by components of the Department.

As discussed in greater detail in the preamble to the interim rule, the 2015 Amendments set forth a new method of calculation for the initial adjustment following the 2015 Amendments. For the initial adjustment, the "cost-of-living adjustment," which sets the amount by which the maximum civil

monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, would be increased, is defined as “the percentage (if any) for each civil monetary penalty by which the Consumer Price Index for the month of October 2015 exceeds the Consumer Price Index for the month of October of the calendar year during which the amount of such civil monetary penalty was established or adjusted under a provision of law other than this Act.” Public Law 114–74, sec. 701(b)(2)(B) (amending section 5(b) of the Inflation Adjustment Act). This adjustment is to be applied to “the amount of the civil monetary penalty as it was most recently established or adjusted under a provision of law other than this Act,” and “shall not exceed 150 percent of the amount of that civil monetary penalty on the date of enactment of” the 2015 Amendments. *Id.*

The 2015 Amendments authorized the Department, with the concurrence of the Director of the Office of Management and Budget, to make a determination in certain circumstances to increase a civil penalty by less than the otherwise required amount. However, the interim rule did not invoke that authority. The adjustments to existing civil monetary penalties set forth in the interim rule were calculated pursuant to the statutory formula.

The 2015 Amendments also amended section 6 of the Inflation Adjustment Act to provide that “[a]ny increase under this Act in a civil monetary penalty shall apply only to civil monetary penalties, including those whose associated violation predated such increase, which are assessed after the date the increase takes effect.”

## II. Adjustments Made in the Department’s June 2016 Interim Rule for Civil Monetary Penalties

In accordance with the 2015 Amendments, the adjustments made by the Department’s interim rule were based on the Bureau of Labor Statistics’ Consumer Price Index for October 2015. The inflation factors used in Table A in the preamble of the interim rule were provided to all federal agencies in the Office of Management and Budget Memorandum for the Heads of Executive Departments and Agencies M–16–06 (Feb. 24, 2016), <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2016/m-16-06.pdf> (last visited February 26, 2019). Table A in the preamble of the interim rule provided the new penalties, as adjusted for inflation by the interim rule, as well as the

calculations upon which the inflation adjustments were made.

The interim rule revised 28 CFR 85.3 to provide that the inflation adjustments set forth in that section continue to apply to violations occurring on or before November 2, 2015, the date of enactment of the 2015 Amendments, as well as to assessments made before August 1, 2016, whose associated violations occurred after November 2, 2015. Other existing Department regulations provided for inflation adjustments of other civil penalties under prior law, such as the civil penalties under certain provisions of the immigration laws in 28 CFR 68.52. Those other existing regulations were also revised to provide that the preexisting regulatory inflation adjustments continue to apply to violations occurring on or before November 2, 2015, as well as to assessments made before August 1, 2016, whose associated violations occurred after November 2, 2015.

The interim rule added a new provision, 28 CFR 85.5, adjusting for inflation the civil monetary penalties within the jurisdiction of the Department of Justice for purposes of the Inflation Adjustment Act, as amended by the 2015 Amendments.

Other agencies are responsible for the inflation adjustments of certain other civil monetary penalties that the Department’s litigating components bring suit to collect. The reader should consult the regulations of those other agencies for inflation adjustments to those penalties.

## III. Inflation Adjustments for Future Years

This rule finalizes the interim rule that implemented the initial adjustments of civil penalty amounts for civil penalties, effective on August 1, 2016. After the initial adjustments made in 2016, the 2015 Amendments provide a different process for annual adjustments in future years. The Department will be implementing the adjustment of civil penalties for future years in subsequent actions to be published in the **Federal Register**. As noted above, the Department has already published rules on February 3, 2017, and January 29, 2018, making the required annual adjustments in civil penalty amounts.

## IV. Comments Received on the Interim Rule

Before the interim rule’s comment period closed on August 29, 2016, the Department received comments from six commenters. The Department has carefully considered all the comments,

which are grouped and discussed below by subject with the Department’s responses.

### A. Rounding of the Adjusted Civil Penalty Amounts

One comment asked the Department to simplify civil penalty adjustments by using more even amounts. In particular, the interim rule adjusted the False Claims Act civil penalties to a minimum of \$10,781 and a maximum of \$21,563, and the commenter suggested rounding those amounts to \$10,750 and \$21,500, respectively.

In response, the Department notes that the 2015 Amendments require that the adjusted civil penalties be calculated under the statutory formula to the nearest multiple of \$1. *See* Public Law 114–74, sec. 701(b)(2)(A) (amending section 5(a) of the Inflation Adjustment Act). Accordingly, unlike the approach of the former statutory process, the Department is not authorized to round the adjusted civil penalties to the nearest \$50 or \$100 or some other amount.

### B. Comments With Regard to Possible Assessment of Large Amounts of Civil Penalties for Many Minor Violations; Concerns About “Grossly Excessive” Penalties and “Excessive Fines”

Several comments expressed concerns that many penalties are assessed on a “per violation” basis without considering the magnitude of the harm or damage; they object that, if there are a large number of minor violations, a very large penalty could result that far exceeds the loss attributable to those violations. The comments also raised concerns about penalty amounts possibly being so high as to violate the limits under the Due Process Clause’s prohibition of penalties that are “grossly excessive” or the Eighth Amendment’s prohibition against “excessive fines.”

These concerns were particularly focused on the assessment of penalties under the False Claims Act, 31 U.S.C. 3729 *et seq.*, although commenters also expressed similar concerns that the interim rule resulted in a near doubling of adjusted civil penalties under other laws including the Anti-Kickback Act, the Americans With Disabilities Act, and the Controlled Substances Act.<sup>1</sup> For

<sup>1</sup> With regard to the Americans With Disabilities Act penalties in particular, the Department notes that the civil penalty amounts for violations of that law had already been adjusted by regulation pursuant to the prior inflation adjustment formula, for example, from a maximum of \$55,000, for first violations occurring on or after September 29, 1999, to a maximum of \$75,000 for first violations occurring on or after April 28, 2014. Because of this 2014 increase, the adjusted civil penalty maximum

these reasons, commenters suggested that the Department should not be increasing the applicable civil penalties as set forth in the interim rule.

For the reasons explained below, the Department has considered these arguments but has decided not to invoke the authority under the 2015 Amendments to set the civil penalty amounts at levels less than those adjustments as provided under the interim rule. Under the 2015 Amendments, the relevant civil penalty amounts were adjusted to conform to the levels of inflation since the penalties were last established or adjusted under a provision of law other than the Inflation Adjustment Act. (The only exceptions to that straight inflation adjustment were the result of the statutory cap on adjustments that Congress provided to keep certain adjusted civil penalty amounts from increasing by more than 150 percent of existing levels.)

The Department understands the general concern that there may be a potential for imposition of a large penalty that, under the particular circumstances of specific violations, might be argued to be disproportionate or excessive. The Department notes, however, that the 2016 interim rule being finalized by this final rule only established the maximum amount (and, for some penalties, the minimum amount) that could be imposed for violations. This rule does not require the Department to seek the maximum number or amount of penalties that may be available in any particular case.

In particular, the commenters' concerns about the potential imposition of numerous large civil penalty amounts for a series of small dollar-amount violations can be addressed in how the civil penalty provisions are administered in individual cases rather than by adjusting the amount of each civil penalty by less than the statutory formula requires. One commenter gave the example of the potential imposition of 1,000 separate civil penalties totaling over \$21 million in response to a series of 1,000 false claims for prescriptions of \$10 each (*i.e.*, where the loss to the government totaled \$10,000); another commenter offered a hypothetical where a series of 15,000 occurrences of a \$2.50 billing mistake might lead to a healthcare institution being subject to multiple penalties totaling over \$161

million. In these examples, the concern is about the application of the civil penalties to particular circumstances.

The Department has concluded that the prospect of this kind of potential imposition of multiple separate penalties in particular cases does not support an across-the-board reduction in the inflation adjustment for the individual penalties in all instances in which they may be imposed. The statutory civil penalties as provided by Congress, and as adjusted pursuant to the 2015 Amendments, are applicable to all statutory violations—regardless of the amounts at issue for particular violations. To the extent that commenters are objecting that the civil penalty amounts set by the False Claims Act or other statutes were *already* disproportionately high, *i.e.*, prior to the enactment of the 2015 Amendments, and offering that as a reason for not adopting the inflation adjustments called for by the 2015 Amendments, the crux of their complaint lies in the amount initially established or adjusted by Congress, not in how the penalties are adjusted for inflation pursuant to the 2015 Amendments.

Instead of lowering the inflation adjustment amount for a particular civil penalty across the board, which would affect all applications, whether they involved large or small dollar amounts, the Department believes that a fair result can be achieved in how civil penalties are sought in particular cases, as well as during settlement discussions, where the parties have an opportunity to discuss individual circumstances, the severity of the damage or harm caused by the violation, and any mitigating factors in favor of a less-than-maximum penalty. Moreover, in cases that proceed to litigation, the Department may elect to pursue fewer than the maximum number of actionable penalties or an amount less than the maximum penalty amount. Finally, we note that the parties will continue to be able to challenge the imposition of particular civil penalty assessments in court that they regard as disproportionate or excessive given the circumstances of the particular case.

Finally, the Department notes that the statute only permits applying a lower inflation adjustment in certain circumstances (*i.e.*, where the head of the agency determines that “(A) increasing the civil monetary penalty by the otherwise required amount will have a negative economic impact; or (B) the social costs of increasing the civil monetary penalty by the otherwise required amount outweigh the benefits” and the Director of the Office of Management and Budget concurs). The Department has considered the concerns

presented in the public comments and continues to believe that these circumstances are not present with respect to these inflation adjustments.

For the foregoing reasons, the Department is not reducing the inflation adjustments in the 2016 interim rule for violations of the statutory provisions in question.

### *C. Comments Concerning the Calculation of the Adjustments for the False Claims Act*

Two comments challenged the Department's calculation of the inflation adjustments for violations of the False Claims Act (FCA), contending that the Department erred by overlooking the 2009 amendments to the FCA in the Fraud Enforcement and Recovery Act of 2009 (FERA), Public Law 111–21, sec. 4 (2009). These commenters assert that the base year for making the inflation adjustment calculations should be 2009, rather than 1986, because in their view the 2009 amendments to the FCA constitute the last time the FCA penalties were “established or adjusted” by law other than the Inflation Adjustment Act. See Public Law 114–74, sec. 701(b)(2)(B) (amending section 5(b) of the Inflation Adjustment Act).

In support of their argument, the commenters point to statutory language added to the FCA in 2009 to clarify that the 1986 penalty amounts are subject to adjustment by the Inflation Adjustment Act. Specifically, the FCA was amended in 2009 to state that a defendant is liable to the United States “for a civil penalty of not less than \$5,000 and not more than \$10,000, as adjusted by the [*Inflation Adjustment Act*].” Public Law 111–21, sec. 4(a)(1) (emphasis added). The commenters note that, at the time the FCA was amended in 2009, the original statutory penalties ranging from \$5,000–\$10,000 had been adjusted for inflation by regulation to a range of \$5,500–\$11,000. The commenters suggest that because the 2009 amendments clarified that the \$5,000–\$10,000 range should be adjusted by the Inflation Adjustment Act, and, because the range had already been adjusted for inflation by regulation to \$5,500–\$11,000, the 2009 amendments to the FCA represent a time when Congress “established or adjusted” the penalty amount “under a provision of law other than” the Inflation Adjustment Act. See Public Law 114–74, sec. 701(b)(2)(B) (amending section 5(b) of the Inflation Adjustment Act). The commenters contend that, therefore, the Department's inflation adjustment for 2016 should use a base year of 2009 for the inflation calculations for the FCA, instead of 1986 when the civil penalties

amount of \$89,078 in the interim rule for first violations, effective for civil penalty assessments after August 1, 2016, represents an increase of less than 19 percent from the 2014 level of \$75,000 and not a near doubling as asserted by the comment. Compare 28 CFR 36.504(a)(3)(i), with 81 FR 42491, at 42495 (June 30, 2016).

of \$5,000 to \$10,000 were originally established by Congress. The commenters note that using 2009 as the base year would yield a substantially smaller increase in the civil penalty range in the 2016 interim rule for each FCA violation.

The Department does not find the commenters' analysis persuasive. The 2015 Amendments make clear that the base year for the "cost-of-living adjustment" for the initial inflation adjustment is the "calendar year during which the amount of [the relevant] civil monetary penalty was established or adjusted under a provision of law other than [the Inflation Adjustment] Act." Public Law 114-74, sec. 701(b)(2)(B) (amending section 5(b) of the Inflation Adjustment Act). The relevant question, then, is whether the 2009 amendments to the FCA "established or adjusted" the FCA civil monetary penalties "under a provision of law other than" the Inflation Adjustment Act. We conclude that they did not.

The statutory amendments enacted by Congress in 2009 did not specify the amounts of \$5,500 to \$11,000 as the range of the adjusted civil penalty amounts at that time, and, following these amendments, the civil penalty amounts remained exactly the same as they had been before the 2009 amendments, as did the methodology for calculating those amounts. The statutory text added to the FCA in 2009 did not "establish[] or adjust[]" the civil monetary penalties pursuant to the FERA, rather it merely provided clarification that the 1986 penalty amounts of \$5,000 and \$10,000 were intended to remain subject to previous and future inflation adjustments under the Inflation Adjustment Act. Moreover, if pre-2015 applications of the Inflation Adjustment Act itself do not qualify as "establish[ing] or adjust[ing]" the civil penalty amounts for purposes of the 2015 Amendments—as the 2015 Amendments make quite clear—then a statutory provision merely clarifying the continued applicability of the Inflation Adjustment Act to the 1986 penalty amounts also should not qualify as "establish[ing] or adjust[ing]" the civil penalty amounts for purposes of the 2015 Amendments. For these reasons, we conclude that the interim rule correctly used 1986, instead of 2009, as the appropriate base year for the adjustment of the relevant penalties.

#### *D. Comments on Penalty Adjustments of "Immigration-Related Penalties"*

The Department received several related comments concerning the application of the inflation adjustments to penalties for violations of the

requirements in section 274A of the Immigration and Nationality Act (INA), 8 U.S.C. 1324a, for verifying the identity and employment authorization of individuals hired for employment in the United States.

As background, the Department notes that the process for imposition of civil penalties for violations of section 274A of the INA is divided between two separate Departments. The Department of Homeland Security (DHS)'s Immigration and Customs Enforcement (ICE) is responsible for enforcing the requirements of section 274A of the INA and of DHS's implementing regulations at 8 CFR part 274a. If, however, the subject of a civil penalty sought by ICE requests a hearing, the hearing is conducted and adjudicated by an administrative law judge (ALJ) in the Office of the Chief Administrative Hearing Officer (OCAHO), which is part of the Department's Executive Office for Immigration Review (EOIR). The Department's rules for conduct of such ALJ hearings are contained in 28 CFR part 68, and the civil penalty provisions are set forth in 28 CFR 68.52. Consistent with the statutory structure providing for EOIR to issue final decisions in cases where a hearing is sought, the Department's 2016 interim rule adjusted the civil penalty amounts set forth in § 68.52. DHS published its own rule on July 1, 2016 (81 FR 42987), that adjusted civil penalty amounts set forth in the DHS regulations, including adjustment of the applicable civil penalties in 8 CFR part 274a.

The comments on the Department's interim rule included the following contentions, and are accompanied by the Department's responses:

- The Department should refrain from increasing the civil penalty for the failure to notify the government if an employee continues to work after a final non-confirmation of the employee's employment eligibility in E-Verify, until the Department of Labor (DOL) issues a revised regulation addressing the "practical application of the 'failure to notify' rule."

In response, the Department notes that this concern pertains not to the amount of the 2016 inflation adjustment to the civil penalty in question, as such, but instead to how employers who use the E-Verify system can provide the appropriate notification to the government of the employer's actions with respect to a non-confirmed employee. This is an operational issue pertaining to the applicable legal requirements, and the Department has concluded that this concern does not warrant a reduction in the otherwise-

applicable inflation adjustments for the civil penalty in question.

This comment also contended that, as a notification process for final non-confirmations is built into E-Verify, and considering the very limited situations in which an employer would continue to employ the individual following a final non-confirmation, it may not even be necessary to raise this penalty. In response, the Department notes that any such relevant concerns can be presented to the extent they may arise in individual cases, but concludes that these considerations do not warrant a change in the calculations of the applicable civil penalty adjustments as provided by the 2015 Amendments.

- The Department should not increase the civil penalties for employment eligibility verification violations under 8 U.S.C. 1324a(e)(5) (otherwise known as "Form I-9 violations" or "paperwork violations"), to avoid unduly penalizing employers for innocent mistakes, and to avoid burdening the Department with increased litigation before OCAHO.

In response, the Department believes it is appropriate to follow the statutory formula with respect to the 2016 interim rule's adjustment of these penalties. In the case of civil penalties for so-called paperwork violations under 8 U.S.C. 1324a(e)(5), Congress in 1986 had set a minimum penalty of \$100 and a maximum penalty of \$1,000. Under the previous formula for inflation adjustments, these penalties had only been adjusted for inflation by 10 percent (to \$110 and \$1,100, respectively), since they were first enacted in 1986. See 28 CFR 68.52(c)(5) (2016). (These particular penalties fell below the "rounding threshold" under the former provisions of the Inflation Adjustment Act at the time other immigration-related civil penalties were adjusted in 2008, despite a 25-percent increase in inflation since the adoption of the 10 percent inflation adjustment in 1999. See 73 FR 10130, 10133 (Feb. 26, 2008).) As a result, the penalties had lost much of their deterrent effect relative to the deterrent effect of the penalty amounts originally established by Congress thirty years ago. The adjustments to the civil penalties for paperwork violations promulgated in the 2016 interim rule simply restored the present-day deterrent effect of the relevant penalties to the deterrent effect of the penalty levels originally set by Congress by adjusting the penalties for the inflation that has occurred since the penalties were originally set.

Moreover, as the commenter notes, Congress has already provided a response to the concerns voiced by the commenter regarding innocent mistakes,

by enacting section 411(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which allows a good faith defense for technical and procedural violations unless the employer failed to correct errors within 10 business days after notice, or there was a pattern or practice of violations. In the course of OCAHO hearings, the ALJs are able to take account of such contentions regarding innocent mistakes in setting the civil penalties to be imposed in individual cases. The Department does not agree that these arguments would warrant a decision not to adjust the civil penalties here for inflation, particularly since setting the civil penalties at a lower level would be applicable to all violations, whether intentional or innocent.

It is speculative to suggest that increased penalties will lead to increased litigation before OCAHO, but OCAHO continuously evaluates its caseload and staffing needs, and pursues staffing and resource changes whenever necessary and appropriate. The prospect of increased litigation is not a convincing reason for the Department not to abide by the statutory formula.

Finally, as the Department believes it is appropriate for the 2016 interim rule to follow the statutory formula with respect to the civil penalties for employment eligibility verification violations, the Department respectfully declines to invoke the authority, under section 4(c) of the Inflation Adjustment Act, to increase these penalties by less than the required amount. See Public Law 114–74, sec. 701(b)(1)(D) (adding Section 4(c) to the Inflation Adjustment Act). The Department similarly declined to invoke this authority in the 2016 interim rule adjusting these civil monetary penalties. See 81 FR 42491, 42493.

- The Department's increases in the civil penalty amounts should be delayed until DHS publishes its final rule on technical and substantive violations pertaining to Form I–9 and issues its new Form I–9.

In response, as noted above, the Department believes it is appropriate to follow the statutory formula with respect to these penalties, among other things, in order to maintain the penalties' deterrent effect, and the Department does not believe that invoking the authority of section 4(c) of the Inflation Adjustment Act is appropriate in this context. As the commenter notes, guidance on the distinction between technical and substantive violations is already available to the public, both in memoranda adopted or issued by ICE

and in numerous published precedent decisions from OCAHO. The fact that DHS has not yet issued its final rule on technical versus substantive violations does not justify delaying implementation or adjusting the penalty by less than the statutory formula requires. Moreover, since the commenter has submitted this comment, DHS has published its revised Form I–9. (See Revised Form I–9, issued Nov. 14, 2016; see also Revised Form I–9, issued July 17, 2017). To the extent that the commenter has comments or concerns about DHS's revisions to the Form I–9, those are appropriately raised with DHS pursuant to the public comment process for information collections under the Paperwork Reduction Act. Accordingly, the Department does not believe that the increase in the civil penalty amounts should be delayed, or set at amounts less than the amounts set forth in the 2016 interim rule, which follow the statutory formula set forth in the 2015 Amendments.

- The Department and DHS should increase the civil penalties for paperwork violations by no more than 20 percent of the preexisting civil penalties, and no more than 10 percent for violations under 8 U.S.C. 1324a(e)(5) where the employer can produce documentation demonstrating that the employee was verified through the E-Verify system.

In response, the Department notes that this is an alternative to the commenter's prior arguments, which contended that the inflation adjustments for paperwork violations should be eliminated. This alternative argument is that if the relevant penalties are adjusted for inflation pursuant to the 2015 Amendments, the inflation adjustments as set in the 2016 interim rule should be capped at 20 percent generally, and at 10 percent where the employer can produce documentation demonstrating that the relevant employees were verified through the E-Verify system. As explained above, the Department does not agree with the commenter's contentions that the inflation adjustments of the civil penalties for these violations of the employment eligibility verification requirements should be eliminated altogether. The Department views the relevant adjustments derived from the statutory formula as appropriate, and has concluded that invoking its authority to reduce the adjustments pursuant to section 4(c) of the Inflation Adjustment Act would not be appropriate in this context.

- The Department should use any additional funds generated by the

inflation adjustment for Form I–9 paperwork violations to increase staffing and training throughout the relevant agencies.

In response, the Department notes that it does not itself collect the penalties assessed under the relevant provisions of section 274A of the INA, 8 U.S.C. 1324a, and thus it cannot dictate how any additional funds will be used.

#### *E. Comment Asserting That the Inflation Adjustments in the Interim Rule Should Not Be Applicable to Violations Occurring Prior to the Effective Date of the Rule*

The Department received a comment asserting that inflation adjustments adopted in the 2016 interim rule should have been made applicable only with respect to violations occurring on or after August 1, 2016, the effective date of the rule, rather than with respect to violations occurring after November 2, 2015. The commenter suggests that the approach of the interim rule constitutes retroactive application of the adjusted penalty amounts.

In response, the Department declines to adopt this comment's suggestion. The 2015 Amendments amended section 6 of the Inflation Adjustment Act to provide that “[a]ny increase under this Act in a civil monetary penalty shall apply only to civil monetary penalties, including those whose associated violation predated such increase, which are assessed after the date the increase takes effect.” (emphasis added). Congress's specific reference to applying the adjustments to civil monetary penalties “whose associated violation predated” the effective date of the adjustment clearly contemplates that the inflation adjustments under the 2015 Amendments can be applied to violations occurring prior to the effective date of the increased civil penalty amounts—but only if the civil penalties are “assessed after the date the increase takes effect.” This is precisely the approach the interim rule takes.

The interim rule became effective August 1, 2016. The adjusted civil penalty amounts in the interim rule are applicable only to civil penalties assessed after August 1, 2016, whose associated violations occurred after November 2, 2015, the date of enactment of the 2015 Amendments. The Department has concluded that this approach is a permissible interpretation of the language of section 6 as amended and does not result in an impermissible retroactive application of the inflation adjustments. Accordingly, this approach is adopted in the final rule without change.

**V. Statutory and Regulatory Analyses***Administrative Procedure Act*

Because the statute requires that the catch-up adjustment be done through an interim final rulemaking and that subsequent adjustments be done notwithstanding the requirements of 5 U.S.C. 553 (see section 4(b)(1) & (2) of the Inflation Adjustment Act), the Act can be read to provide that the requirement in section 553(d) for a 30-day delayed effective date does not apply to finalizing the interim final rule regarding the catch-up adjustment, particularly where this final rule makes no change to the interim final rule. Alternatively, to the extent section 553(d) may be applicable, the Department finds that there is good cause to make the rule effective immediately pursuant to 5 U.S.C. 553(d)(3), given that any delay is unnecessary since the rule is already in effect as an interim final rule and this final rule makes no change to it.

*Regulatory Flexibility Act*

Only those entities that are determined to have violated federal law and regulations would be affected by the increase in the civil penalty amounts made by this rule. A Regulatory Flexibility Act analysis is not required for this rule because publication of a notice of proposed rulemaking was not required. See 5 U.S.C. 603(a).

*Executive Orders 12866 and 13563—Regulatory Review*

This final rule has been drafted in accordance with Executive Order 12866, “Regulatory Planning and Review,” section 1(b), The Principles of Regulation, and in accordance with Executive Order 13563, “Improving Regulation and Regulatory Review” section 1, General Principles of Regulation. Executive Orders 12866 and 13563 direct agencies, in certain circumstances, to assess all costs and benefits of available regulatory alternatives, and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

The Department of Justice has determined that this rule is not a “significant regulatory action” under Executive Order 12866, “Regulatory Planning and Review,” section 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget. This final rule adopts without change the provisions of the 2016 interim rule, which itself was

determined not to be a significant regulatory action under Executive Order 12866.

*Executive Order 13132—Federalism*

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

*Executive Order 12988—Civil Justice Reform*

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

*Unfunded Mandates Reform Act of 1995*

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

*Congressional Review Act*

This rule is not a major rule as defined by section 251 of the Congressional Review Act, 5 U.S.C. 804. It will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

**List of Subjects***28 CFR Part 20*

Classified information, Crime, Intergovernmental relations, Investigations, Law Enforcement, Penalties, Privacy, Research, and Statistics.

*28 CFR Part 22*

Crime, Juvenile delinquency, Penalties, Privacy, Research, and Statistics.

*28 CFR Part 36*

Administrative practice and procedure, Alcoholism, Americans with disabilities, Buildings and facilities, Business and industry, Civil rights, Consumer protection, Drug abuse, Handicapped, Historic preservation, Individuals with disabilities, Penalties, Reporting and recordkeeping requirements.

*28 CFR Part 68*

Administrative practice and procedure, Aliens, Citizenship and naturalization, Civil Rights, Discrimination in employment, Employment, Equal employment opportunity, Immigration, Nationality, Non-discrimination.

*28 CFR Part 71*

Administrative practice and procedure, Claims, Fraud, Organization and function (Government agencies), Penalties.

*28 CFR Part 76*

Administrative practice and procedure, Drug abuse, Drug traffic control, Penalties.

*28 CFR Part 85*

Administrative practice and procedure, Penalties.

Accordingly, for the reasons set forth in the preamble, the interim rule amending 28 CFR parts 20, 22, 36, 68, 71, 76, and 85, which was published at 81 FR 42491 on June 30, 2016, is adopted as a final rule without change.

Dated: April 1, 2019.

**William P. Barr,**  
Attorney General.

[FR Doc. 2019-06732 Filed 4-4-19; 8:45 am]

**BILLING CODE 4410-19-P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 100**

[Docket No. USCG-2019-0195]

RIN 1625-AA08

**Regattas and Marine Parades; Great Lakes Annual Marine Events**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce various special local regulations for annual regattas and marine parades in the Captain of the Port Detroit zone.

Enforcement of these regulations is necessary and intended to ensure safety of life on the navigable waters immediately prior to, during, and after these regattas or marine parades. During the aforementioned period, the Coast Guard will enforce restrictions upon, and control movement of, vessels in a specified area immediately prior to, during, and after regattas or marine parades.

**DATES:** The regulations in 33 CFR 100.911 will be enforced at specified dates and times between April 20, 2019, and September 28, 2019.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this document, call or email Tracy Girard, Prevention Department, telephone (313)568-9564, email [Tracy.M.Girard@uscg.mil](mailto:Tracy.M.Girard@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the following special local regulations listed in 33 CFR part 100, Safety of Life on Navigable Waters, on the following dates and times:

(1) § 100.911(a)(1) *Hebda Cup Rowing Regatta Event, Wyandotte, MI.* This special local regulation will be enforced from 7:00 a.m. to 5 p.m. on April 27, 2019.

(2) § 100.911(a)(2) *Wy-Hi Rowing Regatta, Wyandotte, MI.* This special local regulation will be enforced from 7:30 a.m. to 5 p.m. on May 4, 2019.

(3) § 100.911(a)(3) *Wyandotte Rowing Regatta, Wyandotte, MI.* This special local regulation will be enforced from 7:30 a.m. to 12 p.m. on April 20, 2019.

(4) § 100.911(a)(4) *Motor City Mile, Detroit, MI.* This special local regulation will be enforced from 6 a.m. to 12 p.m. on June 28, 2019.

(5) § 100.911(a)(6) *Roar on the River, Trenton, MI.* This special local regulation will be enforced from 8 a.m. to 8 p.m. each day from July 19, 2019 until July 21, 2019.

(6) § 100.911(a)(9) *Detroit Hydrofest Power Boat Race, Detroit, MI.* This special local regulation will be enforced from 7 a.m. to 7 p.m. each day from August 23, 2019 until August 25, 2019.

(7) § 100.911(a)(14) *Frogtown Race Regatta, Toledo, OH.* This special local regulation will be enforced from 7 a.m. to 5 p.m. on September 28, 2019.

### Special Local Regulations

In accordance with § 100.901, entry into, transiting, or anchoring within these regulated areas is prohibited unless authorized by the Coast Guard patrol commander (PATCOM). The PATCOM may restrict vessel operation within the regulated area to vessels having particular operating characteristics.

Vessels permitted to enter this regulated area must operate at a no-

wake speed and in a manner that will not endanger race participants or any other craft.

The PATCOM may direct the anchoring, mooring, or movement of any vessel within this regulated area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the PATCOM shall serve as a signal to stop. Vessels so signaled shall stop and shall comply with the orders of the PATCOM. Failure to do so may result in expulsion from the area, a Notice of Violation for failure to comply, or both.

If it is deemed necessary for the protection of life and property, the PATCOM may terminate the marine event or the operation of any vessel within the regulated area.

In accordance with the general regulations in § 100.35 of this part, the Coast Guard will patrol the regatta area under the direction of a designated Coast Guard Patrol Commander (PATCOM). The PATCOM may be contacted on Channel 16 (156.8 MHz) by the call sign "Coast Guard Patrol Commander."

Under the provisions of 33 CFR 100.928, vessels transiting within the regulated area shall travel at a no-wake speed and remain vigilant for event participants and safety craft. Additionally, vessels shall yield right-of-way for event participants and event safety craft and shall follow directions given by the Coast Guard's on-scene representative or by event representatives during the event.

The "on-scene representative" of the Captain of the Port Detroit is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port Detroit to act on his behalf. The on-scene representative of the Captain of the Port Detroit will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port Detroit or his designated on scene representative may be contacted via VHF Channel 16.

The rules in this section shall not apply to vessels participating in the event or to government vessels patrolling the regulated area in the performance of their assigned duties.

This document is issued under authority of 33 CFR 100.35 and 5 U.S.C. 552(a). If the Captain of the Port determines that any of these special local regulations need not be enforced for the full duration stated in this document, he may suspend such enforcement and notify the public of the suspension via a Broadcast Notice to Mariners.

Dated: April 1, 2019.

**Jeffrey W. Novak,**

*Captain, U.S. Coast Guard, Captain of the Port Detroit.*

[FR Doc. 2019-06631 Filed 4-4-19; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket Number USCG-2019-0163]

RIN 1625-AA08

### Special Local Regulation; Ohio River, Louisville, KY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a special local regulation for all navigable waters of the Ohio River from mile marker (MM) 597.0 to MM 607.0. This action is necessary to provide for the safety of life on these navigable waters near Louisville, KY, during the "Thunder over Louisville" event. Entry into, transiting through, or anchoring within this regulated area is prohibited unless authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative.

**DATES:** This rule is effective from 11 a.m. on April 12, 2019 through 11:59 p.m. on April 13, 2019. The rule will be enforced from 11 a.m. through 6 p.m. on April 12, 2019, and from noon through 11:59 p.m. on April 13, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2019-0163 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email MST2 Joshua Herriott, Waterways Department Sector Ohio Valley, U.S. Coast Guard; telephone 502-779-5343, email [SECOHV-WWM@uscg.mil](mailto: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

FR Federal Register

MM Mile Marker

NPRM Notice of proposed rulemaking

§ Section

U.S.C. United States Code

## II. Background Information and Regulatory History

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM with respect to this rule because it is impracticable. We must establish this special local regulation by April 12, 2019 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is necessary to prevent possible loss of life and property.

## III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041(a). The COTP has determined that potential hazards associated with “Thunder over Louisville” event will present a safety concern on all navigable waters of the Ohio River extending from mile marker (MM) 597.0 to MM 607.0. The purpose of this rule is to ensure the safety of life and vessels on these navigable waters before, during, and after the scheduled event.

## IV. Discussion of the Rule

This rule establishes a temporary special local regulation that will be enforced from 11 a.m. to 6 p.m. on April 12, 2019 and from noon to 11:59 p.m. on April 13, 2019. The temporary special local regulation will cover all navigable waters of the Ohio River from MM 597.0 to MM 607.0. The duration of the special local regulation is intended to ensure the safety of waterway users on these navigable waters before, during, and after the scheduled event. No vessel or person is permitted to enter the special local regulated area without obtaining permission from the COTP or a designated representative. All persons or vessels desiring entry into or passage through the area must request permission from the COTP or a designated representative. U.S. Coast

Guard Sector Ohio Valley may be contacted on VHF Channel 13 or 16, or at 1-800-253-7465.

Recreational vessels are permitted to transit the regulated area, but are restricted to the Indiana side of the navigation channel. There shall be no anchoring or loitering in the navigation channel. There is a no-entry zone starting at Ohio River Mile Marker (MM) 602.7 through MM 607.0. Recreational vessels transiting into and away from this area are restricted to the slowest safe speed creating minimum wake.

The COTP may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

## V. Regulatory Analyses

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

### A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the special local regulation. This rule impacts ten miles of the Ohio River over two days. Entry into the regulated area will be prohibited from 11 a.m. through 6 p.m. on April 12, 2019 and from noon through 11:59 p.m. on April 13, 2019 from Ohio River MM 597.0 to MM 607.0, unless authorized by the COTP or a designated representative. Moreover, the Coast Guard will issue written Local Notice to Mariners and Broadcast Notice to Mariners via VHF-FM marine channel 16 about the temporary special local regulation that is in place.

### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on

small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

### C. Collection of Information

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

### D. Federalism and Indian Tribal Governments

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

principles and preemption requirements described in Executive Order 13132.

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

#### E. Unfunded Mandates Reform Act

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

#### F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulated area lasting seven hours on April 12, 2019 and approximately 12 hours on April 13, 2019 on all navigable waters extending ten miles of the Ohio River. It is categorically excluded from further review under paragraph L61 of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

#### G. Protest Activities

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

jeopardizing the safety or security of people, places or vessels.

#### List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

#### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.35T08–0163 to read as follows:

#### § 100.35T08–0163 Special Local Regulation; Ohio River, Louisville, KY.

(a) *Location.* All navigable waters of the Ohio River from mile marker (MM) 597.0 to MM 607.0 in Louisville, KY.

(b) *Effective period.* This section is effective from 11 a.m. on April 12, 2019 through 11:59 p.m. on April 13, 2019.

(c) *Enforcement period.* The section will be enforced from 11 a.m. through 6 p.m. on April 12, 2019, and from noon through 11:59 p.m. on April 13, 2019.

(d) *Special local regulations.* (1) In accordance with the general regulations in § 100.35, entry into this area is prohibited unless authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative.

(2) Recreational vessels are permitted to transit the regulated area, but are restricted to the Indiana side of the navigation channel. There shall be no anchoring or loitering in the navigation channel. There is a no-entry zone starting at Ohio River Mile Marker (MM) 602.7 through MM 607.0. Recreational vessels transiting into and away from this area are restricted to the slowest safe speed creating minimum wake.

(3) The COTP may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

(4) All persons or vessels desiring entry into or passage through the area must request permission from the COTP or a designated representative. U.S. Coast Guard Sector Ohio Valley may be contacted on VHF Channel 13 or 16, or at 1–800–253–7465.

Dated: March 29, 2019.

**M.B. Zamperini,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Ohio Valley.*

[FR Doc. 2019–06718 Filed 4–4–19; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2019–0206]

RIN 1625–AA87

#### Security Zones; Corpus Christi Ship Channel, Corpus Christi, TX

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard establishes two security zones. One of the zones is a temporary fixed security zone for the receiving facility’s mooring basin while the Liquefied Natural Gas Carrier (LNGC) GASLOG SYDNEY is moored at the facility. The other zone is a moving security zone encompassing all navigable waters within a 500-yard radius around the LNGC GASLOG SYDNEY while the vessel transits with cargo in the La Quinta Channel and Corpus Christi Ship Channel in Corpus Christi, TX. The security zones are needed to protect personnel, vessels, and the marine environment from potential hazards created by Liquefied Natural Gas (LNG) cargo aboard the vessel. Entry of vessels and persons into these zones is prohibited unless specifically authorized by the Captain of the Port Sector Corpus Christi.

**DATES:** This rule is effective without actual notice from April 5, 2019 until April 6, 2019. For the purposes of enforcement, actual notice will be used from April 1, 2019 until April 5, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2019–0206 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Petty Officer Kevin Kyles, Sector Corpus Christi Waterways Management Division, U.S. Coast Guard; telephone 361–939–5125, email [Kevin.L.Kyles@uscg.mil](mailto:Kevin.L.Kyles@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
COTP Captain of the Port Sector Corpus Christi  
DHS Department of Homeland Security  
FR Federal Register  
LNGC Liquefied Natural Gas Carrier  
NPRM Notice of proposed rulemaking  
§ Section

U.S.C. United States Code

## II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing an NPRM with respect to this rule because it is impracticable. We must establish these security zones by April 1, 2019 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to provide for the security of the vessel.

## III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The COTP has determined that potential hazards associated with LNGC GASLOG SYDNEY between April 1, 2019 and April 6, 2019 will be a security concern while the vessel is moored at the receiving facility and within a 500-yard radius of the vessel while the vessel transits with cargo.

## IV. Discussion of the Rule

This rule establishes two security zones around LNGC GASLOG SYDNEY from April 1, 2019 through April 6, 2019. A fixed security zone will be in effect in the mooring basin bound by 27°52'53.38" N, 097°16'20.66" W on the northern shoreline; thence to 27°52'45.58" N, 097°16'19.60" W; thence to 27°52'38.55" N, 097°15'45.56" W; thence to 27°52'49.30" N, 097°15'45.44" W; thence west along the shoreline to 27°52'53.38" N, 097°16'20.66" W, while LNGC GASLOG SYDNEY is moored. A moving security zone will cover all navigable waters within a 500-yard radius of the LNGC GASLOG SYDNEY while the vessel transits outbound with cargo through the La Quinta Channel and Corpus Christi Ship Channel. No vessel or person will be permitted to enter the security zones without

obtaining permission from the COTP or a designated representative.

Entry into these security zones is prohibited unless authorized by the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Corpus Christi. Persons and vessels desiring to enter or pass through the zones must request permission from the COTP or a designated representative on VHF–FM channel 16 or by telephone at 361–939–0450. If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative. The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs) of the enforcement times and dates for these security zones.

## V. Regulatory Analyses

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

### A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, duration, and location of the security zone. This rule will impact a small designated area of the Corpus Christi Ship Channel and La Quinta Channel, where the vessel traffic is usually low, for only 8 days, while the vessel is moored at the receiving facility and during the vessel’s transit while loaded with cargo. Moreover, the Coast Guard will issue BNMs via VHF–FM marine channel 16 about the zones and the rule allows vessels to seek permission to enter the zones.

### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended,

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

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

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

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

### C. Collection of Information

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

### D. Federalism and Indian Tribal Governments

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

with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

#### E. Unfunded Mandates Reform Act

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

#### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary fixed security zone while LNGC GASLOG SYDNEY is moored at the receiving facility mooring basin bound by 27°52′53.38″ N, 097°16′20.66″ W on the northern shoreline; thence to 27°52′45.58″ N, 097°16′19.60″ W; thence to 27°52′38.55″ N, 097°15′45.56″ W; thence to 27°52′49.30″ N, 097°15′45.44″ W; thence west along the shoreline to 27°52′53.38″ N, 097°16′20.66″ W, and a temporary moving security zone while the vessel transits with cargo within the La Quinta Channel and Corpus Christi Ship Channel, that will prohibit entry within 500-yard radius of LNGC GASLOG SYDNEY. These zones are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration

supporting this determination is available in the docket where indicated under **ADDRESSES**.

#### G. Protest Activities

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

#### List of Subjects in 33 CFR Part 165

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

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

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

**Authority:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08–0206 to read as follows:

#### § 165.T08–0206 Security Zones; Corpus Christi Ship Channel, Corpus Christi, TX.

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

(1) The mooring basin bound by 27°52′53.38″ N, 097°16′20.66″ W on the northern shoreline; thence to 27°52′45.58″ N, 097°16′19.60″ W; thence to 27°52′38.55″ N, 097°15′45.56″ W; thence to 27°52′49.30″ N, 097°15′45.44″ W; thence west along the shoreline to 27°52′53.38″ N, 097°16′20.66″ W, while the Liquefied Natural Gas Carrier (LNGC) GASLOG SYDNEY is moored.

(2) All navigable waters encompassing a 500-yard radius around LNGC GASLOG SYDNEY while transiting outbound with cargo through the La Quinta Channel and Corpus Christi Ship Channel.

(b) *Effective period.* This section is effective without actual notice from April 5, 2019 until April 6, 2019. For the purposes of enforcement, actual notice will be used from April 1, 2019 until April 5, 2019.

(c) *Period of enforcement.* This section will be enforced from the time LNGC GASLOG SYDNEY moors and while the vessel is transiting outbound through the La Quinta Channel and Corpus Christi Ship Channel from April 1, 2019 through April 6, 2019.

(d) *Regulations.* (1) The general regulations in § 165.33 apply. Entry into these temporary security zones is prohibited unless authorized by the Captain of the Port Sector Corpus Christi (COTP) or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Corpus Christi.

(2) Persons and vessels desiring to enter or pass through the zones must request permission from the COTP or a designated representative on VHF–FM channel 16 or by telephone at 361–939–0450.

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

(e) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs) of the enforcement times and date for these security zones.

Dated: April 1, 2019.

**E.J. Gaynor,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Corpus Christi.*

[FR Doc. 2019–06727 Filed 4–4–19; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG–2019–0194]

#### Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone—Michigan City Summerfest Fireworks, Lake Michigan

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the safety zone for the Michigan City Summerfest Fireworks on a portion of Lake Michigan on July 4, 2019. This action is necessary and intended to protect safety of life and property on navigable waters prior to, during, and immediately after the fireworks display. During the enforcement period listed below, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or a designated representative.

**DATES:** The regulation in 33 CFR 165.929(e)(35) will be enforced as listed in Table 165.929 from 9 p.m. through 9:35 p.m. on July 4, 2019.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this notice of enforcement, call or email LT John Ramos, Waterways Management Division, Marine Safety Unit Chicago, U.S. Coast Guard; telephone (630) 986-2155, email [D09-DG-MSUChicago-Waterways@uscg.mil](mailto:D09-DG-MSUChicago-Waterways@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the Michigan City Summerfest safety zone listed as item (e)(35) in Table 165.929 of 33 CFR 165.929 from 9 p.m. through 9:35 p.m. on July 4, 2019. This action is being taken to provide for the safety of life on a navigable waterway during the fireworks display. This safety zone encompasses all waters of Michigan City Harbor and Lake Michigan within the arc of a circle with a 1,000 foot radius from the launch site located in position 41°43.700' N, 086°54.617' W. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or a designated on-scene representative.

This notice of enforcement is issued under authority of 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone and 5 U.S.C. 552 (a). In addition to this notice in the **Federal Register**, the Captain of the Port Lake Michigan will provide the maritime community with advance notification of this safety zone enforcement period via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan, or a designated on-scene representative may be contacted via Channel 16, VHF-FM or at (414) 747-7182.

Dated: March 29, 2019.

**Thomas J. Stuhley,**

*Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.*

[FR Doc. 2019-06655 Filed 4-4-19; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 9 and 721

[EPA-HQ-OPPT-2017-0575; FRL-9991-19-OCSPP]

RIN 2070-AB27

### Significant New Use Rules on Certain Chemical Substances

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is issuing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for 13 chemical substances which are the subject of premanufacture notices (PMNs). This action requires persons to notify EPA at least 90 days before commencing manufacture (defined by statute to include import) or processing of any of these 13 chemical substances for an activity that is designated as a significant new use by this rule. The required notification initiates EPA's evaluation of the intended use within the applicable review period. Persons may not commence manufacture or processing for the significant new use until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required as a result of that determination.

**DATES:** This rule is effective on June 4, 2019. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (e.s.t.) on April 19, 2019.

**FOR FURTHER INFORMATION CONTACT:**

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

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

**SUPPLEMENTARY INFORMATION:**

#### I. General Information

##### A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this rule. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather

provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

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

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to these SNURs must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this rule on or after May 6, 2019 are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

#### II. Background

##### A. What action is the Agency taking?

EPA is finalizing a SNUR under TSCA section 5(a)(2) for 13 chemical substances which were the subject of PMNs P-16-192, P-16-354 and P-16-355, P-16-380 through P-16-385, P-16-483 and P-16-484, P-16-575, and P-16-581. These SNURs require persons who intend to manufacture or process any of these chemical substances for an activity that is designated as a significant new use to notify EPA at least 90 days before commencing that activity.

Previously, in the **Federal Register** of October 16, 2018 (83 FR 52179) (FRL-9984-93), EPA proposed a SNUR for these 13 chemical substances in 40 CFR part 721 subpart E. More information on the specific chemical substances subject to this final rule can be found in the **Federal Register** documents proposing the SNUR. The record for the SNUR was established in the docket under docket ID number EPA-HQ-OPPT-2017-0575. That docket includes information considered by the Agency in developing the proposed and final rules. EPA received a number of public comments on this rule. Those comments and EPA's responses are found in Unit IV.

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

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

### *C. Applicability of General Provisions*

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

### **III. Significant New Use Determination**

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

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

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

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

### **IV. Public Comments on Proposed Rule and EPA Responses**

EPA received public comments from 15 entities on the proposed rule. The Agency's responses are described below.

#### *Anonymous and Generally Supportive Comments*

EPA received a number of anonymous (and submitter-identified) comments in support of the Agency's proposed Significant New Use Rules (SNURs). These comments were general in nature, citing the importance of Agency review of these 13 chemicals to protect human health and the environment. No response is required.

#### *Challenges to Underlying TSCA § 5(a)(3) Determinations*

*Comment 1:* EPA received multiple comments regarding the manner in which these proposed Significant New Use Rules (SNURs) operate. One comment requested that, in light of alleged legal and factual deficiencies, EPA withdraw both the proposed SNURs and the underlying "not likely" determinations and instead issue determinations, section 5(e) orders, and post-order section 5(f) SNURs based on a finding that the chemical substances "may present an unreasonable risk to

health or the environment" under section 5(a)(3)(B). Another comment stated that EPA may not rely on "non-5(e) SNURs" to make a "not likely" finding under section 5(a)(3)(C) and has failed to provide a legal and factual basis for its determination as required by section 5(g), but nevertheless supports the need to promulgate these SNURs at this time because otherwise there will be no protections at all in place for these chemical substances. The commenter stated that EPA found risks to workers for a number of the chemical substances subject to these proposed SNURs, absent protective measures that EPA expects will be implemented and will provide sufficient protection, and that EPA's risk determination for these chemicals should not assume there will be full compliance with all of the controls recommended in an associated Safety Data Sheet and that such compliance would be adequate to protect workers.

*Response:* These comments constitute challenges to certain TSCA § 5(a)(3) determinations rather than to the basis for or the content of the SNURs, which EPA has promulgated using its discretion to issue SNURs under TSCA § 5(a)(2). Because these comments are not germane to this rulemaking, EPA is not responding to these comments in this notice and declines to withdraw the SNURs on the basis of these comments. Regardless, EPA has already defended the legal and factual basis for the TSCA § 5(a)(3) determinations that these comments reference in a prior legal challenge. See Brief of U.S. Environmental Protection Agency in *NRDC v. USEPA*, 2d Cir. Docket No. 18–25.

#### *Regulation of Workplace Risks*

*Comment 2:* Several commenters argued that where EPA finds unreasonable risks to workers in the absence of certain protective measures (e.g., personal protective equipment, engineering controls, etc.), EPA must identify as a significant new use any use of the chemical that occurs without those protections. Specifically, the commenters stated that, where EPA finds unreasonable risk to workers absent certain protective measures, the Agency must issue an order to address workplace risks—as well as consider promulgating a significant new use rule—because in these circumstances "the manufacture, processing, distribution in commerce, use, or disposal of such substance, or any combination of such activities, may present an unreasonable risk of injury to health or the environment, without consideration of costs or other non-risk

factors, including an unreasonable risk to a potentially exposed subpopulation.” 15 U.S.C. 2604(e)(1)(A)(ii)(I). In following, the commenters state EPA “shall issue an order . . . to prohibit or limit the manufacture, processing, distribution in commerce, use, or disposal of such substance or to prohibit or limit any combination of such activities to the extent necessary to protect against an unreasonable risk of injury to health or the environment.” *Id.* § 2604(e)(1)(A). After issuing that order, EPA must consider whether to promulgate a significant new use rule “that identifies as a significant new use any manufacturing, processing, use, distribution in commerce, or disposal of the chemical substance that does not conform to the restrictions imposed by the \* \* \* order” or publish a statement justifying the decision not to promulgate the SNUR. 15 U.S.C. 2604(f)(4). According to the commenters, Congress spoke clearly and required EPA to regulate unreasonable risks that a chemical substance “may present” under TSCA. The commenters contend that nothing in the text of TSCA allows EPA to simply assume that sufficient protective measures will be implemented to eliminate potential unreasonable risks; such an assumption essentially negates TSCA § 5(e), which could not be Congress’s intention. And, the commenters claim, EPA cannot find that a chemical is not likely to present an unreasonable risk based solely on EPA’s unjustified “expectation” that sufficient protective measures will be implemented . . . EPA effectively found risks to workers for several chemical substances subject to these proposed SNURs, absent protective measures that EPA simply “expects” will be implemented and will provide sufficient protection. Commenters assert that EPA’s risk determination for these chemicals should not assume there will be full compliance with all of the controls recommended in an associated Safety Data Sheet and that such compliance would be adequate to protect workers. Because EPA relied on these protective measures in its analysis of risk, commenters state that EPA should identify any condition of use without these protective measures to be a significant new use, meriting advance notification to EPA.

*Response:* To the extent these comments argue that the Agency should have issued orders under Section 5(e) or 5(f) of TSCA, EPA believes they are beyond the scope of the SNUR for which EPA is specifically soliciting comments and are properly directed to

the Section 5(a)(3) determinations that pertain to the underlying PMNs for the SNUR. EPA is therefore not responding to these comments here. However, EPA is responding to comments that pertain specifically to the SNUR, *i.e.*, those regarding the uses that should be subject to the SNUR, as well as the assertion that EPA must include certain worker protection provisions in the SNURs on the basis of TSCA Section 5(f)(4).

EPA disagrees with the comment that, with respect to scenarios where EPA expects that worker protection requirements under other federal/state authorities would mitigate risks to workers, EPA must designate all uses without those protections as “significant new uses”. Section 5(a)(2) of TSCA does not mandate that any specific uses be designated as significant. Instead, EPA has discretion as to which new uses to designate as significant. As mentioned in the “not likely” determination documents for the subject PMNs in this batch SNUR (see <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/chemicals-determined-not-likely>), in exercising its discretion regarding which new uses should be designated as significant under section 5(a)(2), EPA expects compliance with federal and state laws, such as worker protection standards or disposal restrictions, unless case-specific facts indicate otherwise. Further, any workplace risks will be mitigated if exposures are appropriately controlled, and EPA expects that employers will require and workers will use the appropriate controls (*e.g.*, personal protective equipment such as impervious gloves and/or respirators), consistent with the Safety Data Sheet prepared by the PMN submitter, in a manner adequate to protect them.

With respect to comments regarding TSCA Section 5(f)(4), EPA notes that because no applicable TSCA Section 5(e) or 5(f) orders have been issued, the requirements of TSCA Section 5(f)(4) are not triggered. Therefore, EPA need not make changes in the proposed SNUR to correspond to Section 5(e) and 5(f) orders that have not been issued.

#### *SNURs Lack Provisions To Notify Downstream Processors and Users of Agency Concerns*

*Comment 3:* One commenter suggested that the proposed SNURs lack notification requirements for worker protection and hazard communication programs to ensure that risks to workers and the public from downstream activities are identified and addressed and fail to provide notice to downstream processors and users of the PMN substance’s environmental effects

and EPA’s required limits on release to water.

*Response:* 40 CFR 721.5 requires manufacturers and processors to either file a SNUN before distributing the chemical substance in commerce or notify downstream customers of the existence of a SNUR on a particular chemical substance (or determine that such users have notice). Thus, one of two possibilities will occur: (1) Downstream customers do receive notice of the SNUR, or (2) notification of downstream uses becomes unnecessary because the manufacturer or processors submits a SNUN to EPA, and the Agency either determines that such manufacture and processing is not likely to present unreasonable risk, or takes appropriate regulatory action to address the risks.

#### *Impact on Downstream Users*

*Comment 4:* One commenter similarly identified impacts of SNURs on downstream users who “often must struggle to figure out when a product they use is covered by a SNUR,” particularly when the proposed SNUR provides only the generic name of a confidential chemical substance, or when the proposed SNUR covers the use of a chemical substance in an article. The comment also notes that the burden and compliance risks are greatest when the proposed SNUR contains reporting requirements. The commenter indicates that downstream users may depend on voluntary disclosure by the supplier or a downstream formulator/distributor, in contrast to the mandatory reporting requirements in place under a 5(e) order. The comment concludes that EPA should take steps to close the gap between proposal and finalization of SNURs by finalizing SNURs expeditiously, by notifying submitters of EPA’s likelihood of promulgating a SNUR, and by requesting companies alert downstream users of impending SNURs.

*Response:* The Agency is aware of the impacts of the issuance of a SNUR, including and beyond those specific to the actual TSCA notification requirement. EPA’s focus is to take appropriate action under TSCA to control potential risks to human health or the environment from exposure or release of a new chemical, including requiring notification of potential significant new uses.

#### *CBI and Disclosure of Health and Safety Information*

*Comment 5:* EPA received multiple comments critical of EPA’s process in promulgating the proposed SNURs. One

comment requested that EPA extend the comment period and make CBI available for review with appropriate safeguards to avoid depriving the public of a meaningful opportunity to participate. The commenter stated that TSCA does not extend CBI protection to any health and safety study which is submitted under TSCA, including underlying information and occupational exposure studies. In addition to the scientific analyses developed by EPA (e.g., engineering reports, Structure Activity Team reports), which fall under this definition, other information that is generally required to be submitted with PMNs, such as toxicity studies, information on worker exposure, and the majority of information in Safety Data Sheets, also fall under this definition. EPA must disclose this information to the public. Despite these mandates, the commenter argues that EPA has failed to disclose this health and safety information. The comment states that EPA's SAT reports, engineering reports, and exposure reports all constitute or contain health and safety information that EPA must disclose, yet for P-16-575 (as an example provided by the commenter) EPA has largely redacted these documents.

*Response:* EPA recognizes that TSCA Section 14 does not protect from disclosure certain confidential information described in Section 14(b), including health and safety information. However, Section 14 does not require that EPA make a final confidentiality determination for all information submitted under TSCA and claimed as CBI as part of a PMN review, and EPA has not made a determination regarding the eligibility for confidential treatment of the information referenced in the comment. Here, EPA balanced the need for sufficient information in the public record to fully explain the bases for its decisions with the protections for CBI in section 14. With regard to EPA technical support reports underlying the section 5 determination, they are not covered by section 14(b)(2), which specifically refers to health and safety studies submitted to EPA. EPA provided sufficient information in the public record to fully explain the bases for its decisions while preserving the submitter's confidentiality claims through generally accepted means, including the aggregation of certain data in the public docket, presentation of ranges of values, or masking of manufacturing site locations to prevent CBI disclosure.

#### *Identifying "Significant New Uses" for SNURs*

*Comment 6:* The commenter considers the approach taken for these proposed SNURs that found "not likely to present an unreasonable risk" under the conditions of use described in the PMNs to be generally consistent with the requirements of the 2016 amendments to TSCA. To the extent that this approach also represents potential improvements in the Agency's ability to provide more timely review of PMNs, the commenter supports the approach. The commenter encourages EPA to take a risk-based approach—with particular focus on changes occurring in the conditions of use of a substance that can affect exposure (i.e., human exposure and environmental releases)—in identifying what changes in the conditions of use that will constitute significant new uses, and to consider the potential burden on downstream users when designating potential new uses to be significant. The commenter further encouraged EPA to use its discretion to consider "all relevant factors," including the cost of submitting SNURs, the burden of compliance with SNUR reporting requirements such as Chemical Data Reporting (CDR) and TSCA section 12(b) export notification reporting, and the compliance risk caused by vague regulations, in promulgating 5(a)(2) SNURs to minimize regulatory burdens on downstream users.

*Response:* EPA agrees that it should—and does—identify significant new uses only after consideration of the "relevant factors" identified in TSCA section (a)(2) ((1) the "projected manufacturing or processing volume of a chemical substance"; (2) the "type or form of exposure of human beings or the environment" to the chemical substance; (3) the "magnitude and duration of exposure of human beings or the environment" to the environment; and (4) the "reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal" of the chemical substance). However, the Agency typically does not have all of the data specific enough for each of the aforementioned factors to support risk assessment(s) for anticipated changes that are not part of the PMN. Hence, such information would be provided if and when a SNUN is submitted that would provide such information for the significant new use. Another commenter supported this approach, explaining that future risks not contemplated in the PMN will be addressed by analysis of a significant new use notice (SNUN)

which streamlines the current system which typically runs much longer than 90 days proscribed in TSCA. As to other regulatory requirements such as CDR or export notification, the Agency understands the impact and coordinates with those programs to eliminate inefficiencies. Furthermore, the Agency flags chemical substances on the TSCA Inventory that are regulated with a SNUR. For interpretation of SNUR notification requirements, the regulated community is encouraged to contact the Agency by using the options outlined in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections of the SNUR preamble.

#### *Catch-All Significant New "Use"*

*Comment 7:* One commenter suggested that EPA should generally designate as a significant new use any use of a chemical substance other than the uses EPA evaluated in its PMN review and determined are not likely to present an unreasonable risk. In particular, the commenter identified P-16-192, P-16-380-385, and 16-575, as SNURs for which other types of triggers for notification (e.g., manufacture in a certain physical form, or manufacture, processing, or use to result in inhalation exposure) were used. Although the commenter supports inclusion of these triggers, it comments that EPA must also require notification for use other than that which EPA has reviewed.

*Response:* Commenters suggested approach is overly broad. TSCA requires that EPA evaluate new chemicals under their conditions of use, including the intended, known and reasonably foreseen circumstances of manufacture, processing, distribution in commerce, use and disposal. Based upon EPA's review of the relevant PMNs, the Agency identified uses that are appropriate for designation as "significant new uses" in order to ensure that EPA has an opportunity to review those uses in a SNUN submission at a later date and address any unreasonable risks at that time. TSCA § 5(a)(2) does not require EPA to take the catch-all approach advocated by commenters, and EPA believes a more tailored approach is warranted to avoid unduly burdensome regulations.

#### *Being More Specific in 40 CFR 721.80*

*Comment 8:* One commenter suggested that EPA must clearly specify the cross references to EPA's general regulations in the SNURs. A number of proposed SNURs state that the significant new uses are "requirements as specified in 721.80." Since 40 CFR 721.80 contains 25 possible significant

new use designations, this is misleading.

*Response:* The Agency understands the confusion. Where one of the 25 specific significant new use designations in 721.80 is not being used, in the interest of transparency and clarity, the Agency generally lists “*Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80” and follows with a complete sentence describing the actual activity. EPA will modify its approach so that where it is not citing a specific designation in 721.80, the Agency will drop the phrase “Requirements as specified in § 721.80.” For example, the SNUR at 40 CFR 721.11182 is finalized simply as:

(i) *Industrial, commercial, and consumer activities*. It is a significant new use to manufacture the substance other than in an amorphous form.

In response to this comment, the Agency is making a similar change to these 721.80 designations in all the final SNURs in this batch rule, except the SNURs at 721.11190 and 721.11191. Those two SNURs specifically cite 721.80(j), which is the confidential use identified in the associated PMN submission for those SNURs.

#### *Regulatory Burden of SNURs for Safer Chemicals*

*Comment 9:* One comment was regarding an enzyme used in the polymerization of glucose that would be subject to a proposed SNUR due to concerns with respiratory sensitization. The commenter stated that enzymes are recognized to have a positive and sustainable environmental profile and inherently low toxicity compared to other chemicals, and that this SNUR is a signal that it will be significantly more challenging to bring new enzymes to market and may decrease innovation that can address global challenges as highlighted by the UN Sustainable Development Goals. The commenter additionally voiced concern for the lengthy review time for PMN submissions.

*Response:* To the extent commenter is disputing the outcome of a PMN review, these comments are more properly directed to the specific PMN determination and not this SNUR rulemaking. As mentioned previously in the response to Comment 1, this comment constitutes challenges to the corresponding TSCA § 5(a)(3) determinations rather than to the basis for or the content of the SNURs, which EPA has promulgated using its discretion to issue SNURs under TSCA § 5(a)(2). Nonetheless, the Agency is aware of, and working to remedy, the

increased length of time it has been taking to review and reach decision on section 5 notices as it implements the amendments to TSCA.

#### *Non-Animal Testing*

*Comment 10:* One commenter supports this approach of addressing potential risks that the subject chemicals may present under reasonably foreseen conditions of use, while finding that under the intended conditions of use, they are not likely to present unreasonable risks. In contrast, the commenter states, in its early implementation of the amended TSCA, EPA addressed such potential risks in consent agreements with PMN submitters. In these cases, the commenter notes, EPA frequently required health and ecotoxicity testing, including hundreds of vertebrate animal tests requiring tens of thousands of animals. The commenter therefore supports EPA’s new approach, which is consistent with TSCA’s requirements to reduce and replace the use of vertebrate animals in the testing of chemical substances and promote the development and timely incorporation of new test methods and strategies that are not based on vertebrate animals. In addition, it protects human health and the environment by addressing potential risks when the conditions of use under which they arise are intended, either as identified in PMNs or in SNUNs, while reducing the burden on PMN submitters and streamlining the review process.

*Response:* As mentioned in the preamble to this SNUR, any recommendation for information identified by EPA was made based on EPA’s consideration of available screening-level data, if any, as well as other available information on appropriate testing for the chemical substance. Further, any such testing identified by EPA that includes testing on vertebrates was made after consideration of available toxicity information, computational toxicology and bioinformatics, and high-throughput screening methods and their prediction models. EPA also recognizes that whether testing/further information is needed will depend on the specific exposure and use scenario in the SNUN. EPA encourages all SNUN submitters to contact EPA to discuss any potential future testing. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing in vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data.

EPA encourages dialog with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h).

#### *Do Not Use SNURs as Information Gathering Tool, Tracking Tool*

*Comment 11:* One commenter urged EPA to not rely on SNURs as tools for tracking use and production of chemical or for otherwise gathering potentially useful information, but instead suggested that EPA rely on provisions like section 8 which specifically authorize such acts.

*Response:* EPA is not issuing a requirement to develop any data or information as a result of these SNURs. It is the responsibility of a SNUN submitter to provide any such information as required by TSCA section 5 and SNUN regulations at 40 CFR part 721. Regarding potentially useful information, EPA encourages all SNUN submitters to contact EPA to discuss any potential future testing. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing in vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialog with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h).

#### **V. Substances Subject to This Rule**

EPA is establishing significant new use and recordkeeping requirements for 13 chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

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

This information may include testing not required to be conducted but which would help characterize the potential health and/or environmental effects of the PMN substance. Any recommendation for information

identified by EPA was made based on EPA's consideration of available screening-level data, if any, as well as other available information on appropriate testing for the chemical substance. Further, any such testing identified by EPA that includes testing on vertebrates was made after consideration of available toxicity information, computational toxicology and bioinformatics, and high-throughput screening methods and their prediction models. EPA also recognizes that whether testing/further information is needed will depend on the specific exposure and use scenario in the SNUN. EPA encourages all SNUN submitters to contact EPA to discuss any potential future testing. See Unit VIII. for more information.

- CFR citation assigned in the regulatory text section of these rules.

The regulatory text section of these rules specifies the activities designated as significant new uses. Certain new uses, including production volume limits and other uses designated in the rules, may be claimed as CBI.

The chemical substances that are the subject of these SNURs completed premanufacture review. EPA has initially determined under TSCA section 5(a)(2), 15 U.S.C. 2604(a)(2), that certain changes from the conditions of use described in the PMNs could result in changes in the type or form of exposure to the chemical substances and/or increased exposures to the chemical substances and/or changes in the reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of the chemical substances. Consequently, EPA is designating these changes as significant new uses.

*PMN Number:* P-16-192

*Chemical Name:* Silanized amorphous silica (generic).

*CAS Number:* Not available.

*Basis for action:* The PMN states that the use of the substance will be as a reinforcing filler for the production of rubber goods. Based on test data for crystalline silica, EPA identified concerns for lung effects if the chemical substance is not used following the limitations noted below. The conditions of use of the PMN substance as described in the PMN include the following protective measures:

Manufacture of the PMN substance in an amorphous form.

The SNUR designates as a "significant new use" the absence of this protective measure.

*Potentially useful information:* EPA has determined that certain information about the physical-chemical properties

of the PMN substance may be potentially useful if a manufacturer or processor is considering submitting a SNUN for a significant new use designated by this SNUR. EPA has determined that information about the physical form, particle size, and water solubility would help characterize the potential health effects of the PMN substance.

*CFR citation:* 40 CFR 721.11182.

*PMN Numbers:* P-16-354 and P-16-355

*Chemical name:* Esteramine (generic).

*CAS number:* Not available.

*Basis for action:* The PMNs state that the generic (non-confidential) use of the substances will be as a chemical intermediate. Based on the physical/chemical properties of the PMN substances and Structure Analysis Relationships (SAR) analysis of test data on analogous substances, EPA has identified concerns for irritation and developmental/reproductive toxicity, and aquatic toxicity at surface water concentrations exceeding 1 part per billion (ppb), if the chemical substances are not used following the limitations noted below. The conditions of use of the PMN substances as described in the PMNs include the following protective measures:

1. No release of a manufacturing, processing, or use stream associated with any use of the substances, other than the confidential chemical intermediate use described in the PMNs, into the waters of the United States exceeding a surface water concentration of 1 ppb; and

2. No manufacturing, processing or use of the PMN substances resulting in inhalation exposures to the substances.

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

*Potentially useful information:* EPA has determined that certain information about the aquatic and human health toxicity of the PMN substances may be potentially useful to characterize the health and environmental effects of the PMN substances if a manufacturer or processor is considering submitting a SNUN for a significant new use designated by this SNUR. EPA has determined that the results of specific organ toxicity and aquatic toxicity testing would help characterize the potential health and environmental effects of the PMN substances.

*CFR citation:* 40 CFR 721.11183.

*PMN Numbers:* P-16-380, P-16-381, P-16-382, P-16-383, P-16-384, and P-16-385

*Chemical Names:* Formic acid, compds. with hydrolyzed bisphenol A-

epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1,3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products acetates (salts), (generic) (P-16-380), propanoic acid, 2-hydroxy-, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1,3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products formates (salts), (generic) (P-16-381), formic acid, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1,3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products sulfamates (salts), (generic) (P-16-382), formic acid, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1,3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products acetates (salts), (generic) (P-16-383), propanoic acid, 2-hydroxy-, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1,3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products formates (salts), (generic) (P-16-384), formic acid, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1,3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products sulfamates (salts), (generic) (P-16-385).

*CAS Numbers:* Not available.

*Basis for action:* The PMNs state that the generic (non-confidential) use of the substances will be as a component of an electrocoat resin. Based on the physical/chemical properties of the PMN substances and test data on analogous substances, EPA has identified concerns for lung effects and toxicity to aquatic organisms at concentrations that exceed 16 ppb if the chemical substances are not used following the limitations noted below. The conditions of use of the PMN substances as described in the PMNs include the following protective measures:

1. No manufacturing, processing or use of the PMN substances resulting in inhalation exposures to the substances; and

2. No release of a manufacturing, processing, or use stream associated with any use of the substances exceeding a surface water concentration of 16 ppb.

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

*Potentially useful information:* EPA has determined that certain information about the health and environmental effects of the PMN substances may be potentially useful if a manufacturer or processor is considering submitting a SNUN for a significant new use designated by this SNUR. EPA has determined that the results of specific target organ, pulmonary, and acute aquatic toxicity testing would help characterize the potential health and environmental effects of the PMN substances.

*CFR citation:* 40 CFR 721.11184 (P-16-380); 40 CFR 721.11185 (P-16-381); 40 CFR 721.11186 (P-16-382); 40 CFR 721.11187 (P-16-383); 40 CFR 721.11188 (P-16-384); and 40 CFR 721.11189 (P-16-385).

*PMN Numbers:* P-16-483 and P-16-484

*Chemical names:* Inorganic acids, metal salts, compds. with modified heteroaromatics, (generic) (P-16-483) and Inorganic acids, metal salts, compds. with substituted aromatic heterocycle, (generic) (P-16-484).

*CAS numbers:* Not available.

*Basis for action:* The PMNs state that the generic (non-confidential) use of P-16-483 will be as a plastic additive and the generic (non-confidential) use of P-16-484 will be as a chemical intermediate. Based on test data submitted on P-16-483 and data for analogous compounds, EPA has identified concerns for irritation, specific organ effects, and aquatic toxicity if the chemical is not used following the limitations noted below. The conditions of use of the PMN substances as described in the PMNs include the following protective measures:

1. No use of the substances other than the confidential use described in the PMNs;

2. No release of a manufacturing, processing, or use stream associated with any use of the substances exceeding a surface water concentration of 34 ppb; and

3. No manufacturing, processing or use of the PMN substances without the engineering controls described in the PMNs to limit exposure to dust.

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

*Potentially useful information:* EPA has determined that certain information about the human health and environmental toxicity of the PMN substances may be potentially useful to characterize the effects of the PMN substances if a manufacturer or processor is considering submitting a SNUN for a significant new use designated by this SNUR. EPA has determined that the results of aquatic toxicity and specific organ toxicity and aquatic toxicity testing would help characterize the potential health and environmental effects of the PMN substances.

*CFR citations:* 40 CFR 721.11190 (P-16-683) and 40 CFR 721.11191 (P-16-684).

*PMN Number:* P-16-575

*Chemical name:* Glucosyltransferase. International Union of Biochemistry and Molecular Biology Number: 2.4.1.5.

*CAS number:* 9032-14-8.

*Basis for action:* The PMN states that the use of the substance will be for polymerization of glucose. Based on the allergenic properties of proteins and review of surrogate enzymatic protein data submitted, EPA has identified concerns for respiratory sensitization if the chemical is not used following the limitations noted below. The conditions of use of the PMN substance as described in the PMN include the following protective measure:

No manufacture, processing, or use of the PMN substance that results in inhalation exposures to the substance.

The SNUR designates as a “significant new use” the absence of this protective measure.

*Potentially useful information:* EPA has determined that certain information about the workplace exposure to the PMN substance may be potentially useful to characterize the health effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use designated by this SNUR. EPA has determined that the results of workplace air monitoring would help characterize the potential health effects of the PMN substance.

*CFR citation:* 40 CFR 721.11192.

*PMN Number:* P-16-581

*Chemical name:* Alpha 1,3-polysaccharide (generic).

*CAS number:* Not available.

*Basis for action:* The PMN states that the uses of the substance will be as a polymer additive, paper coating component, composite component, and

fiber additive. Based on analogy to high molecular weight polymers, EPA has identified concerns for lung effects if the chemical is not used following the limitations noted below. The conditions of use of the PMN substance as described in the PMN include the following protective measures:

1. No use of the substance other than the uses described in the PMN; and

2. No manufacture, processing, or use with particle size less than 10 micrometers.

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

*Potentially useful information:* EPA has determined that certain information about the toxicity of the PMN substance may be potentially useful to characterize the health effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use designated by this SNUR. EPA has determined that the results of pulmonary effects toxicity testing of the PMN substance may be potentially useful in characterizing the health effects of the PMN substance.

*CFR citation:* 40 CFR 721.11193.

## VI. Rationale and Objectives of the Rule

### A. Rationale

During review of the PMNs submitted for the chemical substances that are the subject of these SNURs and as further discussed in Unit IV, EPA identified certain reasonably foreseen conditions of use and other circumstances different from the intended conditions of use identified in the PMNs and determined that those changes could result in changes in the type or form of exposure to the chemical substances and/or increased exposures to the chemical substances and/or changes in the reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of the chemical substances.

### B. Objectives

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

- EPA will receive notice of any person's intent to manufacture or process a listed chemical substance for the described significant new use before that activity begins.

- EPA will have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing a

listed chemical substance for the described significant new use.

- EPA is obligated to make a determination under TSCA section 5(a)(3) regarding the use described in the SNUN, under the conditions of use. The Agency will either determine under section 5(a)(3)(C) that the significant new use is not likely to present an unreasonable risk, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by the Administrator under the conditions of use, or make a determination under section 5(a)(3)(A) or (B) and take the required regulatory action associated with the determination, before manufacture or processing for the significant new use of the chemical substance can occur.

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

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the internet at <http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html>.

### VII. Applicability of the Significant New Use Designation

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

EPA designated October 9, 2018 (the date of web posting of the proposed rule) as the cutoff date for determining whether the new use is ongoing. The objective of EPA's approach has been to ensure that a person could not defeat a SNUR by initiating a significant new use before the effective date of the final rule.

In the unlikely event that a person began commercial manufacture or processing of the chemical substances for a significant new use identified as of October 9, 2018, that person will have

to cease any such activity upon the effective date of the final rule. To resume their activities, that person would have to first comply with all applicable SNUR notification requirements and wait until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination.

### VIII. Development and Submission of Information

EPA recognizes that TSCA section 5 does not require development of any particular new information (*e.g.*, generating test data) before submission of a SNUN. There is an exception: If a person is required to submit information for a chemical substance pursuant to a rule, order or consent agreement under TSCA section 4 (15 U.S.C. 2603), then TSCA section 5(b)(1)(A) (15 U.S.C. 2604(b)(1)(A)) requires such information to be submitted to EPA at the time of submission of the SNUN.

In the absence of a rule, order, or consent agreement under TSCA section 4 covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known to or reasonably ascertainable by them (see § 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. Unit IV. lists potentially useful information for all SNURs listed here. Descriptions are provided for informational purposes. The potentially useful information identified in Unit IV. will be useful to EPA's evaluation in the event that someone submits a SNUN for the significant new use. Companies who are considering submitting a SNUN are encouraged, but not required, to develop the information on the substance, which may assist with EPA's analysis of the SNUN.

EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing in vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialog with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h).

The potentially useful information described in Unit IV. may not be the

only means of providing information to evaluate the chemical substance associated with the significant new uses. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA section 5(e) or 5(f). EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

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

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

### IX. Procedural Determinations

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

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

If EPA determines that the use identified in the *bona fide* submission would not be a significant new use, *i.e.*, the use does not meet the criteria specified in the rule for a significant new use, that person can manufacture or process the chemical substance so long as the significant new use trigger is not

met. In the case of a production volume trigger, this means that the aggregate annual production volume does not exceed that identified in the *bona fide* submission to EPA. Because of confidentiality concerns, EPA does not typically disclose the actual production volume that constitutes the use trigger. Thus, if the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use.

#### X. SNUN Submissions

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

#### XI. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the docket under docket ID number EPA-HQ-OPPT-2017-0366.

#### XII. Statutory and Executive Order Reviews

##### A. Executive Order 12866

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

##### B. Paperwork Reduction Act (PRA)

According to PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in

40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this action. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is "good cause" under section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) to amend this table without further notice and comment.

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

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

##### C. Regulatory Flexibility Act (RFA)

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that promulgation of this SNUR would not have a significant adverse economic impact on a substantial number of small entities. The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the final rule as a "significant new use." Because these uses are "new," based on all information currently available to EPA, it appears that no small or large entities presently engage in such activities. A SNUR requires that any person who intends to engage in such activity in the

future must first notify EPA by submitting a SNUN. Although some small entities may decide to pursue a significant new use in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemicals, the Agency receives only a small number of notices per year. For example, the number of SNUNs received was seven in Federal fiscal year (FY) 2013, 13 in FY2014, six in FY2015, 10 in FY2016, and 14 in FY2017, and only a fraction of these were from small businesses. In addition, the Agency currently offers relief to qualifying small businesses by reducing the SNUN submission fee from \$16,000 to \$2,800. This lower fee reduces the total reporting and recordkeeping of cost of submitting a SNUN to about \$10,116 for qualifying small firms. Therefore, the potential economic impacts of complying with this SNUR are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL–5597–1), the Agency presented its general determination that final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

##### D. Unfunded Mandates Reform Act (UMRA)

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

##### E. Executive Order 13132

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

F. Executive Order 13175

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

G. Executive Order 13045

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

H. Executive Order 13211

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

I. National Technology Transfer and Advancement Act (NTTAA)

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

J. Executive Order 12898

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

XIII. Congressional Review Act

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

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

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

Dated: March 27, 2019.

Tala Henry,

Acting Deputy Director, Office of Pollution Prevention and Toxics.

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

PART 9—[AMENDED]

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

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

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

§ 9.1 OMB approvals under the Paperwork Reduction Act.

Table with 5 columns: 40 CFR citation, OMB control No., Significant Substances, New Uses, and Chemical Substances. Rows include CFR citations 721.11182 through 721.11193 and their corresponding OMB control numbers.

PART 721—[AMENDED]

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

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

4. Add §§ 721.11182 through 721.11193 to subpart E to read as follows:

Subpart E—Significant New Uses for Specific Chemical Substances

Sec.

- List of chemical substances and their OMB control numbers: 721.11182 Silanized amorphous silica (generic); 721.11183 Esteramine (generic); 721.11184 Formic acid, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1,3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products acetates (salts), (generic); 721.11185 Propanoic acid, 2-hydroxy-, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1,3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products formates (salts), (generic); 721.11186 Formic acid, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1,3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products sulfamates (salts), (generic); 721.11187 Formic acid, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1,3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products acetates (salts), (generic); 721.11188 Propanoic acid, 2-hydroxy-, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1,3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products formates (salts), (generic); 721.11189 Formic acid, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1,3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products sulfamates (salts), (generic); 721.11190 Inorganic acids, metal salts, compds. with modified heteroaromatics, (generic).

- 721.11191 Inorganic acids, metal salts, compds. with substituted aromatic heterocycle, (generic).
- 721.11192 Glucosyltransferase, International Union of Biochemistry and Molecular Biology Number: 2.4.1.5.
- 721.11193 Alpha 1,3-polysaccharide (generic).

**§ 721.11182 Silanized amorphous silica (generic).**

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as silanized amorphous silica (P-16-192) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture the substance other than in an amorphous form.

(ii) [Reserved]

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

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

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

**§ 721.11183 Esteramine (generic).**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substances identified generically as esteramine (PMN P-16-354 and P-16-355) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substances in any manner that results in inhalation exposure. It is a significant new use to release a manufacturing, processing, or use stream associated with any use of the substances, other than the confidential chemical intermediate use described in the premanufacture notices, into the waters of the United States exceeding a surface water concentration of 1 part per billion (ppb) using the methods described in § 721.91.

(ii) [Reserved]

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

(1) *Recordkeeping.* Recordkeeping requirements as specified in

§ 721.125(a) though (e), and (i) are applicable to manufacturers and processors of these substances.

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

**§ 721.11184 Formic acid, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1,3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products acetates (salts), (generic).**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance generically identified as formic acid, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1,3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products acetates (salts), (P-16-380) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, Commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=16.

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

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

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

**§ 721.11185 Propanoic acid, 2-hydroxy-, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1,3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products formates (salts), (generic).**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance generically as propanoic acid, 2-hydroxy-, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-

N1-(1,3-dimethylbutylidene)-N2-[2-[(1,3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products formates (salts), (P-16-381) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, Commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=16.

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

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

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

**§ 721.1118 6 Formic acid, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1,3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products sulfamates (salts), (generic).**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance generically identified as formic acid, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1,3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products sulfamates (salts), (P-16-382) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, Commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=16.

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

(1) *Recordkeeping.* Recordkeeping requirements as specified in

§ 721.125(a) through (c), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

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

**§ 721.11187 Formic acid, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products acetates (salts), (generic).**

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as formic acid, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products acetates (salts), (P-16-383) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, Commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=16.

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

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

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

**§ 721.11188 Propanoic acid, 2-hydroxy-, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products formates (salts), (generic).**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance generically identified as propanoic acid, 2-hydroxy-, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-

dimethylbutylidene)-N2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products formates (salts), (P-16-384) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, Commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=16.

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

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

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

**§ 721.11189 Formic acid, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products sulfamates (salts), (generic).**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance generically identified as formic acid, compds. with hydrolyzed bisphenol A-epichlorohydrin-polyethylene glycol ether with bisphenol A (2:1) polymer-N1-(1,3-dimethylbutylidene)-N2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products sulfamates (salts), (P-16-385) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, Commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=16.

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

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

applicable to manufacturers, importers, and processors of this substance.

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

**§ 721.11190 Inorganic acids, metal salts, compds. with modified heteroaromatics, (generic).**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as inorganic acids, metal salts, compds. with modified heteroaromatics, (PMN P-16-483) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j). It is a significant new use to manufacture, process, or use the substance without the engineering controls described in the premanufacture notice to limit exposure to dust.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=34.

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

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

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

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

**§ 721.11191 Inorganic acids, metal salts, compds. with substituted aromatic heterocycle, (generic).**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as inorganic acids, metal salts, compds. with substituted aromatic heterocycle, (PMN P-16-484) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j). It is a significant new use to manufacture, process, or use the substance without the engineering controls described in the

premanufacture to limit exposure to dust.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=34.

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

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

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

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

**§ 721.11192 Glucosyltransferase, International Union of Biochemistry and Molecular Biology Number: 2.4.1.5.**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as glucosyltransferase, International Union of Biochemistry and Molecular Biology Number: 2.4.1.5 (PMN P-16-575, CAS No. 9032-14-8) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure.

(ii) [Reserved]

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

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

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

**§ 721.11193 Alpha 1,3-polysaccharide (generic).**

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance generically identified as alpha 1,3-polysaccharide (generic) (PMN P-16-581) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant

new use to use the substance other than as a polymer additive, paper coating component, composite component, or fiber additive. It is a significant new use to manufacture, process or use the PMN substance with particle size less than 10 micrometers.

(ii) [Reserved]

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

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

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

[FR Doc. 2019-06624 Filed 4-4-19; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2017-0481; FRL-9991-53-Region 9]

**Air Quality State Implementation Plans: Arizona; Approval and Conditional Approval of State Implementation Plan Revisions; Maricopa County Air Quality Department; Stationary Source Permits**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing revisions to the Maricopa County Air Quality Department's (MCAQD) portion of the state implementation plan (SIP) for the State of Arizona. We are finalizing full approval of Rules 210, 220, 240, and 241, and conditional approval of Rules 100 and 200. The revisions update the MCAQD's New Source Review (NSR) permitting program for new and modified sources of air pollution.

**DATES:** This rule is effective on May 6, 2019.

**ADDRESSES:** The EPA has established docket number EPA-R09-OAR-2017-0481 for this action. Generally, documents in the docket for this action are available electronically at <https://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street (AIR-3), San Francisco, California 94105-3901. While all documents in the docket are listed at <https://www.regulations.gov>, some information may be publicly available only at the

hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be available in either location (e.g., confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Shaheerah Kelly, EPA Region IX, 75 Hawthorne Street (AIR-3), San Francisco, CA 94105-3901, (415) 947-4156, [kelly.shaheerah@epa.gov](mailto:kelly.shaheerah@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, the terms “we,” “us,” and “our” refer to the EPA.

**Table of Contents**

- I. Proposed Action
- II. Summary of Public Comments and EPA Responses
- III. EPA Action
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**Definitions**

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The initials *ADEQ* mean or refer to the Arizona Department of Environmental Quality.

(ii) The initials *BACT* mean or refer to Best Available Control Technology.

(iii) The word or initials *CAA* or *Act* mean or refer to the Clean Air Act.

(iv) The initials *CFR* mean or refer to Code of Federal Regulations.

(v) The initials or words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.

(vi) The initials *FR* mean or refer to **Federal Register**.

(vii) The word or initials *MCAQD*, “the County” or “Maricopa County” mean or refer to the Maricopa County Air Quality Department, the agency with jurisdiction over stationary sources within Maricopa County, Arizona.

(viii) The phrase *minor NSR* means the permit program applicable to new or modified sources that do not result in a new major source or a major modification.

(ix) The initials *NAAQS* mean or refer to the National Ambient Air Quality Standards.

(x) The initials *NSR* mean or refer to New Source Review, which includes NNSR, PSD and minor NSR.

(xi) The initials *NNSR* mean or refer to nonattainment New Source Review.

(xii) The initials *PM<sub>2.5</sub>* mean or refer to particulate matter less than 2.5 micrometers.

(xiii) The initials *PM<sub>10</sub>* mean or refer to particulate matter less than 10 micrometers.

- (xiv) The initials *PSD* mean or refer to Prevention of Significant Deterioration.
- (xv) The initials *SIP* mean or refer to State Implementation Plan.
- (xvi) The word *State* means or refers to the State of Arizona.
- (xvii) The initials *TSD* mean or refer to the Technical Support Document.

**I. Proposed Action**

On June 11, 2018, the EPA proposed to approve or conditionally approve the rules listed in Table 1 for incorporation into the Arizona SIP.<sup>1</sup> The submittals for these rules, which we refer to collectively herein as “MCAQD’s NSR submittal” or “the submittal,” represent a comprehensive revision to the MCAQD’s preconstruction review and

permitting program and are intended to satisfy the requirements under part D (NNSR) of title I of the Act as well as the general preconstruction review requirements under section 110(a)(2)(C) of the Act. Our detailed analysis of these rules is provided in the TSD and **Federal Register** notice for the proposed rulemaking for this SIP revision approval action.

TABLE 1—MCAQD SUBMITTED RULES

Regulation & rule No.	Rule title	Adoption or amendment date	Submittal date	Final action
Regulation I, Rule 100 .....	General Provisions; General Provisions and Definitions.	2/3/2016	5/18/2016	Conditional Approval.
Regulation II, Rule 200 .....	Permits and Fees; Permit Requirements .....	2/3/2016	5/18/2016	Conditional Approval.
Regulation II, Rule 210 <sup>2</sup> .....	Permits and Fees; Title V Permit Provisions .....	2/3/2016	5/18/2016	Full Approval.
Regulation II, Rule 220 .....	Permits and Fees; Non-Title V Permit Provisions .....	2/3/2016	5/18/2016	Full Approval. <sup>3</sup>
Regulation II, Rule 240 .....	Permits and Fees; Federal Major New Source Review.	2/3/2016	5/18/2016	Full Approval.
Regulation II, Rule 241 .....	Permits and Fees; Minor New Source Review .....	9/7/2016	11/25/2016	Full Approval.

We proposed to approve and conditionally approve these rules because we determined that they strengthen the SIP and are mostly consistent with the relevant CAA requirements. We proposed to fully approve Rules 210, 240 and 241 as part of the MCAQD’s general and major source NSR permitting program because we determined that these rules satisfy the substantive statutory and regulatory requirements for NSR permit programs as contained in part D of title I of the Act (sections 172, 173 and 182(a)), the requirements of CAA section 110(a)(2)(C), 40 CFR 51.160–51.165, and 40 CFR 51.307.

We proposed to conditionally approve Rules 100, 200, and 220 because we determined that, while they mostly satisfy the statutory and regulatory requirements of CAA section 110(a)(2)(C) and part D of title I of the Act, the rules also contained eight deficiencies that prevented full approval. In our proposed action we determined that:

1. The definitions of “PM<sub>2.5</sub>” and “PM<sub>10</sub>” in Rule 100, Sections 200.91 and 200.92 are inconsistent with the definition contained in 40 CFR 51.165(a)(1)(xxxvii), and are therefore deficient;

2. the definition of “good engineering practice stack height” in Rule 200, Section 201 is inconsistent with the definition for this term provided in 40 CFR 51.100(ii), and is therefore deficient;

3. the MCAQD must provide a basis under 40 CFR 51.160(e) to demonstrate that regulation of the equipment (*i.e.*, agricultural equipment used in normal farm operations) exempted in Rule 200, Section 305.1.c is not needed for the MCAQD’s program to meet federal NSR requirements for attainment and maintenance of the NAAQS or review for compliance with the control strategy;

4. Rule 220, Sections 404.3.e and 404.3.f, for reconstructed sources and for changes associated with an emission increase greater than 10 percent of the major source threshold, are deficient because these provisions allow changes with potentially significant emission increases and should not be listed as changes that can be made after providing only a notification to the MCAQD;

5. Rule 200, Section 403.2 does not ensure the continuity of the NSR terms and conditions when a Title V or Non-Title V permit expires and is therefore deficient;

6. references to Appendix G (Incorporated Materials) in certain provisions in Rules 100 and 200 are deficient because Appendix G is neither included in the existing SIP nor has it been included in MCAQD’s NSR submittal.

7. references to the Arizona Testing Manual (ATM) in Rules 100 and 200 are deficient because they rely on provisions that are not SIP approved, and the ATM is significantly out of date and not appropriate to be relied upon as the sole basis for testing procedures; and

8. certain definitions that the MCAQD proposed be removed from the approved SIP are used in other SIP rules and therefore cannot be removed from the SIP without further justification.

These deficiencies were the basis for the EPA’s proposed conditional approval of MCAQD’s NSR submittal. Before our proposal, the MCAQD and the ADEQ submitted letters committing to adopt and submit revisions to the EPA to address the identified deficiencies not later than one year from the date we take final action to approve the MCAQD’s NSR program revisions, consistent with the requirements of CAA section 110(k)(4).

We also proposed to remove the following definitions from the MCAQD

Section 403, which stipulate that any change that would also result in a minor NSR modification will always require a permit revision, notwithstanding the provisions of Section 404.3. Therefore, the provisions in Rule 220, Section 404 are not deficient and we are finalizing full approval of the rule. See Section II, Response 6 of this action, for more information.

<sup>1</sup> 83 FR 26912 (June 11, 2018).

<sup>2</sup> Rule 210 also contains requirements to address the CAA title V requirements for operating permit programs, though we are not evaluating the rule for title V purposes at this time. We will evaluate Rule 210 for compliance with the requirements of title V of the Act and the EPA’s implementing regulations in 40 CFR part 70 following receipt of an official part 70 program revision submittal from Maricopa County containing this rule.

<sup>3</sup> In our notice of proposed rulemaking we proposed conditional approval of Rule 220 because it appeared that certain provisions in Section 404.3 could allow emissions increases greater than the minor NSR permit thresholds to be exempted from permit review. (*Id.* at footnote 1). However, upon further review of the MCAQD’s minor NSR program, we found that this determination was made in error. The provisions in Section 404 of Rule 220 are pre-empted by the requirements of

portion of the Arizona SIP because these terms are now defined in other rules or are no longer used in the SIP.

TABLE 2—DEFINITIONS BEING REMOVED FROM THE ARIZONA SIP

Defined term	Current SIP rule
Accepted .....	Rule 2, Section 1.
Begin Actual Construction .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 20).
Bureau .....	Rule 2, Section 19; Rule 21, Section D.1 (AZ R9–3–101, Paragraph 24).
Calorie .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 26).
Combustion .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 33).
Device, Machine, Equipment or Other Article .....	Rule 2, Section 25.
Elevated Terrain .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 55).
FR (Federal Register) .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 69).
Minor Source .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 99).
Mobile or Portable Sources .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 100).
Molybdenum Roaster .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 101).
Permit Unit .....	Rule 2, Section 68.
Plume Impaction .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 124).
Process and Process Equipment .....	Rule 2, Section 73.
Reclaiming Machinery .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 134).
Resource Recovery Facility .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 139).
Stationary Rotating Machinery .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 156).
Statutory Major Source .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 158).
Volatility .....	Rule 21, Section D.1 (AZ R9–3–101, Paragraph 170).

## II. Summary of Public Comments and EPA Responses

Our June 11, 2018 proposed rulemaking<sup>4</sup> provided a 30-day public comment period. We received a joint comment letter from the Sierra Club and Center for Biological Diversity and also received a comment from an anonymous source. Our Response to Comments document in the docket for this action summarizes the comments and includes the EPA's full responses.<sup>5</sup> Below, we briefly summarize the significant comments and our responses.

*Comment 1:* The EPA informed the County that its definition of “begin actual construction” in Rule 100 was inconsistent with federal permit requirements in 40 CFR 51.165 and specified the issues pertaining to its definition. While we acknowledge that the definition was withdrawn from the EPA's consideration as part of the SIP, the EPA should have required the County to revise the definition of the term “begin actual construction.”

*Response 1:* At the time of the EPA's proposed action on MCAQD's NSR submittal, the option to disapprove the definition of “begin actual construction” was no longer available because the County had withdrawn the definition from its submittal. Accordingly, the comments regarding the EPA's approval or disapproval of

this definition are not germane to our final rulemaking action.

*Comment 2:* The minor NSR Rules 200 and 241 are unenforceable because the minor NSR rules in the SIP will have no federally enforceable definition of “begin actual construction.” Because this definition is still in effect at the county level, the County will still be allowing certain on-site construction activities before a permit is issued. Such cases could prejudice the Control Officer's determination regarding permit approval. This situation compromises the integrity of the entire minor NSR program. Therefore, the EPA should disapprove all the minor NSR permitting rules until an adequate definition of the term “begin actual construction” for the minor NSR program is submitted for SIP approval.

*Response 2:* The EPA disagrees that all the minor NSR program rules should be disapproved because they lack a definition for the term “begin actual construction.” The general permit program requirements found in 40 CFR 51.160–164, which specify the minimum requirements that apply to all NSR programs, do not contain a requirement like the ones found in 40 CFR 51.165 and 51.166, which provide that major NSR program rules must include specified definitions. While some permit agencies rely on the same definitions contained in their major NSR programs for their minor NSR program, there is no regulatory requirement to do so. Therefore, the lack of a definition for the term “begin actual construction” is not inconsistent with

the EPA regulations for minor NSR programs.

Maricopa County's current SIP-approved permit program does not contain a definition of the term “begin actual construction” for minor sources. Maricopa County's local rules have contained the current definition of “begin actual construction” since February 3, 2016. However, we are not aware of any situations where the lack of such a definition or the current definition has prejudiced the Control Officer when determining if a permit should be issued and the commenter did not provide any examples. We note that Maricopa County has provided the EPA with a copy of proposed rule revisions, which include a definition for the term “begin actual construction” that is consistent with the definition of the same term found in 40 CFR 51.165(a)(1)(xv).

*Comment 3:* The EPA must require Maricopa County to demonstrate that minor modifications at existing sources with emission increases below the minor NSR modification thresholds will not interfere with attainment or maintenance of the NAAQS or violate the control strategy, because without such a demonstration, the EPA cannot ensure that Maricopa County's minor NSR program satisfies the core requirement that the County be able to prevent modification of a source if it would interfere with attainment or maintenance of the NAAQS pursuant to 40 CFR 51.160 and section 110(a)(2)(C) of the CAA.

*Response 3:* The EPA disagrees with the conclusions provided in the

<sup>4</sup> Id at footnote 1.

<sup>5</sup> The full text of the public comments, as well as all other documents relevant to this action, are available in the docket (visit <https://www.regulations.gov> and search for Docket ID: EPA–R09–OAR–2017–0481).

comment regarding the type of demonstration required to satisfy the provisions of 40 CFR 51.160(a), (b) and (e). The commenters do not claim that any of these individual provisions were not met, but instead claim that in order to approve Maricopa County's minor source NSR program, the EPA must require Maricopa County to provide an analysis demonstrating that emission increases lower than the minor NSR modification thresholds will not interfere with attainment or maintenance of the NAAQS. This is an incorrect reading of the requirements of the cited provisions.

CAA section 110(a)(2)(C) requires a permit program to regulate the construction and modification of sources as necessary to assure the NAAQS are achieved. The regulation of minor sources and modifications through a permit program is only one of many regulatory components considered when adopting an attainment plan to achieve a particular NAAQS. Recognizing that states have significant leeway to craft their minor source permit programs, 40 CFR 51.160(e) requires permit agencies to "identify types and sizes of facilities, buildings, structures, or installations which will be subject to review" and "discuss the basis for determining which facilities will be subject to review." The provisions of 40 CFR 51.160(a) and (b) are only applicable to the sources identified under 40 CFR 51.160(e) as being subject to review, and paragraph (e) only requires the submittal to discuss "which facilities will be subject to review." There is no requirement to demonstrate that sources not subject to the minor source permit program will not interfere with attainment or maintenance of the NAAQS. Instead, the entire NSR program must subject a sufficient number of sources (or emissions) to review to assure, in conjunction with all other plan provisions, that the NAAQS will be achieved.<sup>6</sup>

The EPA reviewed the submitted analysis and found MCAQD's NSR submittal satisfied the requirements of 40 CFR 51.160(e) and CAA section 110(a)(2)(C) because we believe that in conjunction with other SIP provisions, an NSR program that will regulate approximately 74–83% of new stationary source emissions by requiring BACT level controls on such sources provides adequate regulation to ensure the NAAQS will be met.

*Comment 4:* EPA proposed to conditionally approve several provisions in the Maricopa County rules

but did not provide any justification for the use of a conditional approval in two cases: The definitions for PM<sub>10</sub> and PM<sub>2.5</sub> in Rule 100, and certain procedures that do not require a Non-Title V permit revision in Rule 220. The conditional approval commitment letter provided by the ADEQ was not specific enough in its commitment to submit the Maricopa County's SIP revision to EPA within one year from the EPA's final action to conditionally approve MCAQD's NSR submittal.

*Response 4:* As discussed in Responses 5 and 6, the EPA has found that the two specific provisions raised by the commenters are not deficient. Since the EPA is no longer conditionally approving these provisions, it is not necessary to respond to the claim that the EPA did not provide an adequate justification for proposing conditional approval for these provisions. The EPA agrees that the April 6, 2018 commitment letter provided by ADEQ was not specific enough in its commitment to submit the Maricopa County's SIP revision to the EPA within one year of final action. However, for other provisions that the EPA is conditionally approving, we note that, on October 5, 2018, the ADEQ provided the EPA with a clarification letter that includes a commitment by the ADEQ to submit Maricopa County's corrections of the identified deficiencies in this rulemaking within one year of the EPA's final action conditionally approving MCAQD's NSR submittal. This commitment by the ADEQ is sufficiently specific to justify the conditional approvals within this rulemaking.

*Comment 5:* Failure to properly define PM<sub>10</sub> and PM<sub>2.5</sub> represents a significant deficiency in the permit programs and conditional approval means neither the major nor minor NSR program will adequately provide for protection of the PM<sub>10</sub> and PM<sub>2.5</sub> NAAQS. The EPA should disapprove the definitions of PM<sub>10</sub> and PM<sub>2.5</sub> rather than conditionally approving the County's permit programs.

*Response 5:* The EPA proposed conditional approval of Rule 100, in part because the EPA found that the definitions of PM<sub>10</sub> and PM<sub>2.5</sub> did not include gaseous emissions, which form particulates. Upon further review, the EPA has determined that our initial analysis was incorrect. The definition of "Regulated NSR Pollutant" contained in both Rule 100 and 240 incorporates the definition of this same term as found in 40 CFR 51.165(a)(1)(xxvii)(D). The incorporated definition states that "PM<sub>2.5</sub> emissions and PM<sub>10</sub> emissions shall include gaseous emissions from a source or activity which condense to

form particulate matter at ambient temperatures." Because Rule 100 is not deficient for the reasons the EPA cited in our proposed action, the merits of this comment and our proposed disapproval are moot and are not discussed further. The EPA recommends, however, that Maricopa County consider revising the definitions of these terms in Rule 100 to provide clarity to the regulated community.

*Comment 6:* All the provisions of Rule 220, Section 404.3, (except subsection d.), are not approvable because the changes could adversely impact air quality and because of the significance of the changes that could be allowed at a facility.

*Response 6:* The EPA disagrees that these provisions are not approvable. In our proposed action, the EPA failed to note that the provisions of Rule 220, Section 404 are pre-empted by the requirements of Section 403, which lists the types of changes requiring a permit revision. Pursuant to Subsection 403.2.k., any change that would also result in a minor NSR modification will always require a permit revision, notwithstanding the provisions of Section 404.3. Thus the "exemptions" allowed under Section 404.3 are limited to changes resulting in emission increases lower than the minor NSR modification thresholds. As the EPA discussed earlier in Response 3, Maricopa County provided an analysis in the MCAQD's NSR submittal that provides a reasonable basis for choosing the size of sources (based on emission increases) that require permit regulation to attain or maintain the NAAQS. Accordingly, the EPA no longer finds paragraphs e. and f. of Section 404.3 deficient and is fully approving Rule 220, including Section 404.3.

### III. EPA Action

No comments were submitted that change our assessment that the MCAQD's Rules 210, 220, 240, and 241 satisfy the applicable CAA requirements, nor were any comments submitted that change our assessment discussed in our proposal that certain MCAQD rules should be removed from the Arizona SIP. Therefore, as authorized under CAA sections 110(k)(3) and 301(a), and for the reasons set forth in our June 11, 2018 proposed rule, we are finalizing full approval of Rules 210, 220, 240, and 241, as described in Table 1, in the MCAQD portion of the Arizona SIP, and removing from the MCAQD portion of the Arizona SIP the rules identified in Table 2.

While we cannot grant full approval of Rules 100 and 200 at this time, the

<sup>6</sup> 76 FR 38748, 38752 (July 1, 2011).

MCAQD and the ADEQ have satisfactorily committed to address the identified deficiencies by committing to provide the EPA with a SIP submission within one year of this final action, which will include specific rule revisions and/or demonstrations that would adequately address the issues identified in our proposal and Section II above. If the MCAQD, through the ADEQ, submits the rule revisions and/or demonstrations that it has committed to submit by this deadline, and the EPA approves the submission, then the identified deficiencies will be cured. However, if the MCAQD, through the ADEQ, fails to submit these revisions and/or demonstrations within the required timeframe, the conditional approval will become a disapproval, and the EPA will issue a finding of disapproval. The EPA is not required to propose the finding of disapproval.

We did not receive any comments that would cause us to change the determinations that were the basis for our proposed conditional approval action; thus, we are finalizing a conditional approval of the MCAQD's Rules 100 and 200 pursuant to CAA section 110(k)(4). As discussed in Section II of this action, the list of identified rule deficiencies has changed as follows: (1) We are no longer finding the Rule 100 definitions of PM<sub>10</sub> and PM<sub>2.5</sub> to be deficient; (2) we are no longer finding the provisions of Rule 220, Sections 404.3.e. and f. to be deficient; and (3) we are approving removal of the definition of "Begin Actual Construction" in Rule 21, Section D.1 (AZ R9-3-101, Paragraph 20) in the current SIP.

This action incorporates these rules into the federally enforceable SIP through revisions to 40 CFR 52.120 (Identification of plan) and 40 CFR 52.119 (Identification of plans—conditional approvals).

#### 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 MCAQD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and in hard copy at the EPA Region IX office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in

the Arizona SIP, have been incorporated by reference by the EPA into that plan, are federally enforceable under sections 110 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 in the next update to the SIP compilation.<sup>7</sup>

#### V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the applicable 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, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would

be inconsistent with the Clean Air Act; and

- Does not provide the EPA with the discretionary authority to address, 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 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 June 4, 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 CAA section 307(b)(2).*)

#### List of Subjects in 40 CFR Part 52

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

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

<sup>7</sup> 62 FR 27968 (May 22, 1997).

Dated: March 20, 2019.

**Deborah Jordan,**

*Acting Regional Administrator, Region IX.*

Part 52, Chapter I, Title 40 of the Code of Federal Regulations 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 D—Arizona**

■ 2. Section 52.119 is amended by adding in paragraph (b) to read as follows:

**§ 52.119 Identification of plan—conditional approvals.**

\* \* \* \* \*

(b) A plan revision for the Maricopa County Air Quality Department (MCAQD) submitted May 18, 2016, by the Arizona Department of Environmental Quality (ADEQ), the Governor’s designee, updating the MCAQD’s Clean Air Act (CAA) new source review (NSR) program with respect to deficiencies identified by the EPA in Regulation I, Rule 100 and Regulation II, Rule 200. This plan revision is conditionally approved as follows:

(1) The conditional approval is based on the April 6, 2018 and October 5, 2018 commitments from the ADEQ, and on the April 2, 2018 letter from the MCAQD to the ADEQ requesting submittal of a letter of commitment for conditional approval, to submit a SIP revision consisting of rule revisions and/or demonstrations to the ADEQ within eleven (11) months after the

EPA’s approval, to allow the ADEQ to make the final submission to the EPA not later than twelve (12) months after the EPA’s approval that will correct the deficiencies identified in this final notice. If the State fails to meet its commitment by that date that is twelve (12) months after the EPA’s approval, the conditional approval will be treated as a disapproval to deficiencies identified by the EPA in Regulation I, Rule 100; and Regulation II, Rule 200.

(2) [Reserved]

■ 3. Section 52.120 is amended in paragraph (c) by revising Table 4 to read as follows:

**§ 52.120 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

TABLE 4—EPA-APPROVED MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS

County citation	Title/subject	State effective date	EPA approval date	Additional explanation
<b>Pre-July 1988 Rule Codification</b>				
<b>Regulation I—General Provisions</b>				
Rule 2, No. 11 “Alteration or Modification”.	Definitions .....	June 23, 1980 .....	June 18, 1982, 47 FR 26382.	Submitted on March 8, 1982. Revised on April 5, 2019, [INSERT <b>Federal Register CITATION</b> ] to remove the definition for No. 33 “Existing Source” which was superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 27 “Dust” .....	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register CITATION</b> ]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 29 “Emission”	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register CITATION</b> ]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 34 “Existing Source Performance Standards”.	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register CITATION</b> ]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 37 “Fly Ash” ...	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register CITATION</b> ]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 39 “Fuel” .....	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register CITATION</b> ]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 42 “Fume” .....	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register CITATION</b> ]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 55 “Motor Vehicle”.	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register CITATION</b> ]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 59 “Non-Point Source”.	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register CITATION</b> ]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.

TABLE 4—EPA-APPROVED MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS—Continued

County citation	Title/subject	State effective date	EPA approval date	Additional explanation
Rule 2, No. 60 "Odors" .....	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 64 "Organic Solvent".	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 70 "Plume" .....	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 80 "Smoke" ....	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 2, No. 91 "Vapor" .....	Definitions .....	June 23, 1980 .....	April 12, 1982, 47 FR 15579.	Submitted on June 23, 1980. Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 71 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
<b>Regulation II—Permits</b>				
Rule 21, Section D.1 (AZ R9-3-101, Paragraph 52 "Dust").	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9-3-101, Paragraph 56 "Emission").	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9-3-101, Paragraph 63 "Existing Source Performance Standards").	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9-3-101, Paragraph 70 "Fuel").	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9-3-101, Paragraph 71 "Fuel Burning Equipment").	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9-3-101, Paragraph 74 "Fume").	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9-3-101, Paragraph 103 "Motor Vehicle").	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9-3-101, Paragraph 114 "Non-Point Source").	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9-3-101, Paragraph 122 "Photochemically Reactive Solvent").	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9-3-101, Paragraph 123 "Plume").	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.

TABLE 4—EPA-APPROVED MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS—Continued

County citation	Title/subject	State effective date	EPA approval date	Additional explanation
Rule 21, Section D.1 (AZ R9–3–101, Paragraph 128 “Process”).	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9–3–101, Paragraph 129 “Process Source”).	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9–3–101, Paragraph 150 “Smoke”).	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9–3–101, Paragraph 152 “Soot”).	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9–3–101, Paragraph 160 “Supplementary Control System (SCS)”).	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9–3–101, Paragraph 166 “Vapor”).	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9–3–101, Paragraph 167 “Vapor Pressure”).	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
Rule 21, Section D.1 (AZ R9–3–101, Paragraph 168 “Visible Emissions”).	Procedures for obtaining an installation permit.	October 25, 1982	August 10, 1988, 53 FR 30224; vacated; restored on January 29, 1991, 56 FR 3219.	Submitted on March 4, 1983.† Revised on April 5, 2019, [INSERT <b>Federal Register</b> CITATION]. Removed 152 defined terms which were superseded by Rule 100 submitted on May 18, 2016.
*	*	*	*	*
<b>Post-July 1988 Rule Codification</b>				
<b>Regulation I—General Provisions</b>				
Rule 100 (except Sections 200.24, 200.73, 200.104(c)).	General Provisions and Definitions.	February 3, 2016	April 5, 2019, [INSERT <b>Federal Register</b> CITATION].	Submitted on May 18, 2016.
*	*	*	*	*
<b>Regulation II—Permits and Fees</b>				
Rule 200 .....	Permit Requirements .....	February 3, 2016	[INSERT <b>Federal Register</b> CITATION], April 5, 2019.	Submitted on May 18, 2016.
Rule 210 .....	Title V Permit Provisions ...	February 3, 2016	April 5, 2019, [INSERT <b>Federal Register</b> CITATION].	Submitted on May 18, 2016.
Rule 220 .....	Non-Title V Permit Provisions.	February 3, 2016	April 5, 2019, [INSERT <b>Federal Register</b> CITATION].	Submitted on May 18, 2016.
Rule 240 (except Section 305).	Federal Major New Source Review (NSR).	February 3, 2016	April 5, 2019, [INSERT <b>Federal Register</b> CITATION].	Submitted on May 18, 2016.
Rule 241 .....	Minor New Source Review (NSR).	February 3, 2016	April 5, 2019, [INSERT <b>Federal Register</b> CITATION].	Submitted on November 25, 2016.
*	*	*	*	*

†Vacated by the U.S. Court of Appeals for the Ninth Circuit in *Delaney v. EPA*, 898 F.2d 687 (9th Cir. 1990). Restored on January 29, 1991, 56 FR 3219.

\* \* \* \* \*

[FR Doc. 2019–06384 Filed 4–4–19; 8:45 am]

BILLING CODE 6560–50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180**

[EPA-HQ-OPP-2018-0613; FRL-9991-13]

**2-Hydroxypropyl Starch; Exemption From the Requirement of a Tolerance****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of 2-hydroxypropyl starch (CAS Reg. No. 9049-76-7) when used as an inert ingredient (adjuvant) on growing crops only under 40 CFR 180.920. SciReg., Inc., on behalf of Bayer CropScience Biologics GmbH, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of 2-hydroxypropyl starch when used in accordance with the terms of 40 CFR 180.920.

**DATES:** This regulation is effective April 5, 2019. Objections and requests for hearings must be received on or before June 4, 2019, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2018-0613, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Michael L. Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: [RDfrNotices@epa.gov](mailto:RDfrNotices@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. General Information***A. Does this action apply to me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

*B. How can I get electronic access to other related information?*

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at [http://www.ecfr.gov/cgi-bin/text-id.x?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-id.x?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl).

*C. How can I file an objection or hearing request?*

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2018-0613 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before June 4, 2019. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2018-0613, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

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

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

**II. Petition for Exemption**

In the **Federal Register** of February 6, 2019 (84 FR 2115) (FRL-9987-08), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (IN-11130) by SciReg., Inc. (12733 Director's Loop Woodbridge, VA 22192) on behalf of Bayer CropScience Biologics GmbH (Lukaswiese 4, 23970 Wismar Germany). The petition requested that 40 CFR 180.920 be amended by establishing an exemption from the requirement of a tolerance for residues of 2-hydroxypropyl starch (CAS Reg. No. 9049-76-7) when used as an inert ingredient (adjuvant) in pesticide formulations applied to growing crops only. That document referenced a summary of the petition prepared by SciReg., Inc. on behalf of Bayer CropScience Biologics GmbH, the petitioner, which is available in the docket, <http://www.regulations.gov>. There were no comments received in response to the notice of filing.

**III. Inert Ingredient Definition**

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents;

and emulsifiers. The term “inert” is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

#### IV. Aggregate Risk Assessment and Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is “safe.” Section 408(c)(2)(A)(ii) of FFDCA defines “safe” to mean that “there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.” This includes exposure through drinking water and in residential settings, but does not include occupational exposure. In making this safety determination, EPA is directed to consider the factors contained in section 408(b)(2)(C) and (D). In particular, section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .”

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in

support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for 2-hydroxypropyl starch including exposure resulting from the exemption established by this action. EPA’s assessment of exposures and risks associated with 2-hydroxypropyl starch follows.

##### A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by 2-hydroxypropyl starch as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in this unit.

Starches for commercial use are generally produced from potatoes, cereals, or other sources. They are composed of about 20–25% amylose and 75–80% amylopectin. High-amylose starches typically consist of 50–80% amylose and 20–50% amylopectin. In modified starches, the chemical and physical characteristics of the native substances are altered to improve the functional properties for particular food applications.

2-Hydroxypropyl starch is made by modifying starch derived from potatoes, cereals, or other sources with propylene oxide. Subchronic toxicity studies are available with 2-hydroxypropyl starch. The remaining studies used to evaluate the toxicity of 2-hydroxypropyl starch are conducted with various other modified starches similar to 2-hydroxypropyl starch in structural, physicochemical, and biological properties. These data are considered appropriate to characterize potential toxicity due to exposure to 2-hydroxypropyl starch.

The acute oral toxicity of 2-hydroxypropyl starch is low in various species such as mice, rats, guinea pigs, rabbits, and cats; the lethal dose, LD<sub>50</sub> is >7,000 milligrams/kilogram (mg/kg). No studies are available on acute dermal and inhalation toxicity, skin and eye irritation and dermal sensitization.

No toxicity is observed at doses as high as 9,000 mg/kg/day following 90 days of exposure in oral toxicity studies conducted with 2-hydroxypropyl starch in rats.

Three-generation reproduction toxicity studies conducted with surrogate modified starches in rats are available for review. Fetal susceptibility is not observed. No parental, offspring or reproduction toxicity is seen up to 62% (equivalent to 31,000 mg/kg/day) in rats treated with modified starches.

Chronic toxicity and carcinogenicity studies were also conducted with surrogate modified starches. Reduced body weight is observed at 30% (15,000 mg/kg/day) in a chronic/carcinogenicity study in rats. No other treatment-related effects or tumors were observed at doses <5,000 mg/kg/day in rats and mice.

Mutagenicity studies with a surrogate modified starch were negative. No revertant colonies were observed in an Ames test and no DNA exchange was observed in a sister chromatid exchange assay.

Neurotoxicity and immunotoxicity studies are not available for review; however, no evidence of neurotoxicity or immunotoxicity is observed in the submitted studies.

Metabolism studies conducted with a surrogate modified starch, sodium octenyl succinate (OSA) in rats via oral and intravenous administration show that these materials are metabolized and excreted primarily in the urine and feces. Approximately, 10% of unmodified OSA and 30% tricarboxylic acid of OSA are identified metabolites. In a metabolism study with puppy and adult dogs treated orally with <sup>14</sup>C-labelled OSA, the material is metabolized and excreted primarily in the urine and feces. Unmodified OSA (55.7% and 59.5%) represents the main metabolite in adult dogs with tricarboxylic acid of OSA representing a small portion (4.4% and 3.6%). 3.8% and 4.7% of other OSA metabolites were recovered from the urine. In puppies, OSA (41.8%) and tricarboxylic acid (10.7%) were identified metabolites. Several in vitro studies show that many strains of bacteria found in the human colon can ferment starches.

##### B. Toxicological Points of Departure/ Levels of Concern

The available toxicity studies indicate that 2-hydroxypropyl starch has very low overall toxicity. Acute oral toxicity studies show LD<sub>50s</sub> above 7,000 mg/kg/day in multiple species. Repeated dose studies show no toxicity at doses as high as 4,500 mg/kg/day, 4.5 times the limit dose of 1,000 mg/kg/day. Since no toxicity is observed, an endpoint of concern for risk assessment purposes was not identified.

### C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to 2-hydroxypropyl starch, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from 2-hydroxypropyl starch in food as follows:

Dietary exposure (food and drinking water) to 2-hydroxypropyl starch may occur following ingestion of foods with residues from treated crops. However, a quantitative dietary exposure assessment was not conducted since a toxicological endpoint for risk assessment was not identified.

2. *Dietary exposure from drinking water.* Since a hazard endpoint of concern was not identified for the acute and chronic dietary assessment, a quantitative dietary exposure risk assessment for drinking water was not conducted, although exposures may be expected from use on food crops.

3. *From non-dietary exposure.* The term “residential exposure” is used in this document to refer to non-occupational, non-dietary exposure (e.g., textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables).

2-hydroxypropyl starch may be used in pesticide products and non-pesticide products that may be used in and around the home. Based on the discussion above, a quantitative residential exposure assessment for 2-hydroxypropyl starch was not conducted.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider “available information” concerning the cumulative effects of a particular pesticide’s residues and “other substances that have a common mechanism of toxicity.”

Based on the available data, 2-hydroxypropyl starch does not have a toxic mechanism; therefore, section 408(b)(2)(D)(v) does not apply.

### D. Safety Factor for Infants and Children

Based on the lack of threshold effects, EPA has not identified any toxicological endpoints of concern and is conducting a qualitative assessment of 2-hydroxypropyl starch. That qualitative assessment does not use safety factors for assessing risk, and no additional safety factor is needed for assessing risk to infants and children. Based on an

assessment of 2-hydroxypropyl starch, EPA has concluded that there are no toxicological endpoints of concern for the U.S. population, including infants and children.

### E. Aggregate Risks and Determination of Safety

Because no toxicological endpoints of concern were identified, EPA concludes that aggregate exposure to residues of 2-hydroxypropyl starch will not pose a risk to the U.S. population, including infants and children, and that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to 2-hydroxypropyl starch residues.

### V. Other Considerations

#### Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

### VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.920 for 2-hydroxypropyl starch (CAS Reg. No. 9049–76–7) when used as an inert ingredient (adjuvant) in pesticide formulations applied to growing crops only.

### VII. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled “Regulatory Planning and Review” (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), nor is it considered a regulatory action under Executive Order 13771, entitled “Reducing Regulations and Controlling Regulatory Costs” (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special

considerations under Executive Order 12898, entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

### VIII. Congressional Review Act

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

### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides

and pests, Reporting and recordkeeping requirements.

Dated: March 21, 2019.

**Donna Davis,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

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

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.920, add alphanumerically the inert ingredient “2-hydroxypropyl

starch (CAS Reg. No. 9049–76–7)” to the table to read as follows:

**§ 180.920 Inert ingredients used pre-harvest; exemptions from the requirement of a tolerance.**

	Inert ingredients	Limits	Uses
	*	*	*
2-Hydroxypropyl starch (CAS Reg. No. 9049–76–7) .....			Adjuvant.
	*	*	*

[FR Doc. 2019–06689 Filed 4–4–19; 8:45 am]

**BILLING CODE 6560–50–P**

# Proposed Rules

Federal Register

Vol. 84, No. 66

Friday, April 5, 2019

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

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Parts 271 and 278

[FNS–2019–0003]

RIN 0584–AE61

#### Providing Regulatory Flexibility for Retailers in the Supplemental Nutrition Assistance Program (SNAP)

**AGENCY:** Food and Nutrition Service (FNS), USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Nutrition Service (FNS, or the Agency) proposes to make changes to the Supplemental Nutrition Assistance Program (SNAP) regulations pertaining to the eligibility of certain SNAP retail food stores. These proposed changes are in response to the Consolidated Appropriations Acts of 2017 and 2018, which prohibited the U.S. Department of Agriculture (USDA) from implementing two retailer stocking provisions (the “Breadth of Stock” provision and the “Definition of ‘Variety’” provision) of the 2016 final rule titled, “Enhancing Retailer Standards in the Supplemental Nutrition Assistance Program (SNAP)”, until such a time as regulatory modifications to the definition of “variety” are made that would increase the number of food items that count as acceptable staple food varieties for purposes of SNAP retailer eligibility. Using existing authority in the Food and Nutrition Act of 2008, the Agency proposes to modify the definition of the term “variety” as it pertains to the stocking requirements for SNAP authorized retail food stores. These proposed changes would provide retailers with more flexibility in meeting the enhanced stocking requirements of the 2016 final rule which were mandated by the Agricultural Act of 2014 (the 2014 Farm Bill), and align SNAP regulations with the requirements expressed in the Consolidated Appropriations Acts of 2017 and 2018.

This proposed rule does not modify any other provisions or components of the 2016 final rule, “Enhancing Retailer Standards in the Supplemental Nutrition Assistance Program (SNAP).”

**DATES:** To be assured of consideration, comments on this proposed rule must be received by FNS on or before June 4, 2019.

**ADDRESSES:** USDA FNS invites interested persons to submit comments on this proposed rule. Comments may be submitted by one of the following methods:

- *Federal e-Rulemaking Portal:* This is the preferred method for comment submission. Go to <http://www.regulations.gov> and follow the online instructions for submitting comments.
- *Mail:* Mailed comments should be addressed to Vicky Robinson, Chief, Retailer Management and Issuance Branch, Retailer Policy and Management Division, Room 418, 3101 Park Center Drive, Alexandria, Virginia 22302.

All written comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNS will make the comments publicly available on the internet via: <http://www.regulations.gov>.

All submissions will be available for public inspection at the address above during regular business hours (8:30 a.m. to 5:30 p.m.), Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:**

Address any questions regarding this rulemaking to Vicky Robinson, Chief, Retailer Management and Issuance Branch, Retailer Policy and Management Division, at USDA FNS, 3101 Park Center Drive, Alexandria, Virginia 22302. Ms. Robinson can also be reached by telephone at (703) 305–2476 or by email at [Vicky.Robinson@fns.usda.gov](mailto:Vicky.Robinson@fns.usda.gov) during regular business hours (8:30 a.m. to 5:30 p.m.) Monday through Friday.

**SUPPLEMENTARY INFORMATION:**

**Background: Final Rulemaking Action Establishing SNAP Criterion A**

In order to be eligible to participate in SNAP, a store must meet either Criterion A (staple food stock) or

Criterion B (staple food sales). These requirements were formalized by the final rule titled “Food Stamp Program: Revisions to the Retail Food Store Definition and Program Authorization Guidance” which was published on January 12, 2001 (66 FR 2795). This 2001 final rule implemented changes required by the Food Stamp Program Improvements Act of 1994.

Under this 2001 final rule, Criterion A eligibility was established to require that certain stores carry at least three (3) varieties of staple foods in each of the four (4) staple food categories as well as at least one (1) perishable variety in at least two (2) staple food categories. The staple food categories are: Meat, poultry, or fish; dairy products; bread or cereals; and vegetables or fruits. This 2001 final rule defined the term “variety”, as used with respect to SNAP Criterion A, at 7 CFR 278.1(b)(1)(ii)(C).

This definition of “variety” was further clarified by Agency guidance in the Benefits Redemption Division Policy Memorandum 01–04, titled, “Implementation of Final Retail Store Eligibility Rule” which was issued on August 14, 2001. This 2001 memorandum states that: “Examples of unacceptable varieties includes tomato juice, fresh tomatoes and canned stewed tomatoes in the vegetables or fruits category.”

Since the establishment of SNAP Criterion A, Agency policy has not considered multiple formats of a product (*e.g.*, raw chicken, canned chicken, and frozen chicken) to constitute discrete staple food varieties. Variety has been traditionally defined by the Agency based on the essential composition of the food product (*i.e.*, main ingredient), especially in the meat, poultry, or fish and vegetables or fruits staple food categories. Main ingredient has generally been determined by a product’s first listed ingredient in the ingredients list on the product’s Nutrition Facts label, as ingredients on the label are required to be listed from highest to lowest quantity by weight. For example, a can of tomato soup with a first listed ingredient of “tomatoes” in its ingredients list has a main ingredient of tomatoes, as that is the ingredient which occurs in the highest quantity in the soup, by weight; such a product has historically been considered a “tomato” variety in the vegetables or fruits staple food category. In the dairy products and

bread or cereals staple food category, most staple foods share the same main ingredients (e.g., cow milk for dairy and wheat for bread or cereals); therefore, product kind (e.g., yogurt for dairy and bagels for bread or cereals) is used to define variety in conjunction with main ingredient. When determining variety in these two categories, FNS first considers main ingredient and then product kind. For example, a package of butter has a main ingredient of “cow milk” and is therefore a dairy product. However, FNS classifies this product as a “cow milk-based butter” staple food variety according to its identifiable product kind (butter). Products that share the same primary component (e.g., sliced turkey and ground turkey—turkey) and very similar kinds of products (e.g., McIntosh apples and Empire apples—apples; mozzarella cheese and cheddar cheese—cheeses) were not generally considered to represent discrete varieties in their respective staple food categories under the 2001 final rule. Main ingredient and product kind have, therefore, been recognized in Agency policy as the primary determinants of variety since the implementation of the 2001 final rule.

#### **Background: Proposed Rulemaking Action Modifying SNAP Criterion A**

FNS proposed to modify Criterion A eligibility requirements in a Notice of Proposed Rulemaking (NPRM) titled “Enhancing Retailer Standards in the SNAP” which was published on February 17, 2016 (81 FR 8015). This 2016 NPRM sought to implement changes required by the 2014 Farm Bill and codify discretionary provisions under existing authority in the Food and Nutrition Act.

#### *Breadth of Stock*

The “Definition of ‘Retail Food Store’—Breadth of Stock” provision of the 2016 NPRM proposed to increase the number of varieties required in each staple food category from three (3) to seven (7) and to increase the number of categories required to contain at least one (1) variety of perishable staple foods from two (2) to three (3). These increases were statutorily mandated by the 2014 Farm Bill, and were supported by a majority of commenters.

#### *Definition of “Variety”*

The “Definition of ‘Staple Food’—Acceptable Varieties in the Four Staple Food Categories” provision of the 2016 NPRM proposed to further clarify existing language at 7 CFR 278.1(b)(1)(ii)(C) that defines “variety” for the purposes of SNAP Criterion A eligibility by adding additional

examples of food items considered to be acceptable staple food varieties. After the publication of the 2016 NPRM, FNS received a high volume of questions and interest from a wide range of stakeholders. Some of these questions centered on the definition of “variety” and inquired about other food items considered to be staple food varieties. On April 5, 2016, FNS published a clarification of the proposed rule and 30-day extension of the comment period at 81 FR 19500. In this 2016 clarification and extension, FNS indicated a specific interest in public feedback on the subject of the definition of “variety”, stating that: “FNS is particularly interested in comments from the public as to whether and how variety should take into account the differences between products within staple food categories (generally and individually), and what factors should be considered when making such distinctions.”

Of the total 1,260 germane and non-duplicative public comments received on both the 2016 NPRM and the subsequent clarification, 168 comments, or approximately 13% of all public comments, specifically addressed this provision. About 16% of total retailer commenters specifically opposed this provision. Food industry groups largely opposed this provision and other commenter types, such as advocacy, medical, and governmental entities, were generally divided and/or expressed mixed opinions. Of those that opposed the provision, some indicated that small format stores would struggle to reach seven (7) varieties in the meat, poultry, or fish and dairy products staple food categories and such commenters suggested increasing flexibility for stores in these categories. Such commenters suggested including plant-based proteins in the meat, poultry, or fish staple food category and plant-based dairy alternatives in the dairy products staple food category.

#### **Background: Final Rulemaking Action Modifying SNAP Criterion A**

After carefully considering the public comments that were received, FNS published the final rule titled “Enhancing Retailer Standards in the SNAP” on December 15, 2016 (81 FR 90675). The “Definition of ‘Retail Food Store’—Breadth of Stock” provision was published in this 2016 final rule as proposed as this was a change mandated by the 2014 Farm Bill.

The “Definition of ‘Staple Food’—Acceptable Varieties in the Four Staple Food Categories” provision, however, was published with substantial modifications in the 2016 final rule. These modifications were made in

response to public feedback received and were intended to provide retail food stores with a greater degree of flexibility in reaching the new breadth of stock required of certain retailers under SNAP Criterion A, especially in the meat, poultry, or fish and dairy products staple food categories.

Commenters who responded adversely to the definition of “variety” as it appeared in the 2016 NPRM generally focused on the difficulties small format retailers would have in reaching seven (7) varieties in the meat, poultry or fish and the dairy products staple food category. This concern was born out by the Agency’s final Regulatory Flexibility Analysis which analyzed data from a nationally-representative sample of 1,392 SNAP authorized small format retail food stores and indicated that about 93% of currently SNAP authorized small stores already stocked enough varieties of vegetables or fruits and about 78% of these stores already stocked enough bread or cereals, while only about 46% of these stores already stocked enough meat, poultry, or fish and only about 27% of these stores already stocked enough dairy products. For this reason, FNS focused on providing more flexibility in the latter two staple food categories through the inclusion of plant-based protein sources in the meat, poultry, or fish staple food category, and the inclusion of plant-based dairy alternatives as well as additional dairy flexibilities in the dairy products staple food category.

#### *Plant-Based Protein Sources*

The 2016 final rule allowed for the counting of plant-based protein sources as varieties in the meat, poultry, or fish staple food category. Specifically, this meant that beans, peas, and nuts/seeds could each individually be counted once in either the vegetables or fruits staple food category, or once in the meat, poultry, or fish staple food category. In addition, plant-based meat analogues, such as tofu and seitan, were added to the meat, poultry, or fish staple food category. These changes were made, consistent with USDA’s MyPlate nutrition guidelines, to allow retailers more flexibility in stocking a sufficient number of varieties in the meat, poultry, or fish staple food category, and to help to ensure that SNAP households would have access to an array of healthy food options that meet diverse dietary needs and preferences. FNS is not proposing to modify or affect this change in this proposed rule and it will remain in place as it appeared in the 2016 final rule.

*Plant-Based Dairy Alternatives*

The 2016 final rule allowed for the counting of plant-based dairy alternatives as varieties in the dairy products staple food category. Specifically this meant that plant-based dairy products would be considered a variety in the dairy products staple food category based on their main ingredient and the traditional dairy product for which they are a substitute. So, for example, soy-based milk substitute, almond-based milk substitute, rice-based milk substitute, soy-based cheese substitute, almond-based cheese substitute, rice-based cheese substitute, soy-based yogurt substitute, almond-based yogurt substitute, and rice-based yogurt substitute would each be considered a discrete variety in the dairy products staple food category under the 2016 final rule. Though these items are plant-based, they are recognized as dairy equivalents and, therefore, would not count as varieties in the remaining staple food categories under the 2016 final rule. These changes were made in keeping with USDA’s MyPlate nutrition guidelines, to allow retailers more flexibility in stocking a sufficient number of varieties in the

dairy products category, and to help to ensure that SNAP households will have access to an array of healthy food options that meet diverse dietary needs and preferences. FNS is not proposing to modify or affect this change in this proposed rule and it will remain in place as it appeared in the 2016 final rule.

*Additional Dairy Flexibilities*

The 2016 final rule modified existing Agency policy to subdivide certain traditional, cow milk-based dairy varieties into more than one variety. For example, under the 2001 final rule, cheese was considered one variety while under the 2016 final rule, cow milk-based soft cheese and cow milk-based firm/hard cheese each were considered discrete varieties. Additionally, under the 2016 final rule, shelf-stable liquid cow milk (e.g., evaporated or condensed milk), perishable liquid cow milk, and shelf-stable powdered cow milk would each be considered discrete varieties in the dairy products staple food category. Finally, under the 2016 final rule, cow milk-based yogurt and cow milk-based kefir (a yogurt drink) would each be

considered discrete varieties in the dairy products staple food category. These changes were made in order to allow retailers more flexibility in stocking a sufficient number of traditional varieties in the dairy products category. This proposed rule would modify these changes, as discussed later in this document, in order to provide further flexibility in the dairy products staple food category.

*Sufficient Breadth of Stock Under the 2016 Final Rule*

Included below are two (2) tables that demonstrate completely different ways a retail food store could reach the required seven (7) varieties in each of the four staple food categories using the definition of “variety” as it appeared in the 2016 final rule. These are just examples of two (2) combinations that would satisfy the requirements in the 2016 final rule. These charts do not include all of the acceptable varieties or possible combinations of varieties. Additional examples of acceptable varieties in the four staple food categories are available in the “List of Examples” section of the 2016 final rule.

Meat, poultry, or fish	Dairy products	Vegetables or fruits	Bread or cereals
1. nuts/seeds .....	1. liquid, perishable cow milk .....	1. apples .....	1. wheat-based tortillas.
2. chicken .....	2. cow milk-based yogurt .....	2. oranges .....	2. wheat-based pitas.
3. tuna fish .....	3. soy-based milk substitute .....	3. plums .....	3. corn-based cold breakfast cereal.
4. beef .....	4. cow milk-based infant formula .....	4. peaches .....	4. rice.
5. eggs .....	5. cow milk-based hard cheese .....	5. lettuce .....	5. oats-based hot breakfast cereal.
6. catfish .....	6. powdered, shelf-stable cow milk .....	6. celery .....	6. wheat-based bread.
7. beans .....	7. cow milk-based soft cheese .....	7. pumpkin .....	7. wheat-based buns/rolls.

Meat, poultry, or fish	Dairy products	Vegetables or fruits	Bread or cereals
1. salmon .....	1. cow milk-based butter .....	1. tomatoes .....	1. wheat-based flour.
2. turkey .....	2. oil-based butter substitute .....	2. bananas .....	2. wheat-based baking mixes.
3. sardines .....	3. cow milk-based sour cream .....	3. grapes .....	3. rye-based bread.
4. pork .....	4. rice-based milk substitute .....	4. onions .....	4. rice-based pasta.
5. clams .....	5. liquid, shelf-stable cow milk .....	5. pineapple .....	5. wheat-based bagels.
6. peas .....	6. cow milk-based kefir .....	6. cucumbers .....	6. rice-based infant cereal.
7. tilapia .....	7. soy-based infant formula .....	7. carrots .....	7. wheat-based English muffins.

**Proposed Changes to the Definition of “Variety”**

On May 5, 2017, the Consolidated Appropriations Act of 2017 was signed into law. Sec. 765 of the Consolidated Appropriations Acts of 2017 and thereafter the Consolidated Appropriations Act of 2018, prohibit the USDA from implementing the “Definition of ‘Staple Food’—Acceptable Varieties in the Four Staple Food Categories” provision (7 CFR 271.2 and 7 CFR 278.1(b)(1)(ii)(C)) and

the “Definition of ‘Retail Food Store’—Breadth of Stock” provision (7 CFR 271.2 and 7 CFR 278.1(b)(1)(ii)(A)) of the 2016 final rule until the USDA promulgates regulatory amendments that modify the “Definition of ‘Staple Food’—Acceptable Varieties in the Four Staple Food Categories” provision of the 2016 final rule. Such regulatory amendments, moreover, must increase the number of items that qualify as acceptable varieties in each staple food category.

Using existing authority in the Food and Nutrition Act of 2008, as amended, FNS proposes to make changes to regulations at 7 CFR 271.2 and 7 CFR 278.1(b)(1)(ii)(C) to modify the definition of the term “variety” as it pertains to the stocking requirements for certain SNAP authorized retail food stores in order to increase the number of items that qualify as acceptable varieties in the four staple food categories, especially in the meat, poultry or fish, dairy, and breads or

cereals staple food categories. These changes would provide retailers with more flexibility in meeting the enhanced SNAP eligibility requirements and meet the requirements expressed in the Consolidated Appropriations Acts of 2017 and 2018.

Together the changes proposed below add five (5) or more additional, discrete varieties in the meat, poultry, or fish, dairy, and bread or cereals staple food category, and provide five (5) more illustrative examples in the vegetables or fruits staple food category. Additionally, the current proposed rule will retain the changes in the 2016 final rule that provided flexibility regarding plant-based protein sources and plant-based dairy alternatives. Those flexibilities would remain in place as they appeared in the 2016 final rule. In conjunction with the twenty (20) discrete varieties identified in the “List of Examples” in the 2016 final rule, the proposed changes to the definition of “variety” would provide stores with a wide range of options in meeting stocking requirements in all four staple food categories.

FNS is also proposing to add an official definition of “variety” to the General Information and Definitions section of SNAP regulations found at 7 CFR 271.2 in order to convey that variety is intended to signify main ingredient or product kind. The inclusion of this definition codifies existing Agency practice which dictates which food items are considered to be staple food varieties. FNS considers the inclusion of this definition to be paramount to a clear understanding of the term “variety” in the context of SNAP retailer eligibility and the proposed changes in this rulemaking. This proposed rule would not modify any other provisions or components of the 2016 final rule.

Proposed changes made to the definition of “variety” are expected to have significant effects upon the SNAP retailer authorization process. Below are the strategies FNS is proposing to modify the definition of “variety” and provide retail food stores with more flexibility. FNS welcomes comments that specifically address these proposed changes as well as comments that offer other possible strategies for providing retailers with more flexibility while ensuring SNAP recipients have access to a range of healthful options at SNAP authorized retail food stores. FNS encourages commenters to include comments discussing the practicality and rationality of any suggested changes, as well as the nutritional and industry impact of these changes.

### *I. Flexibility for Perishable and Shelf-Stable Meat, Poultry, and Fish Products*

Under the 2016 final rule, “variety” was generally defined by product kind or main ingredient in the meat, poultry, or fish staple food category. This meant that chicken, pork, and beef were each considered discrete varieties. This also meant that, under the 2016 final rule, canned chicken and frozen chicken were not each considered discrete varieties. The Department is proposing a change with this rule that would allow any species of meat, poultry, or fish to be counted once as a discrete variety, if perishable, and once as a discrete variety, if shelf-stable.

Per SNAP regulations at 7 CFR 278.1(b)(1)(ii)(B), “perishable foods” are items which are frozen, refrigerated, or fresh staple food items that would spoil or suffer significant deterioration in quality within three weeks if stored at room temperature. An example of a perishable food in the meat, poultry, or fish staple food category is a raw salmon filet. “Shelf-stable foods” are items which are dried, pickled, smoked, or otherwise preserved, and stored in cans, jars, or other packaging that do not require refrigeration and would not spoil or suffer significant deterioration in quality within three weeks if the packaging remains unopened. An example of a shelf-stable food in the meat, poultry, or fish staple food category is a tin of sardines that requires no refrigeration.

To reach the required seven (7) varieties in the meat, poultry, or fish staple food category under this change, for example, a store could stock the following:

1. Canned ham (shelf-stable pork)
2. refrigerated bacon (perishable pork)
3. beef jerky (shelf-stable beef)
4. refrigerated deli-sliced roast beef (perishable beef)
5. frozen chicken breasts (perishable chicken)
6. canned chicken (shelf-stable chicken)
7. canned tuna fish (shelf-stable tuna fish)

This is just an illustrative list and not meant to be exhaustive. This proposed change to the definition of “variety” would provide considerable additional flexibility in the meat, poultry, or fish staple food category, as this change would effectively double the number of available varieties in this category, where a staple food is available in both the perishable and non-perishable forms.

### *II. Additional Flexibilities for Common Cow Milk-Based Dairy Products*

#### *A. Cheese*

Under the 2016 final rule, one specific traditional dairy product (cow milk-based cheese) was subdivided into two varieties (*i.e.*, soft cheese and hard/firm cheese) in order to provide more flexibility for stores in meeting the required seven (7) varieties in the dairy staple food category. The Department is proposing a change with this rule that would further subdivide cow milk-based cheese into four discrete varieties in the dairy products staple food category. The proposed subdivision of cow milk-based cheese would include the following four varieties and would be mirrored for other animal milk-based cheeses (*e.g.*, goat milk-based cheese):

1. Fresh cow milk-based cheeses (*e.g.*, cream cheese, cottage cheese, and ricotta cheese) are creamy, spreadable, and perishable dairy products.
2. Soft and semi-soft cow milk-based cheeses (*e.g.*, mozzarella cheese, Munster cheese, and brie cheese) are moist, slightly cured, and perishable dairy products.
3. Hard, firm, semi-hard, or medium-hard cow milk-based cheeses (*e.g.*, cheddar cheese, Swiss cheese, and Parmesan cheese) are less moist and more cured dairy products.
4. Cow milk-based cheese products and cow milk-based cheese- or dairy-based sauces, spreads, or dips (*e.g.*, canned spray cheese sauce, canned cheese dipping sauce, jarred Alfredo pasta sauce, and American cheese slices) are processed, often shelf-stable dairy products that have a dairy main ingredient (*e.g.*, milk or whey).

With this change, a store could stock four discrete varieties of cow milk-based cheese (fresh cheese, soft cheese, hard cheese, and cheese product). This change to the definition of “variety” would, therefore, provide an additional two cheese varieties for each type of animal milk-based cheese in the dairy products staple food category.

#### *B. Milk*

Under the 2016 final rule, one specific traditional dairy product (cow milk) was subdivided into three varieties (perishable cow milk, liquid shelf-stable cow milk, and powdered cow milk) in order to provide more flexibility for stores in meeting the required seven (7) varieties in the dairy staple food category. The Department is proposing a change with this rule that would further subdivide traditional dairy milk (cow milk) into four discrete varieties in the dairy products staple food category. The proposed subdivision of cow milk

would include the following four varieties and would be mirrored for other animal milks (e.g., goat milk):

1. Full-fat cow milks (e.g., whole milk, cream, and half-and-half) are liquid, perishable cow milk products with 3% or greater fat content.
2. Fat-reduced cow milks (e.g., 2% milk, 1% milk, skim milk, and other low-fat and non-fat milks) are liquid, perishable cow milk products with less than 3% fat content.
3. Liquid shelf-stable cow milks (e.g., long-life milk, evaporated milk, and condensed milk) are cow milk products that have been processed and sealed in cans or cartons to render them shelf-stable.
4. Powdered cow milks (e.g., dried milk, whey powder, and casein powder) are cow milk products that have been processed and dehydrated to render them shelf-stable.

With this change, a store could stock four discrete varieties of cow milk products (full-fat cow milk, fat-reduced cow milk, liquid shelf-stable cow milk, and powdered cow milk). This change to the definition of “variety” would, therefore, provide an additional variety in the dairy products staple food category for each type of animal milk in the dairy products staple food category. As noted earlier, the plant-based dairy alternatives proposed in the 2016 final rule—such as almond-based and soy-based milk substitutes—would remain unchanged in this proposed rule, and thus would also provide retailers with additional stocking options in this category.

#### C. Yogurt

Under the 2016 final rule one specific traditional dairy product (cow milk-based yogurt) was subdivided into two varieties (cow milk-based yogurt and perishable cow milk-based kefir) in order to provide more flexibility for stores in meeting the required seven (7) varieties in the dairy staple food category. The Department is proposing a change with this rule that would replace “perishable cow milk-based kefir” with cow milk-based yogurt drinks, to include other general yogurt-based drinks such as lassi and probiotic cultured milk smoothies. In addition, the Department is proposing to further subdivide “cow milk-based yogurt” into two distinct varieties and to mirror this subdivision in other animal milk-based yogurts (e.g., goat milk-based yogurt). Thus, these proposed changes to the definition of variety would provide an additional variety in the dairy products staple food category for each type of animal milk-based yogurt. The proposed subdivision of cow milk-based yogurt

would include the following three varieties:

1. Cow milk-based yogurt drinks (e.g., lassi, kefir, and probiotic cultured milk smoothie) are liquid cow milk-based yogurt beverages that have cultured milk or yogurt as a main ingredient.
  2. Full-fat cow milk-based yogurts (e.g., strawberry full-fat yogurt, vanilla full-fat yogurt, and plain full-fat yogurt) are fermented semi-solid food products made from cow milk with 3% or greater fat content.
  3. Fat-reduced cow milk-based yogurts (e.g., strawberry low-fat yogurt, vanilla non-fat yogurt, and plain non-fat yogurt) are fermented semi-solid food products made from cow milk with less than 3% fat content.
- To reach the required seven (7) varieties in the dairy products food category under this change, for example, a store could stock the following:
1. 2% milk (fat-reduced cow milk)
  2. nacho cheese dip (cow milk-based cheese-based sauce)
  3. parmesan cheese (cow milk-based hard cheese)
  4. evaporated milk (liquid shelf-stable cow milk)
  5. peach full-fat yogurt cup (cow milk-based full-fat yogurt)
  6. ricotta cheese (cow milk-based fresh cheese)
  7. whole milk (full-fat cow milk)

#### III. Additional Examples of Staple Food Varieties in the Vegetables or Fruits Staple Food Category

Under the 2016 final rule, FNS generally considered each distinct vegetable or fruit plant (e.g., lettuce, collard greens, kale, etc.) to be a discrete staple food variety. As such, twenty (20) examples of fruits or vegetables, all considered to be acceptable varieties in the vegetables or fruits staple food category, were provided in the “List of Examples” section. This list was not intended to be comprehensive, as the number of distinct vegetable and fruit plants is considerable. Accordingly, the 2016 final rule provided numerous stocking options in meeting requirements in the vegetables or fruits staple food category, as evidenced by the 93% of currently authorized small format retailers who already meet requirements under the definition of variety provided in the 2016 final rule.

This proposed rule would maintain the definition of variety as outlined in the 2016 final rule as it pertains to acceptable varieties in the fruits or vegetables staple food category, with no proposed changes at this time. In attempting to identify additional, new staple food varieties in the category, FNS was unable to identify any

additional edible vegetable or fruit which was not already considered to be a discrete staple food variety under the 2016 final rule. Further, all attempts to subdivide existing vegetable or fruit staple food varieties were problematic in that they clearly favored those vegetables or fruits which are more distinctly divisible.

That said, FNS recognizes that additional guidance on the numerous stocking options available in this category may be necessary. Thus, in addition to the further explanation provided above, included below are an additional five (5) varieties that are also considered acceptable varieties in the vegetables or fruits staple food category. These five (5) examples of acceptable varieties did not appear in the 2016 final rule “List of Examples” section:

1. Lemons (e.g., 100% lemon juice and fresh lemons)
2. Beets (e.g., canned beets and fresh beets)
3. Spinach (e.g., fresh spinach and frozen spinach)
4. Cauliflower (e.g., fresh cauliflower and packaged cauliflower rice)
5. Olives (e.g., canned black olives and jarred pimiento stuffed olives)

#### IV. Additional Flexibilities for Common Wheat-Based Bread and Cereal Products

##### A. Bread

Under the 2016 final rule, the staple food variety “wheat-based bread” was subdivided into five discrete staple food varieties in the bread or cereals staple food category (wheat-based bread, wheat-based bagels, wheat-based buns/rolls, wheat-based English muffins, and wheat-based pitas) in order to provide more flexibility for stores in meeting the required seven (7) varieties in the bread or cereals staple food category. The Department is proposing a change with this rule that would further subdivide the “wheat-based bread” staple food variety by adding the following three discrete staple food varieties in addition to the five varieties listed above: Wheat-based Indian flatbread, wheat-based crescent bread, and wheat-based matzah. This subdivision would be mirrored for other grain-based breads such as oats-based breads and rice-based breads. Thus, the proposed change to the definition of “variety” would provide three additional staple food varieties in the bread or cereals products staple food category for each type of grain-based bread. Under the proposed changes, the following eight would be considered discrete staple food varieties in the bread or cereals staple food category:

1. Wheat-based breads (*e.g.*, loaves of sliced bread and whole baguettes)
2. Wheat-based pitas (*e.g.*, plain pitas)
3. Wheat-based bagels (*e.g.*, cinnamon raisin bagels and blueberry bagels)
4. Wheat-based English muffins (*e.g.*, plain English muffins and maple-infused English muffins)
5. Wheat-based buns/rolls (*e.g.*, hamburger buns and frozen dinner rolls)
6. Wheat-based Indian flatbreads (*e.g.*, roti and Naan)
7. Wheat-based matzah (*e.g.*, egg matzah and wheat matzah)
8. Wheat-based crescent breads (*e.g.*, plain croissants and refrigerated, ready-to-bake crescent breads)

#### B. Flour

Under the 2016 final rule, wheat flour was considered to be a “general wheat-based product” staple food variety, such that a bag of wheat flour and a wheat-based frozen pizza were both considered to be a “general wheat-based product” staple food variety in the bread or cereals staple food category. The Department is proposing a change with this rule that would add “wheat-based flour” as a discrete staple food variety in the bread or cereals staple food category. This change would be mirrored for other grain-based flours such as rice-based flour and cornmeal. Thus, the proposed change to the definition of “variety” would, therefore, provide an additional staple food variety in the bread or cereals products staple food category for each type of grain-based flour. Under the proposed changes, the following two would be considered discrete staple food varieties in the bread or cereals staple food category:

1. General wheat-based product (*e.g.*, a wheat-based frozen pizza and a wheat-based pre-packaged sandwich)
2. Wheat-based flour (*e.g.*, a bag of wheat flour)

#### V. Flexibility for 100% Whole Grain Products

Under the 2016 final rule, 100% whole grain products, such as 100% whole grain rye-based bread, were not considered to be discrete varieties in the bread or cereals staple food category. This meant that if a store stocked both wheat-based bagels and 100% whole grain wheat-based bagels, the store would have only one staple food variety: Wheat-based bagels. The Department is proposing a change with this rule that would allow any bread or cereal staple food to be counted once if it is a 100% whole grain product, and once if less than a 100% whole grain

product. The proposed change to the definition of “variety” would provide considerable additional flexibility in the bread or cereals staple food category, as this change would effectively double the number of available varieties in this category, where a staple food is available in both 100% whole grain and less than 100% whole grain forms.

To reach the required seven (7) varieties in the bread or cereals staple food category under the proposed changes, for example, a store could stock the following:

1. Spaghetti (wheat-based pasta)
2. frozen pre-made burritos (general wheat-based product)
3. wheat flour (wheat-based flour)
4. whole wheat bagels (100% whole grain wheat-based bagels)
5. roti (wheat-based Indian flatbreads)
6. plain croissants (wheat-based crescent breads)
7. cinnamon raisin bagels (wheat-based bagels)

#### Comments Requested on the Definition of “Variety”

FNS requests comments that address logical and implementable ways to modify the definition of “variety” so that it provides more flexibility to stores, while also ensuring that SNAP recipients are assured access to a range of healthful food options.

The word “variety” denotes diversity and difference. FNS depends primarily upon a product’s main ingredient or product kind to define “variety.” Several other defining elements of food products (brands, nutrient values, flavorings, packaging types or styles, or package sizes) are generally excluded from consideration, as they have the potential to render the term “variety” meaningless in effect. For example, if FNS were to consider different brands and packaging types as discrete staple food varieties, a store could meet the vegetables or fruits staple food category requirement with seven (7) kinds of tomatoes (*e.g.*, Brand A tomato sauce, Brand B tomato sauce, 100% tomato juice, raw Roma tomato, raw beefsteak tomato, canned tomato paste, and sundried tomatoes). Such a result would seem to run counter to the purpose of Criterion A, namely ensuring that SNAP authorized retail food stores offer for sale to SNAP recipients a range of different food products in all four staple food categories.

That said, some of the changes to the definition of “variety” already discussed in this proposed rule consider nutrient values and packaging styles in a limited fashion, especially in the meat, poultry, or fish and dairy products staple food categories. In providing

these additional flexibilities, FNS acknowledges these were the two (2) main categories in which small format retailers were likely to experience stocking challenges under the 2016 final rule. Nevertheless, FNS welcomes comments that address feasible ways to modify the definition of “variety” in each staple food category to provide more flexibility to stores.

#### Procedural Matters

##### Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both cost and benefits, reducing cost, harmonizing rules, and promoting flexibility. This proposed rule has been determined to be significant and was reviewed by the Office of Management and Budget. The Regulatory Impact Analysis (RIA) for this rulemaking was published as part of the docket in Supporting Documents on [www.regulations.gov](http://www.regulations.gov). A summary of the RIA follows.

#### Regulatory Impact Analysis

##### Need for Action

The proposed rule is in response to Sec. 765 of the Consolidated Appropriations Act of 2017 and Sec. 728 of the Consolidated Appropriations Act of 2018, which prohibit USDA from implementing two retailer stocking provisions (“Breadth of Stock” and “Definition of ‘Variety’”) of the final rule, “Enhancing Retailer Standards in the Supplemental Nutrition Assistance Program (SNAP)” (the 2016 final rule), until such a time as regulatory modifications to the definition of “variety” are made that would increase the number of food items considered to be staple food varieties for purposes of SNAP retailer eligibility. The proposed rulemaking would modify the definition of “variety” in order to align SNAP regulations with the requirements expressed in the Consolidated Appropriations Acts of 2017 and 2018, thus allowing FNS to move forward with implementation of the “Breadth of Stock” requirements of the final rule, which were mandated by the Agricultural Act of 2014.

## Benefits

This rulemaking would provide regulatory flexibility to 187,000 smaller authorized retailers (e.g. convenience stores, small grocery stores, combination stores, etc.) in meeting the enhanced stocking requirements of the 2016 final rule. As discussed below, the proposed changes would require the average small store to add six (6) fewer items to their stock in order to meet the new stocking requirements of the 2016 final rule, providing a savings of \$16.1 million to retailers in fiscal year (FY) 2018 and approximately \$22.5 million over five years, FY 2018 through FY 2022, relative to the costs of the 2016 final rule.

## Costs

The proposed rule is not expected to impact costs to the Federal government. While FNS anticipates that the need to conduct store visits to verify that stores are compliant with the new requirements, those costs were fully captured in the 2016 final rule analysis.

### *Regulatory Flexibility Act*

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). Pursuant to that review, FNS believes that the rulemaking would not present a significant impact to a substantial number of small businesses. It provides greater regulatory flexibility to SNAP retailers, particularly small entities, in meeting the enhanced stocking requirements of the 2016 final rule, “Enhancing Retailer Standards in the Supplemental Nutrition Assistance Program (SNAP).” FNS estimates average costs to those small businesses for meeting enhanced stocking requirements, would be \$86 less per store in the first year and \$120 less over five years, for a decreased average cost of \$160 per store in the first year and \$500 over five years. However, FNS has prepared this Regulatory Flexibility Analysis to provide the opportunity for comment and input from the public. The complete Regulatory Flexibility Analysis for this rule was published as part of the docket in Supporting Documents on [www.regulations.gov](http://www.regulations.gov).

### **Unfunded Mandate Reform Act**

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments, and the private sector. Under Section 202 of the UMRA, the Agency generally must prepare a written statement, including a cost

benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures to State, local, or Tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost effective, or least burdensome alternative that achieves the objectives of the rule.

This proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and Tribal governments or the private sector of \$100 million or more in any one year. This rulemaking is, therefore, not subject to the requirements of Sections 202 and 205 of the UMRA.

### **Executive Order 12372**

Executive Order 12372 requires Federal agencies to engage in intergovernmental consultation with State and local officials when involved in Federal financial assistance programs and direct Federal development. SNAP is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in this proposed rule, Department of Agriculture Programs and Activities Excluded from Executive Order 12372 (48 FR 29115, June 24, 1983), this Program is excluded from the scope of Executive Order 12372.

### **Federalism Summary Impact Statement**

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agencies’ considerations in terms of the three categories called for under Section 6(b)(2)(B) of the Executive Order 13132. FNS has determined that this proposed rulemaking does not have federalism implications. Therefore, under Section 6(b) of the Executive Order, a federalism summary impact statement is not required.

### **Executive Order 13771**

This proposed rule is expected to be an Executive Order 13771 deregulatory action that seeks to ease the staple food stocking requirements for SNAP authorized retailers. In particular, the proposed changes would aid small format retailers in meeting the enhanced stocking requirements of the 2016 final

rule, “Enhancing Retailer Standards in the Supplemental Nutrition Assistance Program (SNAP),” by expanding the definition of “variety” in the four staple food categories. These changes would provide retailers with additional options of acceptable staple food varieties in each of the four staple food categories, which will aid them in meeting the enhanced SNAP retailer eligibility requirements of Criterion A and save them an average of \$86 in meeting stocking requirements.

### **Executive Order 12988, Civil Justice Reform**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effects with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effects. Prior to any judicial challenge to the provisions of the final rule or the application of its provisions, all applicable administrative procedures must be exhausted.

### **Executive Order 13175**

This rule has been reviewed in accordance with the requirements of Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.” Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects 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.

FNS has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a Tribe requests consultation, the FNS will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified herein are not expressly mandated by Congress.

It should be noted that, currently, FNS provides regularly scheduled quarterly information sessions as a venue for collaborative conversations with Tribal officials or their designees. Reports from these information sessions are part of the USDA annual reporting

on Tribal consultation and collaboration.

**Civil Rights Impact Analysis**

FNS has reviewed this proposed rule in accordance with Departmental Regulations 4300-4, "Civil Rights Impact Analysis" and 1512-1, "Regulatory Decision Making Requirements" to identify and address any major civil rights impacts the proposed rule might have on minorities, women, persons with disabilities, or other protected classes. FNS has determined that this proposed rule will not have an adverse impact on any retail food store owners or SNAP recipients belonging to protected classes. The regulation only concerns those retail food stores participating in SNAP that would not meet the increased staple food stocking requirements necessary for SNAP authorization that were mandated by the 2014 Farm Bill and codified in the 2016 final rule, "Enhancing Retailer Standards in the Supplemental Nutrition Assistance Program (SNAP)." The proposed regulatory changes would aid those retail stores, which are primarily small format retailers, in meeting the enhanced stocking requirements of the 2016 final rule. This proposed rule would not change any requirements related to the eligibility or participation of protected classes or individuals, minority owned or operated business entities, or woman owned or operated business entities in SNAP. As a result, this rulemaking would have no differential impact on protected classes of individuals, minority owned or operated business entities, or woman owned or operated business entities. Relatedly, FNS does not collect data from retail food stores regarding any of the protected classes under Title VI of the Civil Rights Act of 1964, and FNS specifically prohibits retailers that participate in SNAP to engage in actions that discriminate based on race, color, national origin, sex, age, disability, religion or political belief.

*Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR part 1320) requires that the Office of Management and Budget (OMB) approve all collections of information by a Federal agency from the public before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. There is no information collection burden associated with this proposed rule.

*E-Government Act Compliance*

FNS is committed to complying with the E-Government Act of 2002, Public Law 107-347, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to government information and services, and for other purposes. FNS intends to provide Program stakeholders with guidance and technical assistance materials related to this proposed rule using online media.

**List of Subjects**

*7 CFR Part 271*

Food stamps, Grant programs—Social programs, Reporting and recordkeeping requirements.

*7 CFR Part 278*

Banks, banking, Food stamps, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Surety bonds.

Accordingly, 7 CFR parts 271 and 278 are proposed to be amended as follows:

- 1. The authority citation for parts 271 and 278 continue to read as follows:

**Authority:** 7 U.S.C. 2011-2036.

**PART 271—GENERAL INFORMATION AND DEFINITIONS**

- 2. In § 271.2, add a definition for *Variety* in alphabetical order to read as follows:

**§ 271.2 Definitions.**

\* \* \* \* \*

*Variety*, in evaluating a firm's stock of staple foods for purposes of determining eligibility to participate in SNAP, means foods that differ from each other by distinct main ingredient or product kind as determined by the Secretary. See 7 CFR 278.1(b)(1)(ii)(C).

\* \* \* \* \*

**PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND INSURED FINANCIAL INSTITUTIONS**

- 3. Revise § 278.1(b)(1)(ii)(C) to read as follows:

**§ 278.1 Approval of retail food stores and wholesale food concerns.**

\* \* \* \* \*

- (b) \* \* \*
(1) \* \* \*
(ii) \* \* \*

(C)(1) Offer a variety of staple foods within each staple food category that differ from each other by distinct main ingredient or product kind. For example: Apples, cabbage, tomatoes, bananas, pumpkins, broccoli, and

grapes in the vegetables or fruits category; or fat-reduced cow milk, almond-based milk substitute, soy-based yogurt substitute, soft goat milk-based cheese, cow milk-based butter, cow milk-based sour cream, and cow milk-based full-fat yogurt in the dairy products category; or rice, wheat-based bagels, 100% whole grain wheat-based bagels, wheat-based pitas, rye-based bread, rice-based pasta, oatmeal, and wheat-based matzah in the bread or cereals category; or shelf-stable chicken, beans, nuts/seeds, perishable beef, perishable pork, chicken eggs, and perishable chicken in the meat, poultry, or fish category.

(2) Variety of foods is not to be interpreted as different brands, nutrient values (e.g., low sodium and lite), flavorings (e.g., vanilla and chocolate), packaging types or styles (e.g. boxed and bagged, or fresh and frozen), meat cuts, product shapes, textures, or package sizes of the same or similar foods except where explicitly specified in Agency guidance. Similar food items such as, but not limited to, tomatoes and tomato juice, brown rice and white rice, 1% milk and skim milk, perishable ground beef and perishable beefsteak, or different types of apples (e.g., Empire, Jonagold, and McIntosh), shall count as depth of stock but shall not each be counted as more than one staple food variety for the purpose of determining the number of varieties in any staple food category except where explicitly specified in Agency guidance.

Accessory foods shall not be counted as staple foods for purposes of determining eligibility to participate in SNAP as a retail food store.

\* \* \* \* \*

Dated: March 28, 2019.

**Brandon Lipps,**

*Acting Deputy Under Secretary, Food, Nutrition, and Consumer Services.*

[FR Doc. 2019-06597 Filed 4-4-19; 8:45 am]

BILLING CODE 3410-30-P

**DEPARTMENT OF AGRICULTURE**

**Commodity Credit Corporation**

**7 CFR Part 1423**

[Doc. No. AMS-FTPP-18-0085]

**Delivery and Shipping Standards for Cotton Warehouses**

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Department of Agriculture's (USDA) Commodity Credit

Corporation (CCC) proposes to amend the regulations that specify the requirements for CCC-approved warehouses storing and handling cotton. The amendment would change how warehouse operators account for bales made available for shipment (BMAS) and how CCC determines BMAS compliance. The current regulation allows bales that are made available for shipment by the warehouse operator but not picked up (BNPU) by the shipper to count for up to two reporting weeks when calculating and reporting BMAS for the reporting week. This amendment proposes to limit BNPU to be counted for one week, with BMAS to include only bales actually shipped or not picked up for that reporting week. CCC also proposes to allow two additional options for the warehouse operator to meet the 4.5% cotton flow requirement by averaging either the BMAS for the reporting week and the week prior to the reporting week, or by averaging the BMAS for the reporting week and the week after the reporting week. In addition, CCC proposes to amend the regulations to reflect the transfer of warehouse programs and activities from USDA's Farm Service Agency to AMS in 2018.

**DATES:** Comments must be received by May 6, 2019.

**ADDRESSES:** Comments should be submitted electronically at [www.regulations.gov](http://www.regulations.gov). Comments may also be submitted to: Dan Schofer, AMS, 1400 Independence Ave. SW, Stop 3061, Room 2555 South Building, Washington, DC 20250-3061. Comments will be made available for public inspection at Room 2530-S of the above address during regular business hours or electronically at [www.regulations.gov](http://www.regulations.gov). Comments received will be posted without change, including any personal information provided. All comments should reference the docket number AMS-FTPP-18-0085, the date of submission, and the page number of this issue of the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Dan Schofer at [dan.schofer@ams.usda.gov](mailto:dan.schofer@ams.usda.gov) or 202-690-2434.

**SUPPLEMENTARY INFORMATION:** In order to provide cotton warehouse operators the flexibility to address real-time scheduling changes and market demands faced by cotton merchants and shippers, CCC would use a two-week rolling average of BMAS to determine a warehouse operator's compliance with the minimum cotton flow rate of 4.5% of applicable storage capacity.

For example, a cotton warehouse operator has scheduled 4.5% of the

warehouse's applicable storage capacity to be available for shipment for several consecutive weeks. The week before a load is scheduled to be picked-up, a shipper requests to change its load out date to an earlier load out date in the preceding week, for an amount representing 0.25% of the warehouse's applicable storage capacity. If the warehouse operator has that specific load (0.25% of licensed capacity) already staged for a scheduled delivery the following week, that load could be picked up earlier, in the week preceding the original load out date. Without using a two-week rolling average and without making any additional bale adjustments, the warehouse operator would be considered to have delivered cotton without unnecessary delay for the first week because its BMAS is 4.75%, which is greater than the required 4.5%. However, the warehouse operator would not be considered to have delivered cotton without unnecessary delay during the second week because its BMAS is 4.25%, which is less than the required 4.5%. In this example, the option to calculate BMAS compliance using the rolling average of the reporting week and the week preceding the reporting week would result in a determination by CCC that the cotton warehouse operator is in compliance with a BMAS of 4.5% for the reporting week.

In another example, one that illustrates the third option of meeting the cotton flow requirement, a cotton warehouse operator schedules 4.5% of the applicable storage capacity for delivery in each of three consecutive weeks. During the first week, the cotton warehouse operator actually makes available for shipment 6.0% of the applicable storage capacity. During the second week, the cotton warehouse operator only makes 2.0% of applicable storage capacity available for shipment. During the third week, the cotton warehouse operator makes 7.0% of applicable storage capacity available for shipment. In this example, the cotton warehouse operator is considered to have delivered cotton without unnecessary delay during the first and the third weeks. During the second week however, the CCC will use the two-week rolling average of either the applicable week and the immediately preceding week, which results in an average BMAS of 4.0%, or the two-week rolling average of the applicable week and the immediately succeeding week, which results in an average BMAS of 4.5% to make its compliance determination for the second week. Using the two-week rolling average of

the second and third week to calculate the BMAS for the second week allows the CCC to consider the cotton warehouse operator to have delivered cotton without unnecessary delay for that second week because the 4.5% average met the cotton flow requirement.

This proposed rule change would continue to require warehouse operators to report their BMAS each week based upon the revised definition of BMAS. CCC would determine compliance on an individual reporting week, or if needed, use an option of one of the rolling average calculations of BMAS for two consecutive reporting weeks. In the event that CCC uses the average of the applicable week and the immediately succeeding week, CCC would determine compliance for the applicable week after it receives the data from the immediately succeeding week. These options would allow cotton warehouse operators to meet the cotton flow requirements of the regulation while being flexible to the needs of the shipping and merchant industries.

#### **Executive Orders 12866 and 13771, and Initial Regulatory Flexibility Analysis**

This rule does not meet the definition of a significant regulatory action contained in section 3(f) of Executive Order 12866 and is not subject to review by the Office of Management and Budget (OMB). Additionally, because this rule does not meet the definition of a significant regulatory action it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled "Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs'" (February 2, 2017).

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], CCC has considered the economic effect of this action on small entities and has determined that this proposed rule would not have a significant economic impact on a substantial number of small business entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly burdened.

Currently, there are 326 CCC-approved warehouses that store cotton. The U.S. Small Business Administration's Table of Small Business Size Standards matched to the North American Industry Classification System (NAICS) Codes identifies small business size by average annual receipts or by the average number of employees at a firm. This information can be found

at 13 CFR parts 121.104, 121.106, and 121.201. CCC estimates that 50 CCC-approved warehouses that store cotton would be considered small businesses according to SBA standards.

Sizes of cotton warehouses vary in size as well as business type, including small, independent country warehouses, small to large sized warehouses owned by cooperatives of producers, and small to large sized warehouses owned by corporate shippers/merchants. The effects of this proposed rule are not expected to be disproportionately greater or lesser for small businesses than for large businesses.

USDA is committed to complying with the E-Government Act of 2002 to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to government information and services, and for other purposes. Accordingly, CCC developed options for companies requesting service to do so electronically.

#### Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

#### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is not intended to have retroactive effect. The USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

The warehouse operator may resolve any claim for noncompliance from any entity, such as a merchant or shipper, other than CCC with the cotton shipping standard in a court of competent jurisdiction or through mutually agreed upon arbitration procedures. CCC does not have authority to limit an entity from filing suit in a court of law against another entity.

The warehouse operator may request that CCC reconsider adverse actions when the warehouse operator establishes that the reasons for the action have been remedied or requests reconsideration of the action.

#### Paperwork Reduction Act

The cotton information covered in this proposed rule is the weekly reporting of BMAS by cotton warehouses. BMAS is reported through

the Electronic Warehouse Receipt Inc. (EWR Inc.) system, to which AMS has access. EWR Inc. is a USDA licensed provider company and generally contains information that is exempt from the Paperwork Reduction Act (44 U.S.C. Chapter 35) because it is usual and customary business information. The proposed change in the regulation would not change the burden associated with reporting BMAS, which is required to be reported weekly.

#### Background and Proposed Revisions

AMS administers the CCC-approved warehouse program for CCC. This responsibility includes entering into contracts for the storage and handling of CCC-interest commodities with warehouses. The operators of those approved warehouses are required to comply with CCC regulations, which include reporting information about the stored commodities to CCC. The specific requirements that operators of approved warehouses must meet are specified in the regulations at § 7 CFR 1423 “Commodity Credit Corporation Approved Warehouses” and in the signed storage agreement between CCC and the warehouse operator for each type of commodity.

Operators of CCC-approved cotton warehouses are currently required to report BMAS, among other data, to the CCC on a weekly basis. Under the current rule at § 7 CFR 1423.11(b)(1)(ii), bales that were scheduled and ready for delivery in a previous week, but not picked up by the shipper, remained available for loading and for which another shipping date had not been established could be counted toward BMAS for up to two weeks. This proposed rule would clarify that bales scheduled and ready for delivery during a week but not picked up by the end of that reporting week can only be reported as BMAS for that one week that such bales were made available for shipment. The National Cotton Council, on behalf of the U.S. cotton industry, requested this change in order to increase the cotton flow rate to domestic and foreign manufacturers, to more quickly respond to domestic and international market needs, and to optimize performance by approved cotton warehouse operators. This change is being made to simplify the calculation of BMAS so that certain bales do not need to be accounted for beyond the applicable reporting week. The proposed rule would change how BNPU are counted in the weekly report to CCC. It would not change any warehouse tariffs or fees.

A conforming change would also be made to CCC’s Cotton Storage Agreement (Form CCC–823). The

storage agreement is the agreement between CCC and the cotton warehouse operator on the requirements that the warehouse operator must meet for storing and handling CCC-interest cotton. The standard cotton storage agreement form and the subsequent amendments are available on the USDA website at: <https://forms.sc.egov.usda.gov//efcommon/eFileServices/eForms/CCC823.PDF>.

There is no expected cost to warehouses or CCC of reporting BMAS as specified in this proposed rule. The proposed rule would only change how bales made available but not picked up by the shipper or merchant are reported by the warehouse operator to CCC in the weekly report. It does not change warehouse tariffs or restocking fees.

This change is intended to improve the efficiency of cotton flow from U.S. producers and cotton warehouses to shippers, and ultimately to cotton manufacturers, by more accurately reporting cotton that is available for shipment. Under the current rule, it has become apparent that certain bales may have been scheduled and ready for shipment but were never picked up for two weeks or more, potentially inflating BMAS calculations. This proposed rule change is meant to more accurately reflect how the cotton industry actually makes bales available for shipment during that one week. Availability and consistent supply of cotton are crucial for the U.S. cotton industry in order to compete with other cotton producing nations and having accurate information about bales made available for shipment contributes to more efficient and effective marketing of U.S. cotton.

#### List of Subjects in 7 CFR Part 1423

Agricultural commodities, Cotton, Honey, Oilseeds, Reporting and recordkeeping requirements, Surety bonds, Warehouses.

For the reasons stated in the preamble, the Commodity Credit Corporation proposes to amend 7 CFR part 1423 as follows:

#### PART 1423—COMMODITY CREDIT CORPORATION APPROVED WAREHOUSES

- 1. The authority citation for part 1423 continues to read as follows:

Authority: 15 U.S.C. 714b and 714c.

- 2. Amend § 1423.2 by revising it to read as follows:

#### § 1423.2 Administration.

On behalf of CCC, the Agricultural Marketing Service (AMS) will administer this part under the supervision of the AMS Administrator.

■ 3. Amend § 1423.3 by removing the definition for “KCCO.”

■ 4. Amend § 1423.7 by revising paragraph (d) to read as follows:

**§ 1423.7 Net Worth Alternatives.**

\* \* \* \* \*

(d) Other alternative instruments and forms of financial assurance as the AMS Administrator determines appropriate to secure the warehouse operator’s compliance with this section.

■ 5. Amend § 1423.8 by revising paragraph (b) to read as follows:

**§ 1423.8 Approval or rejection.**

\* \* \* \* \*

(b) CCC will notify the warehouse operator of rejection under this part in writing. The notification will state the causes for rejection. CCC will reconsider a warehouse for approval when the warehouse operator establishes that the reasons for rejection have been remedied or requests reconsideration of the action and presents to the Director, Warehouse and Commodity Management Division, AMS, in writing, information in support of such request. The warehouse operator may, if dissatisfied with the Director’s determination, obtain a review of the determination and an informal hearing by submitting a request with the AMS Administrator. Appeals shall be as prescribed in part 780 of this title.

■ 6. Amend § 1423.11 by revising paragraphs (a)(2) and (b)(1) to read as follows:

**§ 1423.11 Delivery and shipping standards for cotton warehouses.**

(a) \* \* \*

(2) Be considered to have delivered cotton without unnecessary delay if the warehouse operator has made available for shipment at least 4.5 percent of its applicable storage capacity in effect, measured as the BMAS:

(i) During the relevant week of shipment, or

(ii) Calculated as the two-week, rolling average of the BMAS for the relevant week of shipment and the BMAS for the immediately preceding week, or

(iii) Calculated as the two-week, rolling average of the BMAS for the relevant week of shipment and the BMAS for the immediately succeeding week.

(b) \* \* \*

(1) Bales made available for shipment (BMAS) during such week is defined as any cotton bales that have been delivered or are scheduled and ready for delivery but not picked up during such week.

\* \* \* \* \*

■ 7. Amend § 1423.13 by revising paragraph (a) to read as follows:

**§ 1423.13 Appeals, suspensions, and debarment.**

(a) After initial approval, warehouse operators may request that CCC reconsider adverse actions when the warehouse operator establishes that the reasons for the action have been remedied or requests reconsideration of the action and presents to the Director, Warehouse and Commodity Management Division, AMS, in writing, information in support of such request. The warehouse operator may, if dissatisfied with the Director’s determination, obtain a review of the determination and an informal hearing by submitting a request to the AMS Administrator. Appeals shall be as prescribed in part 780 of this title, and under such regulations the warehouse operator shall be considered as “participant.”

\* \* \* \* \*

Dated: April 2, 2019.

**Robert Stephenson,**

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 2019–06699 Filed 4–4–19; 8:45 am]

**BILLING CODE 3410–02–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 25**

[Docket No.: FAA–2019–0218; Notice No. 19–3]

**RIN 2120–AL15**

**High Elevation Airport Operations**

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to amend certain airworthiness regulations applicable to cabin pressurization systems and oxygen dispensing equipment on transport category airplanes to accommodate airplane operations into or out of airports with elevations at or above 8,000 feet above sea level. Currently, the FAA makes and documents equivalent level of safety findings when an airplane manufacturer or modifier proposes to certify airplane cabin pressurization systems used for operations into or out of airports with elevations at or above 8,000 feet. In addition, the FAA grants exemptions from the automatic oxygen mask

presentation requirements for operations into or out of airports with elevations at or above 14,000 feet. This proposed action is necessary to relieve the burden on industry and the FAA that results from project-specific equivalent level of safety (ELOS) requests and petitions for exemption to accommodate operations at high elevation airports for transport category airplanes.

**DATES:** Send comments on or before June 4, 2019.

**ADDRESSES:** Send comments identified by docket number FAA–2019–0218 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202–493–2251.

*Privacy:* 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 <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

*Docket:* Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For questions concerning this action, contact Robert Hettman, Propulsion & Mechanical Systems Section, AIR–672, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 S 216th Street, Des Moines, Washington 98198; telephone and facsimile 206–231–3171; email [robert.hettman@faa.gov](mailto:robert.hettman@faa.gov).

**SUPPLEMENTARY INFORMATION:**

### Authority for This Rulemaking

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General Requirements." Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards for the design and performance of aircraft that the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority. It prescribes new, relieving, safety standards for the design and operation of transport category airplanes.

### I. Overview of Proposed Rule

The FAA proposes to amend title 14, Code of Federal Regulations (14 CFR) part 25. Specifically, the FAA proposes to amend §§ 25.841, "Pressurized cabins," and 25.1447, "Equipment standards for oxygen dispensing units," for airplanes equipped with cabin pressurization systems and oxygen dispensing equipment intended for operations into or out of airports with elevations at or above 8,000 feet, also referred to as "high elevation airports."

The proposed amendments to § 25.841 would eliminate the burden on industry and the FAA that results from project-specific ELOS findings currently necessary for the FAA to approve such designs for cabin pressurization systems intended to be used for operations into or out of high elevation airports.

Section 25.841(a) limits the cabin pressure altitude to not more than 8,000 feet at the maximum operating altitude of the airplane under normal operating conditions. Operating at the maximum operating altitude of the airplane is considered a normal operating condition. Section 25.841(a) was never intended to imply that the cabin pressure altitude could exceed 8,000 feet under normal operating conditions provided the airplane was below the maximum operating altitude. Accordingly, the FAA proposes to revise § 25.841(a) to clarify the limit on cabin pressure altitude to not more than 8,000 feet under normal operating conditions. This revision is not necessary for the other changes being proposed for operations into and out of high elevation airport operations, but since it is related, FAA is making this clarification here.

The cabin pressure altitude requirement in § 25.841(a) does not allow certification of airplane designs that can safely accommodate operations into or out of high elevation airports. The FAA proposes adding § 25.841(c) as an exception to § 25.841(a) to accommodate operations into or out of high elevation airports. Proposed § 25.841(c) would allow the cabin pressure in pressurized cabins and occupied compartments to be equal to or less than the airport elevation while the airplane operates at or below 25,000 feet, provided the cabin pressurization system is designed to minimize the time that passenger cabin occupants would be exposed to cabin pressures exceeding 8,000 feet in flight.

Section 25.841(b)(6) requires a warning indication at the pilot or flight engineer station to indicate when the safe or preset cabin pressure altitude limit is exceeded to alert the flightcrew to potential hypoxic conditions. Section 25.841(b)(6) also states that this warning requirement for cabin pressure altitude limits is met if it warns the flightcrew when the cabin pressure altitude exceeds 10,000 feet. The FAA proposes adding new § 25.841(d) as an exception to § 25.841(b)(6) to allow an applicant to change the cabin altitude warning to 15,000 feet or 2,000 feet above the airport elevation, whichever is greater, when operating into or out of a high elevation airport.

Further, § 25.1447(c)(1) requires that airplanes being certified for operation above 30,000 feet must be equipped with oxygen dispensing units providing the required oxygen flow, and that such units must be automatically presented to the occupant before the cabin pressure exceeds 15,000 feet above sea level. Section 25.1447(c)(1) also states the crew must be provided with a manual means to make the dispensing units immediately available in the event of failure of the automatic system. This proposal would add § 25.1447(c)(5) as an exception to § 25.1447(c)(1) to allow approval of passenger cabin oxygen dispensing units that automatically deploy at 15,000 feet, or 2,000 feet above the airport elevation, whichever is greater, during operations into or out of high elevation airports. This proposed action would relieve industry from having to petition, and the FAA from the burden of evaluating and granting applicant-specific exemptions from § 25.1447(c)(1), currently necessary to increase the cabin pressure at which passenger cabin oxygen dispensing units automatically deploy.

### II. Background

#### A. Statement of the Problem

Cabin pressurization systems of airplanes are typically designed to maintain the interior cabin pressure so that the maximum cabin pressure altitude does not exceed 8,000 feet and to ensure that the change in cabin pressure altitude is minimized during flight. While an airplane is on the ground, the interior cabin pressure must be equal to the outside ambient air pressure to allow for easy opening of the exit doors should there be a need for an emergency evacuation. When an airplane ascends, its cabin pressure altitude starts at the equivalent altitude of the airport and slowly changes as the airplane climbs until the cabin pressure altitude is stabilized at an altitude not exceeding 8,000 feet, which is the current regulatory maximum cabin pressure altitude allowable. However, when an airplane takes off from an airport with an elevation greater than 8,000 feet, the cabin pressure altitude must begin at that higher equivalent altitude and slowly decrease until it is less than 8,000 feet. Similarly, when an airplane is configured to land at a high elevation airport, the interior cabin pressure altitude will start near 8,000 feet and slowly rise as the airplane descends into the airport, until the interior cabin pressure altitude is the same as the equivalent pressure altitude at the airport when the airplane lands. Since the maximum cabin pressure altitude of 8,000 feet is exceeded when operating into or out of high elevation airports, the airplane is out of compliance with 14 CFR 25.841.

Globally, there are several airports at elevations that exceed 14,000 feet. An example of a high elevation airport is Daocheng Yading Airport, in Tibet, at 14,472 feet.

To accommodate high elevation airport operations, applicants for type certificates incorporate design features for the cabin pressurization system that are intended to minimize the time that the cabin pressure altitude is above 8,000 feet. If a cabin altitude warning is set at 10,000 feet, for example, the flightcrew may receive nuisance warnings during high elevation airport takeoff and landing operations, unless special design features are incorporated. Accordingly, airplane manufacturers typically design the cabin pressurization control system to raise the cabin pressure altitude at which the warning occurs during these high elevation airport operations.

Currently, when an airplane manufacturer applies for certification of an airplane with a cabin pressurization

system intended to be used for operations into or out of high elevation airports, the cabin pressurization system does not meet the design standard in § 25.841(a) and (b)(6) and the FAA must make an ELOS finding, if appropriate. An ELOS finding is made when the design does not comply with the applicable airworthiness provisions, but compensating factors provide an equivalent level of safety.<sup>1</sup> For the design standard provided by § 25.841(a) and (b)(6), compensating factors such as the flight crew's use of supplemental oxygen and minimizing the time that the cabin pressure altitude may be above 8,000 feet, provide an equivalent level of safety during high elevation airport operations. The FAA documents an ELOS finding in an ELOS memorandum that communicates to the public the rationale for the FAA's determination of equivalency to the level of safety intended by the regulations. The ELOS memorandum also documents those aspects of the ELOS finding that must be maintained for continued airworthiness. Processing an ELOS request (*i.e.*, evaluating the request, making the finding, and creating the ELOS memorandum) creates an extra administrative burden on the applicant as well as the FAA during the aircraft certification process.<sup>2</sup> The FAA typically makes about four ELOS findings per year related to high elevation airport operations. For each ELOS finding related to high elevation airport operations, the FAA may spend 20 to 100 engineering hours, depending on how unique the proposed design features are, and whether or not the applicant has previously proposed airplane designs intended for such operations in the past. We estimate that applicants expend similar resources.

Section 25.1447(c)(1) requires that, for airplanes certified for operations above 30,000 feet, oxygen dispensing equipment be automatically deployed before the cabin pressure altitude reaches 15,000 feet. To prevent unnecessary deployments and avoid unnecessary maintenance costs associated with servicing the oxygen system on airplanes intended to operate at high elevation airports, applicants typically incorporate design features to raise the automatic presentation altitude

for the oxygen masks during high elevation airport operations. Currently, applicants that incorporate these design features do so pursuant to an agency-issued exemption from § 25.1447(c)(1).<sup>3</sup> A petition for exemption for airplanes certified for operation above 30,000 feet into high elevation airports creates a burden for applicants who develop the petition as well as the FAA in the agency's evaluation and analysis of the petition. The FAA typically grants one or two exemptions per year related to high elevation airport operations.<sup>4</sup> For each exemption related to high elevation airport operations, the FAA may spend 20 to 100 engineering hours depending on how similar the specific exemption petition is in relation to those previously granted. In addition to expended resources, exemptions typically increase the time for certification because the FAA follows the procedures for public comment described in 14 CFR part 11 as appropriate. We expect that applicants expend similar resources.

### III. Discussion of the Proposal

#### A. Cabin Pressurization Requirements for Normal Operating Conditions

The intent of § 25.841(a) is to maintain a safe pressure environment within the cabin during normal operations. Currently, § 25.841(a) limits the cabin pressure altitude to not more than 8,000 feet at the maximum operating altitude of the airplane under normal operating conditions. Operating at the maximum operating altitude of the airplane is considered a normal operating condition. Section 25.841(a) was never intended to imply that the cabin pressure altitude could exceed 8,000 feet under normal operating conditions provided the airplane was below the maximum operating altitude. The physiological effects associated with exposure to high cabin pressure altitudes, namely hypoxia, vary from one individual to the next as a function of altitude and time. Common effects associated with hypoxia include increased heart rate, decreased cognitive ability, nausea, and increased chance of cardiac arrest or stroke. These physiological effects are rare when the cabin pressure altitude does not exceed 8,000 feet. For clarity, the FAA proposes to revise § 25.841(a) to limit the cabin pressure altitude to not more than 8,000

feet under normal operating conditions even though this clarification is not necessary for the proposed changes for operations into and out of high elevation airport operations.

During normal operations into or out of high elevation airports, however, it is possible that the cabin pressure altitude will exceed 8,000 feet while the airplane is on the ground. When the airplane is on the ground with a higher pressure inside the passenger cabin compared to the outside air pressure, it could be difficult if not impossible to open the emergency exits depending on the design and magnitude of pressure differential. For example, landing at an airport that is at 10,000 feet while the passenger cabin is at 8,000 feet. This would impede emergency evacuation and decrease safety. Although some emergency exit designs may allow a cabin attendant to unlatch and start opening a door with a slight pressure differential, the door could quickly swing open and pull the attendant outside as the emergency escape slide is inflating, which would also impede evacuation efforts and endanger the flight attendant.

The FAA proposes adding § 25.841(c) as an exception to § 25.841(a), to accommodate operations into or out of high elevation airports. Proposed § 25.841(c) would allow the cabin pressure in pressurized cabins and occupied compartments to be equal to or less than the airport elevation while the airplane operates at or below 25,000 feet, provided the cabin pressurization system is designed to minimize the time that passenger cabin occupants would be exposed to cabin pressures exceeding 8,000 feet in flight. The exception to § 25.841(a) would only apply when the airplane is at or below 25,000 feet because the risk of hypoxia following a decompression increases with altitude. In addition, this will maintain consistency with other oxygen availability requirements that are not affected by this proposal. This proposed change would allow certification of airplane designs that can safely accommodate operations into or out of high elevation airports by minimizing the time that the cabin pressure may be above 8,000 feet without unnecessarily exposing occupants to high cabin pressures in the unlikely event of a pressurization failure.

#### B. Requirements for Flightcrew Warning Indication Following Loss of Pressurization

The intent of the design requirement in current § 25.841(b)(6) is to provide the flightcrew with a warning when the safe or preset cabin pressure altitude

<sup>1</sup> The authority for the agency to make an ELOS finding is provided in 14 CFR 21.21(b). Paragraph (b) of § 21.21 specifies that the FAA must find an applicant for a type certificate meets the applicable airworthiness requirements of subchapter C of Chapter I of title 14 Code of Federal Regulations or that any airworthiness provisions not complied with are compensated for by factors that provide an equivalent level of safety.

<sup>2</sup> ELOS memorandums are available at <http://rgl.faa.gov/>.

<sup>3</sup> The Administrator's exemption authority is provided by 49 U.S.C. 44701(e) and implemented in accordance with 14 CFR part 11.

<sup>4</sup> Complete exemption dockets can be found at <https://www.regulations.gov/>. Exemption grants and denials are also available at <http://aes.faa.gov/> and <http://rgl.faa.gov/>.

limit is exceeded. Consistent with the proposed addition of § 25.841(c) to accommodate operations into high elevation airports and to reduce the possibility of exposure to high cabin pressures above 25,000 feet, if a failure condition (decompression) occurs, the FAA proposes adding § 25.841(d) as an exception to § 25.841(b)(6).

Proposed § 25.841(d) would allow an applicant to change the cabin altitude warning to 15,000 feet, or 2,000 feet above the airport elevation, whichever is greater, when operating into or out of airports exceeding 8,000 feet provided that—

1. The airplane is at or below 25,000 feet;
2. An alert is provided to clearly indicate to the flightcrew that the cabin high altitude warning has shifted above 10,000 feet;
3. If the cabin altitude warning alert shifts above 10,000 feet automatically, an alert is provided to notify the flightcrew to take action should the automatic shift function fail; and
4. Either an alerting system is installed to notify the flightcrew on flight deck duty when to don oxygen mask(s), in accordance with the applicable operating regulations; or a flight procedure acceptable to the FAA administrator is provided in the airplane flight manual requiring the pilot in command to don oxygen when the cabin warning has shifted above 10,000 feet and other flightcrew on flight deck duty to monitor cabin pressure and utilize supplemental oxygen, in accordance with the applicable operating regulations.

In addition, the potential risk of hypoxia by the flightcrew members following a decompression during high elevation airport operations is also minimized because the cabin pressure warning altitude can only be raised above 10,000 feet while the airplane is at or below 25,000 feet above sea level. Further, there are operational requirements, such as those at 14 CFR 91.211, 121.333, and 135.157, that describe when supplemental oxygen must be used for passengers, cabin crew, and flightcrew members on flight deck duty. The use of supplemental oxygen for airplane occupants is a function of altitude, time exposure, and flightcrew members duties anticipated on the airplane. (Such requirements are intended to minimize the symptoms of hypoxia for airplane occupants, but are not being proposed for revision by this notice.) Therefore, airplane designs that meet the requirements proposed in this NPRM would maintain an appropriate level of safety that is consistent with previously issued ELOS determinations.

Also, for commonality with other regulatory text, the FAA is proposing to clarify existing § 25.841(b)(6), which currently requires an aural or visual signal to warn the flightcrew when the cabin pressure altitude exceeds 10,000 feet, to simply require an alert rather than a specific additional aural or visual signal. At Amendment 25–131 (75 FR 67201, November 2, 2010), effective January 3, 2011, the FAA created § 25.1322 to add flightcrew alerting requirements. An alert designed in accordance with § 25.1322 would ensure an appropriate alerting is provided to the flightcrew without the need for a separate aural or visual alert standard in § 25.841(b)(6), which allows for more options in developing an appropriate alert.

#### *C. Requirements for Automatic Presentation of Oxygen Dispensing Equipment*

The FAA proposes an exception to the passenger oxygen mask presentation requirement in current § 25.1447(c) to allow for presentation at higher altitudes when operating into high elevation airports. Section 25.1447(c) describes presentation requirements for passenger oxygen masks. In accordance with § 25.1447(c)(1), for airplanes certified for operation above 30,000 feet, oxygen masks providing the required oxygen flow must be automatically presented before the cabin pressure altitude exceeds 15,000 feet. Typical designs include oxygen mask storage doors located above the seats with electrically actuated latches. As electricity is supplied to the latches, the doors open and oxygen masks are made available. Electricity to the latches is typically provided through a pressure switch, which is either open or closed, depending on ambient pressure within the passenger cabin. Common pressure switches have a tolerance of ±500 feet, so it is possible for oxygen masks to be presented as low as 14,000 feet to ensure they are made available before the cabin pressure reaches 15,000 feet.

There are several airports throughout the world with elevations above 14,000 feet such that oxygen masks could be deployed when an airplane lands at or takes off from them. The FAA has granted numerous exemptions from the automatic presentation requirements in § 25.1447(c)(1) to accommodate such operations.<sup>5</sup> For each exemption petition, the FAA works with the applicant to ensure that an adequate

<sup>5</sup> Some examples include exemption 9940 (Docket No. FAA–2009–0601), exemption 10089 (Docket No. FAA–2010–0290), exemption 13582 (Docket No. FAA–2015–3311) and exemption 17590 (Docket No. FAA–2017–0800).

level of safety is maintained for each system design. To eliminate the need for exemptions as more airports open in high elevation terrains or more airplanes are designed with the intent to operate into existing high elevation airports, the FAA proposes adding § 25.1447(c)(5) as an exception to § 25.1447(c)(1). Proposed § 25.1447(c)(5) would allow oxygen mask presentation at altitudes of up to 2,000 feet above the airport elevation to prevent the unnecessary deployment of oxygen masks.

The FAA recognizes that a sudden loss of cabin pressure could expose passengers and cabin crew to higher cabin pressure altitudes before oxygen masks are presented if the automatic presentation altitude is raised. To mitigate this risk, the proposed changes include limitations on the exception in that the automatic presentation altitude for the masks can only be raised when operating into or out of high elevation airports, and only when the airplane is at or below 25,000 feet.

As previously discussed, the proposed changes will not negatively affect safety during high elevation airport operations because of the limited portion of the operation during which the proposed change will apply and the measures already in place to ensure safety during emergency conditions. Additionally, these proposed changes are consistent with previously granted exemptions and ELOS determinations.

## **IV. Regulatory Notices and Analyses**

### *A. Regulatory Evaluation*

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules, which include a Federal mandate likely to result in the expenditure by

State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule.

In conducting these analyses, FAA has determined that this proposed rule (1) has benefits that justify its costs; (2) is not an economically "significant regulatory action" as defined in section 3(f) of Executive Order 12866; (3) would not have a significant economic impact on a substantial number of small entities; (4) would not create unnecessary obstacles to the foreign commerce of the United States; and (5) would not impose an unfunded mandate on state, local, or tribal governments, or on the private sector by exceeding the threshold identified previously. These analyses are summarized below.

Currently, the FAA processes ELOS memorandums to document ELOS findings when an airplane manufacturer or modifier requests certification of airplane cabin pressurization systems used for operations into or out of airports with elevations at or above 8,000 feet. The FAA also processes exemptions to the automatic oxygen mask presentation requirements for operations into or out of airports with elevations at or above 14,000 feet. The proposed rule would eliminate the need to continue performing the administrative tasks and analyses associated with the processing of an ELOS or exemption to accommodate operations at high elevation airports for transport category airplanes without compromising safety.

This proposed rule would result in small quantifiable cost savings. As previously discussed, the FAA issues about four ELOS findings and up to two exemptions per year related to high elevation airports, involving 20 to 100 engineering hours for each ELOS or exemption project. The FAA estimates industry and the FAA may expend the same range of engineering hours for each ELOS and exemption project. Using an average aerospace engineer hourly wage of \$65, the FAA estimates the total annual cost savings of this proposed rule would range from \$15,600 to \$78,000 for both industry and FAA.<sup>6</sup>

<sup>6</sup> To simplify the analysis since the cost savings are small, the FAA uses an average aerospace engineer hourly wage adjusted for benefits of \$65 for both industry and FAA based on 2017 Bureau of Labor Statistics data and FAA salary data. The range of cost savings are calculated as  $7,800 = (4 \text{ ELOS} + 2 \text{ exemptions}) \times (\$65 \text{ hourly wage}) \times (20 \text{ engineering hours})$  and  $39,000 = (4 \text{ ELOS} + 2$

As previously discussed, in addition to expended resources, exemptions typically increase the time for certification because the FAA follows procedures for public comment described in 14 CFR part 11 as appropriate. This proposed rule may reduce this time resulting in cost savings.

As a result, this rulemaking will reduce the cost of airplane certification without reducing the current level of safety. The expected outcome would be a minimal economic impact resulting in a small regulatory burden relief. The FAA requests comments with supporting justification about the FAA determination of minimal economic impact.

Therefore, the FAA has determined that this proposed rule is not a "significant regulatory action" as defined in section 3(f) of Executive Order 12866, and is not "significant" as defined in DOT's Regulatory Policies and Procedures.

#### *B. Regulatory Flexibility Determination*

The Regulatory Flexibility Act of 1980 (Pub. L. 96-354) (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation." To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration. The RFA potentially covers a wide-range of small entities, including small businesses, and not-for-profit organizations.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the

exemptions)  $\times (\$65 \text{ hourly wage}) \times (100 \text{ engineering hours})$ . These cost savings are doubled to reflect the total cost savings of the proposed rule since the FAA estimates the cost savings to industry and the FAA are the same.

factual basis for this determination, and the reasoning should be clear.

The proposed rule would relieve the industry from requesting that the FAA make a determination that an ELOS exists for certification of airplane cabin pressurization systems used for operations into or out of airports with elevations at or above 8,000 feet above sea level. This proposed rule would also relieve industry from petitioning for exemptions to the automatic oxygen mask presentation requirements for operations into and out of airports with elevations at or above 14,000 feet above sea level. The expected outcome would be a minimal economic impact with small burden relief and savings for any small entity affected by this rulemaking action.

If an agency determines that a rulemaking will not result in a significant economic impact on a substantial number of small entities, the head of the agency may so certify under section 605(b) of the RFA. Therefore, as provided in section 605(b), the head of the FAA certifies that this proposed rulemaking would not result in a significant economic impact on a substantial number of small entities.

#### *C. International Trade Impact Assessment*

The Trade Agreements Act of 1979 (Pub. L. 96-39), as amended by the Uruguay Round Agreements Act (Pub. L. 103-465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and determined that it would have only a domestic impact and therefore no effect on international trade.

#### *D. Unfunded Mandates Assessment*

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (in 1995 dollars) in any one year by State,

local, and tribal governments, in the aggregate, or by the private sector. Such a mandate is deemed a “significant regulatory action.” The FAA currently uses an inflation-adjusted value of \$155 million in lieu of \$100 million. This proposed rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

#### *E. Paperwork Reduction Act*

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

#### *F. International Compatibility and Cooperation*

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA’s policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has found no differences with these proposed regulations.

EASA certification requirements related to oxygen dispensing units in CS25.1447(c)(1) are similar to those in §25.1447(c)(1). In Amendment 18 of Certification Specifications and Acceptable Means of Compliance for Large Aeroplanes, CS–25,<sup>7</sup> the European Aviation Safety Agency (EASA) describes an acceptable means of compliance (AMC) in AMC 25.1447(c)(1). Specifically, AMC 25.1447(c)(1) states: “The design of the automatic presentation system should take into account that when the landing field altitude is less than 610 m (2000 feet) below the normal preset automatic presentation altitude, the automatic presentation altitude may be reset to landing field altitude plus 610 m (2000 feet).” Thus, the FAA’s proposed change to §25.1447 is consistent with guidance provided by EASA.

EASA has not published advisory material to accommodate operations into or out of high elevation airports in consideration of the cabin pressure altitude and warning requirements in CS 25.841.

<sup>7</sup> Amendment 18 of European Aviation Safety Agency, “Certification Specifications and Acceptable Means of Compliance for Large Aeroplanes,” CS–25, dated June 22, 2016, can be found at this web address: <https://www.easa.europa.eu/document-library/certification-specifications/cs-25-amendment-18>.

#### *G. Environmental Analysis*

FAA Order 1050.1F identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 5–6.6 of FAA Order 1050.1F and involves no extraordinary circumstances.

#### **V. Executive Order Determinations**

##### *A. Executive Order 13132, Federalism*

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

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

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

##### *C. Executive Order 13609, International Cooperation*

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

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

This proposed rule is expected to be an Executive Order 13771 deregulatory

action. Details on the regulatory relief provided by this proposed rule can be found in the Regulatory Evaluation section.

#### **VI. Additional Information**

##### *A. Comments Invited*

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The agency may change this proposal in light of the comments it receives.

*Proprietary or Confidential Business Information:* Commenters should not file proprietary or confidential business information in the docket. Such information must be sent or delivered directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document, and marked as proprietary or confidential. If submitting information on a disk or CD ROM, mark the outside of the disk or CD ROM, and identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), if the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. It is held in a separate file to which the public does not have access, and the FAA places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, it treats it as any other request under the Freedom of Information Act (5 U.S.C. 552). The FAA processes such a request under Department of Transportation procedures found in 49 CFR part 7.

*B. Availability of Rulemaking Documents*

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

1. Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
2. Visiting the FAA's Regulations and Policies web page at [http://www.faa.gov/regulations\\_policies](http://www.faa.gov/regulations_policies) or
3. Accessing the Government Printing Office's web page at <http://www.gpo.gov/fdsys/>.

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW, Washington, DC 20591, or by calling 202-267-9677. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed from the internet through the Federal eRulemaking Portal referenced in item (1) above.

**List of Subjects in 14 CFR Part 25**

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

**PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES**

- 1. The authority citation for part 25 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702 and 44704.

- 2. Amend § 25.841 by revising paragraphs (a) introductory text and (b)(6) and adding paragraphs (c) and (d) to read as follows:

**§ 25.841 Pressurized cabins.**

(a) Except as provided in paragraph (c) of this section, pressurized cabins and compartments to be occupied must be equipped to provide a cabin pressure altitude of not more than 8,000 feet under normal operating conditions.

\* \* \* \* \*

(b) \* \* \*

(6) Warning indication at the pilot or flight engineer station to indicate when the safe or preset pressure differential and cabin pressure altitude limits are exceeded. Appropriate warning markings on the cabin pressure differential indicator meet the warning

requirement for pressure differential limits, and an alert meets the warning requirement for cabin pressure altitude limits, if it warns the flightcrew when the cabin pressure altitude exceeds 10,000 feet, except as provided in paragraph (d) of this section.

\* \* \* \* \*

(c) When operating into or out of airports with elevations at or above 8,000 feet, the cabin pressure in pressurized cabins and occupied compartments may be equal to or less than the airport elevation provided:

- (1) The airplane is being operated at or below 25,000 feet; and
- (2) The cabin pressurization system is designed to minimize the time in flight that passenger cabin occupants may be exposed to cabin pressure altitudes exceeding 8,000 feet.

(d) When operating into or out of airports with elevations exceeding 8,000 feet and the airplane is at or below 25,000 feet, the cabin altitude warning alert may be provided at 15,000 feet, or 2,000 feet above the elevation, whichever is greater, provided that:

- (1) An alert is provided to clearly indicate to the flightcrew that the cabin high altitude warning has shifted above 10,000 feet;
- (2) If the cabin altitude warning alert is shifted above 10,000 feet automatically, an alert is provided to notify the flightcrew to take action should the automatic shift function fail; and
- (3) Either an alerting system is installed to notify the flightcrew members on flight deck duty when to don oxygen in accordance with the applicable operating regulations; or flight procedures acceptable to the FAA administrator are provided in the airplane flight manual that require the pilot flying to don oxygen when the high altitude cabin warning has shifted above 10,000 feet and require other flightcrew members on flight deck duty to monitor the cabin pressure to utilize oxygen in accordance with the applicable operating regulations.

- 3. Amend § 25.1447 by revising paragraph (c)(1) and adding paragraph (c)(5) to read as follows:

**§ 25.1447 Equipment standards for oxygen dispensing units.**

\* \* \* \* \*

(c) \* \* \*

(1) There must be an oxygen dispensing unit connected to oxygen supply terminals immediately available to each occupant wherever seated, and at least two oxygen-dispensing units connected to oxygen terminals in each lavatory. The total number of dispensing units and outlets in the cabin must

exceed the number of seats by at least 10 percent. The extra units must be as uniformly distributed throughout the cabin as practicable. Except as provided in paragraph (c)(5) of this section, if certification for operation above 30,000 feet is requested, the dispensing units providing the required oxygen flow must be automatically presented to the occupants before the cabin pressure altitude exceeds 15,000 feet. The crewmembers must be provided with a manual means of making the dispensing units immediately available in the event of failure of the automatic system.

\* \* \* \* \*

(5) When operating into or out of airports with elevations at or above 8,000 feet, the dispensing units providing the required oxygen flow may be automatically presented to the occupants at 15,000 feet or within 2,000 feet of the airport elevation, whichever is higher, provided the airplane is being operated at altitudes at or below 25,000 feet.

Issued under authority provided by 49 U.S.C. 106(f) and 44701(a) in Washington, DC, on March 29, 2019.

**Earl Lawrence,**  
*Executive Director, Aircraft Certification Service.*

[FR Doc. 2019-06765 Filed 4-4-19; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA-2019-0240; Product Identifier 2018-CE-057-AD]

RIN 2120-AA64

**Airworthiness Directives; Pilatus Aircraft Ltd. Airplanes**

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Pilatus Aircraft Ltd. Models PC-6, PC-6/350, PC-6/350-H1, PC-6/350-H2, PC-6/A, PC-6/A-H1, PC-6/A-H2, PC-6/B-H2, PC-6/B1-H2, PC-6/B2-H2, PC-6/B2-H4, PC-6/C-H2, PC-6/C1-H2, PC-6-H1, and PC-6-H2 airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes

the unsafe condition as flap actuator taper pins that were not swaged during the manufacturing process. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

**DATES:** We must receive comments on this proposed AD by May 20, 2019.

**ADDRESSES:** You may send comments 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 proposed AD, contact PILATUS Aircraft Ltd., Customer Technical Support (MCC), P.O. Box 992, CH-6371 Stans, Switzerland; phone: +41 (0)41 619 67 74; fax: +41 (0)41 619 67 73; email: [techsupport@pilatus-aircraft.com](mailto:techsupport@pilatus-aircraft.com); internet: <http://www.pilatus-aircraft.com>. You may review this referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148.

#### 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-2018-0240; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (telephone (800) 647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4059; fax: (816) 329-4090; email: [doug.rudolph@faa.gov](mailto:doug.rudolph@faa.gov).

#### SUPPLEMENTARY INFORMATION:

#### Comments Invited

We invite you to send any written relevant data, views, or arguments about

this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2018-0240; Product Identifier 2018-CE-057-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD 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 proposed AD.

#### Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No. 2018-0235, dated November 5, 2018 (referred to after this as "the MCAI"), to correct an unsafe condition for Pilatus Aircraft Limited Models PC-6, PC-6/350, PC-6/350-H1, PC-6/350-H2, PC-6/A, PC-6/A-H1, PC-6/A-H2, PC-6/B-H2, PC-6/B1-H2, PC-6/B2-H2, PC-6/B2-H4, PC-6/C-H2, PC-6/C1-H2, PC-6-H1, and PC-6-H2 airplanes. The MCAI states:

During a recent overhaul, two new flap actuators were found to have taper pins installed that, apparently, had not been swaged. Investigation results identified that the taper pins had been incorrectly swaged during the manufacturing process.

This condition, if not detected and corrected, could lead to loss of one or both taper pins, consequent asymmetric flap deployment or flap surface flutter, possibly resulting in loss of control of the aeroplane.

To address this potential unsafe condition, Pilatus issued the [service bulletin] SB to provide inspection instructions.

For the reason described above, this [EASA] AD requires a one-time inspection of the taper pins of the affected parts for correct installation and, depending on findings, accomplishment of applicable corrective action(s). This [EASA] AD also requires inspection of, and, depending on findings, corrective action(s) on, affected parts held as spare, prior to installation.

You may examine the MCAI on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0240.

#### Related Service Information Under 1 CFR Part 51

Pilatus Aircraft Ltd. has issued Pilatus PC-6 Service Bulletin No. 27-005, dated July 2, 2018. The service information contains procedures for removing and

inspecting the flap actuator assemblies and pushrod assemblies, modifying or replacing the taper pins if necessary, and reinstalling the assemblies. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

#### FAA's Determination and Requirements of the Proposed AD

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 this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

#### Costs of Compliance

We estimate that this proposed AD will affect 30 products of U.S. registry. We also estimate that it would take about 12 work-hours per product to comply with the basic inspection requirements of this proposed AD. The average labor rate is \$85 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$30,600, or \$1,020 per product.

In addition, we estimate that any necessary follow-on modification or replacement actions would require parts costing \$30,000, for a cost of \$1,000 per product. We have no way of determining the number of products that may need these actions.

#### 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 small airplanes, gliders, balloons, airships, domestic business jet transport airplanes, and associated appliances to the Director of the Policy and Innovation 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):

**Pilatus Aircraft Ltd.:** Docket No. FAA-2018-0240; Product Identifier 2018-CE-057-AD.

#### (a) Comments Due Date

We must receive comments by May 20, 2019.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to Pilatus Aircraft Ltd. Models PC-6, PC-6/350, PC-6/350-H1, PC-6/350-H2, PC-6/A, PC-6/A-H1, PC-6/A-H2, PC-6/B-H2, PC-6/B1-H2, PC-6/B2-H2, PC-6/B2-H4, PC-6/C-H2, PC-6/C1-H2, PC-6-H1, and PC-6-H2 airplanes, all serial numbers, certificated in any category, with a left-hand or right-hand flap actuator assembly part number (P/N) 6132.0039.51 or P/N 6132.0039.52 or pushrod assembly P/N 6132.0040.00 installed, except those assemblies supplied by Pilatus Aircraft Ltd. with a European Aviation Safety Agency (EASA) form 1 tag dated July 2, 2018 or later.

**Note 1 to paragraph (c) of this AD:** These airplanes may also be identified as Fairchild Republic Company airplanes, Fairchild Industries airplanes, Fairchild Heli Porter airplanes, or Fairchild-Hiller Corporation airplanes.

#### (d) Subject

Air Transport Association of America (ATA) Code 27: Flight Controls.

#### (e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as flap actuator taper pins that were not swaged during the manufacturing process. We are issuing this AD to prevent loss of one or both taper pins that could lead to asymmetric flap deployment or flap surface flutter and result in loss of control of the airplane.

#### (f) Actions and Compliance

Unless already done, do the following actions in paragraphs (f)(1) and (2) of this AD:

- (1) Within the next 100 hours time-in-service after the effective date of this AD or within the next 12 months after the effective date of this AD, whichever occurs first, prepare the airplane and inspect each flap actuator taper pin for correct installation by following the Accomplishment Instructions-Part 1-On Aircraft, paragraphs 3.A through 3.B(2), of Pilatus Aircraft Ltd. PC-6 Service Bulletin No. 27-005, dated July 2, 2018 (Pilatus SB No. 27-005).

(i) If a taper pin has any damage, before further flight, replace and swage the taper pin and reinstall the pushrod assembly by following the Accomplishment Instructions-Part 1-On Aircraft, paragraphs 3.C and 3.D of Pilatus SB No. 27-005.

(ii) If a taper pin is incorrectly swaged or is not swaged, before further flight, swage the

taper pin and reinstall the pushrod assembly by following the Accomplishment Instructions-Part 1-On Aircraft, paragraphs 3.C and 3.D of Pilatus SB No. 27-005.

(2) After the effective date of this AD, do not install a flap actuator assembly, P/N 6132.0039.51 or P/N 6132.0039.52, or pushrod assembly P/N 6132.0040.00 on any airplane unless the part was supplied by Pilatus Aircraft Ltd. with an EASA form 1 tag dated July 2, 2018 or later, or the part has been inspected in accordance with paragraphs (f)(1)(i) and (ii) of this AD.

#### (g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Small Airplane Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4059; fax: (816) 329-4090; email: [doug.rudolph@faa.gov](mailto:doug.rudolph@faa.gov). Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must instead be accomplished using a method approved by the Manager, Small Airplane Standards Branch, FAA, or EASA.

#### (h) Related Information

Refer to MCAI EASA AD No. 2018-0235, dated November 5, 2018, for related information. You may examine the MCAI on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0240. For service information related to this AD, contact PILATUS Aircraft Ltd., Customer Technical Support (MCC), P.O. Box 992, CH-6371 Stans, Switzerland; phone: +41 (0)41 619 67 74; fax: +41 (0)41 619 67 73; email: [techsupport@pilatus-aircraft.com](mailto:techsupport@pilatus-aircraft.com); internet: <http://www.pilatus-aircraft.com>. You may review this referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148.

Issued in Kansas City, Missouri, on March 25, 2019.

**Melvin J. Johnson,**

*Aircraft Certification Service, Deputy Director, Policy and Innovation Division, AIR-601.*

[FR Doc. 2019-06672 Filed 4-4-19; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2019-0222; Airspace  
Docket No. 19-ASW-5]

RIN 2120-AA66

**Proposed Establishment of Class E  
Airspace; Beeville-Chase Field, TX**

**AGENCY:** Federal Aviation  
Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking  
(NPRM).

**SUMMARY:** This action proposes to  
Establish Class E airspace extending  
upward from 700 feet above the surface  
at Chase Field Industrial Airport,  
Beeville-Chase Field, TX. Controlled  
airspace is necessary to accommodate  
new standard instrument approach  
procedures developed at Chase Field  
Industrial Airport, for the safety and  
management of instrument flight rules  
(IFR) operations.

**DATES:** Comments must be received on  
or before May 20, 2019.

**ADDRESSES:** Send comments on this  
proposal to the U.S. Department of  
Transportation, Docket Operations,  
West Building Ground Floor, Room  
W12-140, 1200 New Jersey Avenue SE,  
Washington, DC 20590; telephone (202)  
366-9826, or (800) 647-5527. You must  
identify FAA Docket No. FAA-2019-  
0222; Airspace Docket No. 19-ASW-5,  
at the beginning of your comments. You  
may also submit comments through the  
internet at <http://www.regulations.gov>.  
You may review the public docket  
containing the proposal, any comments  
received, and any final disposition in  
person in the Dockets Office between  
9:00 a.m. and 5:00 p.m., Monday  
through Friday, except federal holidays.

FAA Order 7400.11C, Airspace  
Designations and Reporting Points, and  
subsequent amendments can be viewed  
online at [http://www.faa.gov/air\\_traffic/  
publications/](http://www.faa.gov/air_traffic/publications/). For further information,  
you can contact the Airspace Policy  
Group, Federal Aviation  
Administration, 800 Independence  
Avenue SW, Washington, DC 20591;  
telephone: (202) 267-8783. The Order is  
also available for inspection at the  
National Archives and Records  
Administration (NARA). For  
information on the availability of FAA  
Order 7400.11C at NARA, call (202)  
741-6030, or go to [http://  
www.archives.gov/federal-register/cfr/  
ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html).

FAA Order 7400.11, Airspace  
Designations and Reporting Points, is

published yearly and effective on  
September 15.

**FOR FURTHER INFORMATION CONTACT:**  
Rebecca Shelby, Federal Aviation  
Administration, Operations Support  
Group, Central Service Center, 10101  
Hillwood Parkway, Fort Worth, TX  
76177; telephone (817) 222-5857.

**SUPPLEMENTARY INFORMATION:**

**Authority for This Rulemaking**

The FAA's authority to issue rules  
regarding aviation safety is found in  
Title 49 of the United States Code.  
Subtitle I, Section 106 describes the  
authority of the FAA Administrator.  
Subtitle VII, Aviation Programs,  
describes in more detail the scope of the  
agency's authority. This rulemaking is  
promulgated under the authority  
described in Subtitle VII, Part A,  
Subpart I, Section 40103. Under that  
section, the FAA is charged with  
prescribing regulations to assign the use  
of airspace necessary to ensure the  
safety of aircraft and the efficient use of  
airspace. This regulation is within the  
scope of that authority as it would  
establish Class E airspace extending  
upward from 700 feet above the surface  
at Chase Field Industrial Airport,  
Beeville-Chase Field, TX, in support of  
IFR operations at the airport.

**Comments Invited**

Interested parties are invited to  
participate in this proposed rulemaking  
by submitting such written data, views,  
or arguments, as they may desire.  
Comments that provide the factual basis  
supporting the views and suggestions  
presented are particularly helpful in  
developing reasoned regulatory  
decisions on the proposal. Comments  
are specifically invited on the overall  
regulatory, aeronautical, economic,  
environmental, and energy-related  
aspects of the proposal. Communications  
should identify both  
docket numbers and be submitted in  
triplicate to the address listed above.  
Commenters wishing the FAA to  
acknowledge receipt of their comments  
on this notice must submit with those  
comments a self-addressed, stamped  
postcard on which the following  
statement is made: "Comments to  
Docket No. FAA-2019-0222/Airspace  
Docket No. 19-ASW-5." The postcard  
will be date/time stamped and returned  
to the commenter.

All communications received before  
the specified closing date for comments  
will be considered before taking action  
on the proposed rule. The proposal  
contained in this notice may be changed  
in light of the comments received. A  
report summarizing each substantive

public contact with FAA personnel  
concerned with this rulemaking will be  
filed in the docket.

**Availability of NPRMs**

An electronic copy of this document  
may be downloaded through the  
internet at <http://www.regulations.gov>.  
Recently published rulemaking  
documents can also be accessed through  
the FAA's web page at [http://  
www.faa.gov/air\\_traffic/publications/  
airspace\\_amendments/](http://www.faa.gov/air_traffic/publications/airspace_amendments/).

You may review the public docket  
containing the proposal, any comments  
received, and any final disposition in  
person in the Dockets Office (see the  
**ADDRESSES** section for the address and  
phone number) between 9:00 a.m. and  
5:00 p.m., Monday through Friday,  
except federal holidays. An informal  
docket may also be examined during  
normal business hours at the Federal  
Aviation Administration, Air Traffic  
Organization, Central Service Center,  
Operations Support Group, 10101  
Hillwood Parkway, Fort Worth, TX  
76177.

**Availability and Summary of  
Documents for Incorporation by  
Reference**

This document proposes to amend  
FAA Order 7400.11C, Airspace  
Designations and Reporting Points,  
dated August 13, 2018, and effective  
September 15, 2018. FAA Order  
7400.11C is publicly available as listed  
in the **ADDRESSES** section of this  
document. FAA Order 7400.11C lists  
Class A, B, C, D, and E airspace areas,  
air traffic service routes, and reporting  
points.

**The Proposal**

The FAA is proposing an amendment  
to Title 14 Code of Federal Regulations  
(14 CFR) part 71 by establishing Class E  
airspace extending upward from 700  
feet above the surface to within a 6.7-  
mile radius of Chase Field Industrial  
Airport, Beeville-Chase Field, TX, to  
accommodate new standard instrument  
approach procedures. This action would  
enhance safety and the management of  
IFR operations at the airport.

Class E airspace designations are  
published in paragraph 6005 of FAA  
Order 7400.11C, dated August 13, 2018,  
and effective September 15, 2018, which  
is incorporated by reference in 14 CFR  
71.1. The Class E airspace designation  
listed in this document will be  
published subsequently in the Order.

**Regulatory Notices and Analyses**

The FAA has determined that this  
regulation only involves an established  
body of technical regulations for which

frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (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); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, “Environmental Impacts: Policies and Procedures” prior to any FAA final regulatory action.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

##### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

#### ASW TX E5 Beeville-Chase Field, TX [New]

Chase Field Industrial Airport, TX  
(Lat. 28°21'45" N, long. 097°39'43" W)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Chase Field Industrial Airport.

Issued in Fort Worth, Texas, on March 27, 2019.

**John Witucki,**

*Acting Manager, Operations Support Group,  
ATO Central Service Center.*

[FR Doc. 2019–06611 Filed 4–4–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

**[Docket No. FAA–2019–0206; Airspace  
Docket No. 19–ASO–6]**

**RIN 2120–AA66**

#### Proposed Amendment of Class E Airspace, Monroe, GA

**AGENCY:** Federal Aviation  
Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking  
(NPRM).

**SUMMARY:** This action proposes to amend Class E airspace extending upward from 700 feet above the surface in Monroe-Walton County Airport, Monroe, GA, to accommodate airspace reconfiguration due to the decommissioning of the Monroe non-directional radio beacon and cancellation of the NDB approach. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at this airport. This action also would update the geographic coordinates of this airport.

**DATES:** Comments must be received on or before May 20, 2019.

**ADDRESSES:** Send comments on this proposal to: the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2019–0206; Airspace Docket No. 19–ASO–6, at the beginning of your comments. You may also submit comments through the internet at <http://www.regulations.gov>.

FAA Order 7400.11C, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at [http://www.faa.gov/air\\_traffic/publications/](http://www.faa.gov/air_traffic/publications/). For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC, 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records

Administration (NARA). For information on the availability of FAA Order 7400.11C at NARA, call (202) 741–6030, or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

**FOR FURTHER INFORMATION CONTACT:** John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; telephone (404) 305–6364.

#### SUPPLEMENTARY INFORMATION:

##### Authority for This Rulemaking

The FAA’s authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency’s authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace at Monroe-Walton County Airport, Monroe, GA to support IFR operations in the area.

##### Comments Invited

Interested persons are invited to comment on this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (Docket No. FAA–2019–0206 and Airspace Docket No. 19–ASO–6) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at <http://www.regulations.gov>.

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following

statement is made: “Comments to FAA Docket No. FAA–2018–0206; Airspace Docket No. 19–ASO–6.” The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this document may be changed in light of the comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA’s web page at [http://www.faa.gov/air\\_traffic/publications/airspace\\_amendments/](http://www.faa.gov/air_traffic/publications/airspace_amendments/).

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

#### Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

#### The Proposal

The FAA proposes an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace extending upward from 700 feet or more above the surface at Monroe-Walton County Airport, Monroe, GA, by increasing the airport radius to 6.9 miles

(from 6.3 miles), and eliminating the southwest extension of the airport to accommodate airspace reconfiguration due to the decommissioning of the Monroe NDB and cancellation of the NDB approach. Also, the geographic coordinates of the airport would be adjusted to coincide with the FAA’s aeronautical database.

Class E airspace designations are published in Paragraph 6005, of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

#### Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, “Environmental Impacts: Policies and Procedures” prior to any FAA final regulatory action.

#### Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

#### ASO GA E5 Monroe, GA [Amended]

Monroe-Walton County Airport, GA  
(Lat. 33°46’57” N, long. 83°41’34” W)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of the Monroe-County Airport.

Issued in College Park, Georgia, on March 28, 2019.

**Ryan W. Almasy,**

*Manager Operations Support Group, Eastern Service Center, Air Traffic Organization.*

[FR Doc. 2019–06610 Filed 4–4–19; 8:45 am]

**BILLING CODE 4910–13–P**

#### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Part 17

RIN 2900–AQ46

#### Veterans Community Care Program—Organ and Bone Marrow Transplant Care

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** On February 22, 2019, the Department of Veterans Affairs (VA) published a proposed rulemaking to amend its regulations on the provision of necessary hospital care, medical services, and extended care services from non-VA entities or providers in the community. This supplemental notice of proposed rulemaking (SNPRM) provides clarification about the process to be used to make decisions regarding organ and bone marrow transplant care.

**DATES:** Comments must be received by VA on or before April 22, 2019.

**ADDRESSES:** Written comments may be submitted by through <http://www.Regulations.gov>; by mail or hand-delivery to Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW, Room 1063B, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to “RIN 2900–AQ46, Veterans Community Care Program; Supplemental notice of

proposed rulemaking". Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Joseph Duran, Office of Community Care (10D), Veterans Health Administration, Department of Veterans Affairs, Ptarmigan at Cherry Creek, Denver, CO 80209; [Joseph.Duran2@va.gov](mailto:Joseph.Duran2@va.gov), (303) 370-1637. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** On February 22, 2019, VA published a proposed rulemaking to amend its regulations on the provision of necessary hospital care, medical services, and extended care services from non-VA entities or providers in the community. **Federal Register** (84 FR 5629). That rulemaking proposed to define and implement the new Veterans Community Care Program authorized by section 1703 of title 38, United States Code (U.S.C.), as that statute will be amended by section 101 of the John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks (MISSION) Act of 2018, effective upon VA's issuance of implementing regulations. For the sake of convenience and understanding, we will refer to provisions of section 1703, as section 101 of the MISSION Act will amend it, although we recognize that section 1703 as so amended is not legally effective until VA has published a final rule implementing the Veterans Community Care Program. The Veterans Community Care Program will permit eligible veterans to elect to receive hospital care, medical services, and extended care services from eligible entities and providers. VA asked for comments on the proposed rule on or before March 25, 2019. In that proposed rule, we noted that we did not include language to address the provisions in section 1703(l) regarding organ and bone marrow transplants. We advised that we would address this through a subsequent rulemaking. This rulemaking proposes to implement section 1703(l). We propose to modify § 17.4020, as proposed in VA's earlier proposed rulemaking, by amending

paragraph (a) and adding a paragraph (d) to that section to govern decisions regarding organ and bone marrow transplant care.

#### **Background on VA Transplant Program**

To help the public better understand the effect of this supplemental notice of proposed rulemaking and this provision of law, we offer some additional background on both VA's transplant program and transplants in general. We believe this information would be helpful to the public by providing context for how transplant care is furnished by VA today and how the Organ and Procurement Transplantation Network operates. Some of the following discussion is excerpted and edited from an article by Dr. William Gunnar, "The VA Transplant Program: A Rebuttal to Criticism and a Look to the Future", published online by the American Journal of Transplantation on February 12, 2019, cited as doi: 10.1111/ajt.15295.

The VA Transplant Program (VATP) was established decades ago during initial development of solid organ transplantation in the United States. It is well resourced, provides timely and high quality solid organ transplant care and services to the nation's veterans, and supports research and education missions of VA and affiliated academic medical centers. Access and outcomes data for fiscal years (FY) 2014-2018 show that the VATP received 12,801 solid organ and bone marrow transplant referrals (10,494 solid organ and 2,307 bone marrow), added 3,972 veterans to the Organ Procurement and Transplantation Network (OPTN) waitlist, and performed 1,699 solid organ transplants (180 heart, 748 kidney, 694 liver, and 77 lung). Timeliness to transplant evaluation within 30 days from referral was over 98 percent in FY 2018. Thirty-day and one-year survival rates for veterans receiving a transplant during the 10-year period from October 1, 2008, to September 30, 2018, were 98.0 percent and 93.5 percent respectively for heart, 99.9 percent and 97.5 percent respectively for kidney; 97.7 percent and 90.5 percent respectively for liver; and 98.8 percent and 88.4 percent respectively for lung. Outcomes were on par or better than national data made publicly available by the Scientific Registry of Transplant Recipients. VATCs have leveraged VA specialty programs for veteran-prevalent diseases, such as posttraumatic stress disorder, to better ensure transplant candidacy for high-risk patients and to provide support to optimize post-transplantation outcomes.

The VATP is comprised of the following VA Transplant Centers (VATC): Five heart (Madison, Wisconsin; Nashville, Tennessee; Palo Alto, California; Richmond, Virginia; and Salt Lake City, Utah); seven kidney (Birmingham, Alabama; Bronx, New York; Houston, Texas; Iowa City, Iowa; Nashville, Tennessee; Pittsburgh, Pennsylvania; and Portland, Oregon); six liver (Houston, Texas; Madison, Wisconsin; Nashville, Tennessee; Pittsburgh, Pennsylvania; Portland, Oregon; and Richmond, Virginia); and two lung (Madison, Wisconsin; and Seattle, Washington). Three additional VATCs are planned for activation in FY 2019: One kidney transplantation program; one heart transplantation program; and one program for heart and lung transplants.

All VATCs are members of the OPTN and abide by OPTN policy. Some VATCs perform all transplantation care within VA as "in-house" programs and are independent OPTN members. Others are integrated with an academic medical center which is an OPTN member. These integrated VATCs have established infrastructure to provide pre- and post-transplant care at the VA medical facility, but transplant procedures are performed at the affiliate. Each VATC also supports veterans who transition transplantation care to VA after having received transplant procedures in the community.

VA policy establishes a standardized process for veteran referral to the VATP in order to facilitate timely and high-quality care. The referring VA medical facility submits veteran health information into a secure intranet-based application called Transplant Referral and Cost Evaluation/Reimbursement (TRACER, developed and implemented in 2013), the referring medical facility selects a VATC with patient concurrence, and TRACER then notifies the VATC. The VATC reviews the information and submits an initial review decision as to whether the clinical information supports further evaluation. Emergency referrals are decided within 48 hours and stable referrals within 5 business days. When referrals are accepted, the VATC completes an evaluation within 30 calendar days of the referral submission date for stable patients; emergency referrals may require transfer to the VATC for inpatient management and listing. Following evaluation and determination that the veteran is a transplant candidate, the VATC directs transplant-related care, orders additional testing as needed, and waitlists the veteran with OPTN when

the candidate's clinical status is deemed appropriate. Each VATC is responsible for veteran transplant care and compliance with OPTN policy including maintenance of program-specific eligibility criteria. VA program offices do not dictate VATC clinical decisions. TRACER facilitates the referral process and tracks dates for VATC initial review decision, evaluation, OPTN waitlisting, and transplantation. Referring medical facilities may request a second opinion in TRACER if the primary VATC deems the veteran not-eligible for transplantation at its program. The referring medical facility may also submit an appeal to VA in TRACER if both primary and second VATC determinations are that the patient is not-eligible for transplantation. Appeals are reviewed by a national Transplant Surgical Advisory Board, and veterans deemed not eligible through the appeal process may be resubmitted to TRACER when clinical conditions change. TRACER also supports dual-OPTN listing at two transplant centers in response to requests by patients via referring facilities or VATCs.

Each veteran and her or his caregiver, as well as a living donor and living donor caregiver, if applicable, are supported with travel and lodging to and from home and the VATC for pre-operative evaluation, pre-operative testing or in-hospital care, the transplant procedure, the immediate post-transplant recovery, and necessary post-operative care and treatment. Evaluations for candidacy, wait-list management, and post-transplantation care may be completed using telehealth, thereby keeping the veteran close to home (or providing certain care in home). In fiscal year 2018, 12.7 percent of cardiac evaluations, 22.1 percent of kidney evaluations, 25.8 percent of liver evaluations, and 78.7 percent of lung evaluations were completed through telehealth. Veteran candidates can communicate with the VATC team through video connected care and secure messaging. Additional information regarding the VATP referral process can be found on the following website: <https://www.va.gov/health/services/transplant/>.

VATCs typically require veterans to travel for transplant procedures or for care when telehealth is not appropriate or desired by the veteran. Inequalities in geographic access to solid organ transplantation exist in the United States, are not limited to veterans enrolled in VA, and require many non-veterans to travel. Transplant care is complicated, and every transplant center requires significant resources that

are simply unavailable in certain parts of the country. Four States are without an established transplant center (VA or non-VA); 14 States do not have a liver transplant center; 15 States do not have a cardiac transplant center; and 22 States do not have a lung transplant center. Prior studies suggest that distance to a transplant center may adversely impact access to transplant service, mortality on the OPTN waitlist, and transplant outcomes. Non-veteran patients living in small towns and isolated rural regions are 8–15 percent less likely to be placed on a waitlist and 10–20 percent less likely to undergo heart, kidney, and liver transplantation than patients in urban environments. For perspective, approximately 2.8 million VA enrolled veterans (approximately 31 percent) reside in a rural or highly rural location.

TRACER data identifies that referrals from VA medical facilities located less than 100 miles from the selected VATC experienced shorter average times for initial decision review, evaluation, and placement on the OPTN waitlist. A majority of these patients receive other care at the VATC and are “self-referred” by the facility through TRACER to the VATC. No statistically significant differences were identified in heart, kidney, liver, or lung referral timeliness to initial decision review, evaluation, or placement on the OPTN waitlist for distances of 100–300 miles, 301–500 miles, and greater than 500 miles. Distance between the referring VA medical facility and the VATC, including distances less than 100 miles and greater than 500 miles, was not found to impact the rate of mortality on the OPTN waitlist, time to transplantation, or post-transplant survival. While travel distance may impact veteran or caregiver satisfaction, there is no demonstrated impact on key clinical outcomes.

In addition to the clinical transplantation care provided to veterans, VATCs have significant impacts on the academic missions of VA and affiliated medical centers. Nearly all VATC physicians hold faculty appointments at affiliated academic centers; most are involved in graduate medical education; and several participate in basic science or clinical research related to transplantation. Trainees at VATCs, both students and residents, benefit from participation in transplantation care of veterans and include surgery, general medicine, medical subspecialties, behavioral health, nursing, and pharmacy. Numerous research studies and publications from VATCs have addressed transplantation-

related care, disease mechanisms, and clinical outcomes for veterans.

### **Proposed Changes to § 17.4020 for Organ and Bone Marrow Transplants**

First, we would amend § 17.4020(a), as proposed in VA's earlier proposed rulemaking. As initially proposed § 17.4020(a) would incorporate a provision from the Veterans Choice Program at § 17.1515(a) related to a covered veteran's election to receive care in the community. This provision would be carried over to the Veterans Community Care Program to confirm a veteran's ability to elect to receive community care under appropriate circumstances, consistent with section 1703(d)(3). The change proposed in this supplemental notice of proposed rulemaking (SNPRM) would amend § 17.4020(a), as it was proposed in VA's earlier proposed rulemaking, to create an exception to the ability to elect to receive non-VA care for organ and bone marrow transplants in paragraph (d), as further described below.

Proposed § 17.4020(d) would implement section 1703(l), related to organ and bone marrow transplants. Section 1703(l) states that VA must determine whether to authorize an organ or bone marrow transplant for a covered veteran at a non-VA facility in the case of a covered veteran in need of an organ or bone marrow transplant who has, in the opinion of the primary care provider of the veteran, a medically compelling reason to travel outside of the region of the Organ Procurement and Transplantation Network (OPTN) in which the veteran resides. (OPTN matches organs with transplant candidates on waiting lists in need of transplantation, but does not regulate bone marrow transplantation. Regions have been used to facilitate transplantation and communication among OPTN member organizations.) While section 1703(d)(3) generally provides that a covered veteran who is determined by VA to meet eligibility criteria in 1703(d)(1) has the ability to decide whether to receive care in the community, section 1703(l) expressly provides to the Secretary the authority to decide whether to authorize organ or bone marrow transplant care in the community for certain veterans, specifically those who require an organ or bone marrow transplant and who have, in the opinion of the primary care provider of the veteran, a medically compelling reason to travel outside of the OPTN region in which the veteran resides.

Section 1703(l) qualifies determinations under section 1703(d) and (e) for these veterans. It is a well-

accepted principle of statutory construction that a more specific provision is read to qualify a more general provision in a law. Congress often states general principles that are further qualified or revised in other provisions of law. Sections 1703(d) and 1703(l) fit this model. Section 1703(d) establishes a general rule that covered veterans who satisfy one of the conditions for eligibility are able to elect to have VA authorize their care in the community or to schedule an appointment with a VA provider. Section 1703(l) inverts this decision making and states unequivocally that the Secretary makes the determination of whether to authorize community care for covered veterans requiring an organ or bone marrow transplant and who have a medically compelling reason to travel outside of the OPTN region in which they reside to receive the transplant. For any other type of health care, section 1703(d) controls, and the covered veteran's election is binding on VA. For those veterans described in section 1703(l), however, this provision of law controls. If section 1703(d) applied to covered veterans described in section 1703(l), then section 1703(l) would have no meaning or effect. There is a strong presumption against reading a provision of law that would render other provisions of the statute superfluous or unnecessary. Reading section 1703(d) to authorize covered veterans described in section 1703(l)(2) to determine where to receive their care would render section 1703(l)(1) meaningless, and therefore such a reading should be rejected.

We wish to be clear on the effect of section 1703(l). The Secretary's discretion is limited to covered veterans who: (1) Meet one or more of the eligibility criteria under proposed § 17.4010; (2) require an organ or bone marrow transplant; and (3) have a medically compelling reason to travel outside the OPTN region in which the veteran resides to receive such a transplant. The first condition has already been described in VA's earlier proposed rule. The second condition, requiring an organ or bone marrow transplant (as required by section 1703(l)(2)(A)), would be satisfied when VA has determined that a transplant is clinically necessary and appropriate. For the third condition, we propose to regulate the factors that would be considered when a medically compelling reason to travel outside the OPTN region in which the veteran resides exists. However, before describing these factors, we wish to

provide some examples to illustrate the scope of this authority.

We note initially that this section only applies for a covered veteran (as defined in § 17.4005) who meets one or more of the eligibility criteria under § 17.4010. If, for example, a covered veteran resided near a VATC that could furnish the care within the designated access standards proposed under § 17.4040 and no other eligibility criterion applied, the veteran would not be eligible to elect to have VA authorize their care in the community. If the veteran was eligible for care in the community under one or more of the eligibility criteria, and if the veteran did not have a medically compelling reason to travel outside the OPTN region in which the veteran resided, the veteran's election would control because the Secretary would not have the discretion conferred by section 1703(l). Take, as an example, a veteran who lived more than a 60 minute average driving time from a VATC within the OPTN region in which the veteran resides. If a VATC were within the veteran's OPTN region, and assuming this was a typical case, it is very likely that the VATC could furnish the transplant care safely, timely, and effectively, with relatively little travel burden. Given these facts, there would likely be no medically compelling reason to travel outside the OPTN region for the transplant care due to the availability of the VATC. Therefore, it would be up to the veteran to decide whether to receive care from a community transplant center or through a VATC.

Proposed section 17.4020(d)(1) would state that, in the case of a covered veteran described in paragraph (d)(3), VA would determine whether to authorize an organ or bone marrow transplant for the covered veteran through an eligible entity or provider. This language is entirely consistent with section 1703(l)(1). Proposed section 17.4020(d)(3) would restate the language in 1703(l)(2) to provide that this paragraph would only apply to a covered veteran who met one or more conditions of eligibility under section 17.4010(a) and (1) required an organ or bone marrow transplant, and (2) has, in the opinion of the primary care provider of the veteran, a medically compelling reason to travel outside the region of the Organ Procurement and Transplantation Network in which the veteran resides, to receive such transplant.

VA would, in section 17.4020(d)(3)(i), clarify that VA would determine, based upon generally-accepted medical criteria, whether an organ or bone marrow transplant is likely to be indicated. These generally-accepted

medical criteria include the exercise of some clinical discretion, which we do not purport or intend to regulate, but which are generally known by recognized medical experts and accredited transplant centers. Such criteria are those commonly accepted across the country as related to general suitability and qualification for a transplant from any provider. These criteria would support decision making for comprehensive transplantation evaluation. VA understands that each OPTN member organ transplant center and each bone marrow transplant center determines transplant suitability of each patient for its program in consideration of patient and program factors. Each transplant center must define and apply its own eligibility criteria in consideration of individual patients. Current VA process supports veterans having a formal evaluation by at least two transplant centers, and published policy also defines an appeal process with review by a multidisciplinary Transplantation Surgery Advisory Board to ensure that patients receive due consideration for transplantation.

Proposed section 17.4020(d)(2) would provide a non-exhaustive list of factors for consideration in making determinations as to whether: (1) There is a medically compelling reason to travel outside the OPTN region, and (2) organ or bone marrow transplant care would be provided in the community. We emphasize that decisions should be personalized in consideration of the veteran's preference and health care needs but balanced with efforts to ensure high-quality care. There would be four factors to consider in both determinations. First, specific patient factors would be considered. We would not expressly describe specific factors in the interest of avoiding the regulation of medical practice, but we offer a few examples here for understanding and reference. For example, it may be relevant to consider the characteristics of disease processes which might warrant care in specific transplantation programs. Certain disease indications for transplant warrant referral to subspecialty centers with particular expertise for that disease process. Another factor could be patient preferences regarding waitlist time and organ availability. Characteristics of waitlists including mortality rate and time to transplant will be considered for shared decision making with veterans. Yet another factor may be access to specialty support programs for the unique needs of the individual veteran; and comprehensive care coordination. Many veterans requiring transplants

also face other health issues, including substance use disorder, posttraumatic stress disorder, and other mental health disorders. The ability to address the totality of these conditions in an integrated, supportive, and patient-centered manner is often critical for the patient's health, candidacy for transplantation, and successful post-transplantation outcomes.

Second, VA and the primary care provider would consider which facilities meet VA's standards for quality, including quality metrics and outcomes, for the required transplant. This reflects VA's responsibility to ensure veterans receive high quality care. We note that VA is required by section 1703C to establish standards for quality, and these standards and their respective quality metrics (which are consistent with industry standard metrics) would be used to help inform VA's determination. Additionally, VA would assess the effectiveness of transplantation care using publicly-reported risk-adjusted outcomes of patient and graft survival, such as Scientific Registry of Transplantation Recipients data for solid organ transplantation programs.

Third, VA and the primary care provider would consider the travel burden on covered veterans based upon their medical conditions and the geographical location of eligible transplant centers. This would allow consideration of the realities of long travel distances for veterans who have advanced disease processes, who reside in locations without any qualified transplant centers, or whose caregivers are unduly burdened by travel. As noted in the section of this SNPRM providing background information on the VATP, many Americans face considerable travel distances or driving times when seeking transplant care.

Finally, VA and the primary care provider would consider the timeliness of transplant center evaluations and management. In some transplant cases, time for evaluation and waitlisting is a critical factor affecting patient outcomes and health and well-being.

Cumulatively, these factors would allow VA to make determinations on whether to provide transplantation care in the community and primary care providers to determine whether there is a medically compelling reason to travel outside the OPTN region of the veteran's residence. This list of factors is not intended to be exhaustive, as each transplant case is unique and VA needs to maintain flexibility to ensure that covered veterans receive the best and most appropriate care. We note that any covered veteran who disagreed with

VA's determination could appeal this determination through VA's clinical appeals process.

As a general matter, a veteran's primary care provider may not, and often will not, be the health care provider who is actively managing the patient's transplant care needs, nor will the primary care provider necessarily have an understanding of the unique needs faced by veterans requiring a transplant. While section 1703(l) establishes that the determination of a medically compelling reason to travel outside the OPTN region in which the veteran resides is made by the primary care provider, we believe in practice, this will be made in consultation with the appropriate specialists that are evaluating the covered veteran and managing the patient's transplant needs.

We note that section 153 of the MISSION Act added a new section 1788 to title 38, United States Code, specifically authorizing VA to provide for an operation on a live donor to carry out a transplant procedure for an eligible veteran, notwithstanding that the live donor may not be eligible for VA health care. VA will issue separate regulations concerning this new authority, and the preceding discussion is not dependent upon the promulgation of such regulations. Any comments on care for living donors will be considered outside the scope of this rulemaking.

#### **Effect of Rulemaking**

The Code of Federal Regulations, as proposed to be revised by the proposed rulemaking at 84 FR 5629 and this SNPRM, would represent the exclusive legal authority on this subject. No contrary guidance or procedures would be authorized. All VA guidance would be read to conform with the proposed rulemaking at 84 FR 5629 and this SNPRM if possible or, if not possible, such guidance would be superseded by this SNPRM and the proposed rulemaking at 84 FR 5629.

#### **Paperwork Reduction Act**

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

#### **Regulatory Flexibility Act**

The Secretary hereby certifies that this SNPRM would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Although some eligible entities or providers that would furnish care and services to veterans under this rule might be considered small entities, there

would be no significant adverse economic impact. To the extent there is any impact on small entities, it would be a potential increase in business due to proposed expanded eligibility for non-VA care. Therefore, pursuant to 5 U.S.C. 605(b), these amendments would be exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

#### **Executive Orders 12866, 13563, and 13771**

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

VA has examined the economic, interagency, budgetary, legal, and policy implications of this regulatory action and determined that the action would be an economically significant regulatory action under Executive Order 12866, because it will have an annual effect on the economy of \$100 million or more. VA's impact analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its regulatory impact analysis are available on VA's website at <http://www.va.gov/>

*orpm/*, by following the link for “VA Regulations Published.” This SNPRM is expected to be an E.O. 13771 regulatory action. Details on the estimated costs of this rule can be found in the rule’s regulatory impact analysis.

Executive Order 12866 also directs agencies to “in most cases . . . include a comment period of not less than 60 days.” This SNPRM would address one provision for the new Veterans Community Care Program. Providing a comment period of 15 days would allow the Secretary to ensure the provisions of this SNPRM can be finalized with the regulations for the rest of the new Veterans Community Care Program at the same time. This would ensure a smooth transition from the current Veterans Choice Program that will expire on June 6, 2019, and prevent lapses in regulatory authority for VA’s national community care program. Delays in implementation of the Veterans Community Care Program and provisions related to organ and bone marrow transplants arising because the regulatory standards and guidelines were not in place by June 6, 2019, would result in inconsistent decision making that could harm veterans’ health outcomes. Having clear, consistent criteria is essential to ensuring that veterans receive the right care in the right place at the right time. Moreover, we believe that VA community care is now a familiar benefit to the public and that providing 15 days would still be a sufficient period of time for the public to comment on this single aspect of the new Veterans Community Care Program. In sum, providing a 60-day public comment period would be against public interest and contrary to the health and safety of eligible veterans. For the above reasons, the Secretary issues this rule with a public comment period of 15 days.

#### Unfunded Mandates

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

#### Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are as follows: 64.009, Veterans Medical

Care Benefits; and 64.018, Sharing Specialized Medical Resources.

#### List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Government contracts, Health care, Health facilities, Health professions, Health records, Reporting and recordkeeping requirements, Veterans.

#### Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on February 28, 2019, for publication.

Dated: April 2, 2019.

#### Consuela Benjamin,

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

For the reasons set forth in the preamble, we propose to amend 38 CFR part 17 as follows:

#### PART 17—MEDICAL

- 1. The general authority citation for part 17 continues to read as follows:

**Authority:** 38 U.S.C. 501, and as noted in specific sections.

- 2. Add § 17.4020 to read as follows:

##### § 17.4020 Authorized non-VA care.

(a) *Electing non-VA care.* Except as provided for in paragraph (d) of this section, a covered veteran eligible for the Veterans Community Care Program under § 17.4010 may choose to schedule an appointment with a VA health care provider, or have VA authorize the veteran to receive an episode of care for hospital care, medical services, or extended care services from an eligible entity or provider when VA determines such care or services are clinically necessary.

(b) *Selecting an eligible entity or provider.* A covered veteran may specify a particular eligible entity or provider. If a covered veteran does not specify a particular eligible entity or provider, VA will refer the veteran to a specific eligible entity or provider.

(c) *Authorizing emergency treatment.* This paragraph (c) applies only to emergency treatment furnished to a covered veteran by an eligible entity or provider when such treatment was not the subject of an election by a veteran

under paragraph (a) of this section. This paragraph (c) does not affect eligibility for, or create any new rules or conditions affecting, reimbursement for emergency treatment under section 1725 or 1728 of title 38, United States Code.

(1) Under the conditions set forth in this paragraph (c), VA may authorize emergency treatment after it has been furnished to a covered veteran. For purposes of this paragraph (c), “emergency treatment” has the meaning defined in section 1725(f)(1) of title 38, United States Code.

(2) VA may only authorize emergency treatment under this paragraph (c) if the covered veteran, someone acting on the covered veteran’s behalf, or the eligible entity or provider notifies VA within 72 hours of such care or services being furnished and VA approves the furnishing of such care or services under paragraph (c)(3) of this section.

(3) VA may approve emergency treatment of a covered veteran under this paragraph (c) only if:

(i) The veteran is receiving emergency treatment from an eligible entity or provider.

(ii) The notice to VA complies with the provisions of paragraph (c)(4) of this section and is submitted within 72 hours of the beginning of such treatment.

(iii) The emergency treatment only includes services covered by VA’s medical benefits package in § 17.38 of this part.

(4) Notice to VA must:

(i) Be made to the appropriate VA official at the nearest VA facility;

(ii) Identify the covered veteran; and

(iii) Identify the eligible entity or provider.

(d) *Organ and bone marrow transplant care.* (1) In the case of a covered veteran described in paragraph (d)(3) of this section, the Secretary will determine whether to authorize an organ or bone marrow transplant for the covered veteran through an eligible entity or provider.

(2) The Secretary will make determinations under paragraph (d)(1) of this section, and the primary care provider of the veteran will make determinations concerning whether there is a medically compelling reason to travel outside the region of the Organ Procurement and Transplantation Network in which the veteran resides to receive a transplant, in consideration of, but not limited to, the following factors:

(i) Specific patient factors.

(ii) Which facilities meet VA’s standards for quality, including quality metrics and outcomes, for the required transplant.

(iii) The travel burden on covered veterans based upon their medical conditions and the geographic location of eligible transplant centers.

(iv) The timeliness of transplant center evaluations and management.

(3) This paragraph (d) applies to covered veterans who meet one or more conditions of eligibility under § 17.4010(a) and:

(i) Require an organ or bone marrow transplant as determined by VA based upon generally-accepted medical criteria; and

(ii) Have, in the opinion of the primary care provider of the veteran, a medically compelling reason, as determined in consideration of the factors described in paragraph (d)(2) of this section, to travel outside the region of the Organ Procurement and Transplantation Network in which the veteran resides, to receive such transplant.

[FR Doc. 2019-06730 Filed 4-4-19; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2017-0571; FRL-9991-69-Region 10]

### Approval and Promulgation of State Implementation Plans; Idaho; Regional Haze Progress Report

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve Idaho's Regional Haze Progress Report ("progress report" or "report"), submitted by the State of Idaho on June 28, 2016, as a revision to the Idaho Regional Haze State Implementation Plan (SIP). Idaho submitted its progress report and a negative declaration stating that further revision of the existing Regional Haze SIP is not needed at this time. The progress report addresses requirements of the Clean Air Act (CAA) and the federal Regional Haze Rule that require states to submit periodic reports describing progress made toward achieving reasonable progress goals (RPGs) established for regional haze and a determination of the adequacy of the state's existing plan addressing regional haze.

**DATES:** Comments are due no later than May 6, 2019.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-

OAR-2017-0571 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [regulations.gov](http://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** John Chi, Air Planning Unit, Office of Air and Waste (OAW-150), EPA, Region 10, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101; (206) 553-1185; [chi.john@epa.gov](mailto:chi.john@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, it is intended to refer to the EPA.

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### I. Background

Idaho submitted its initial Regional Haze SIP to the EPA on October 25, 2010, for the first regional haze planning period ending in 2018, which the EPA approved on June 22, 2011, and

November 8, 2012.<sup>1</sup> Five years after submittal of the initial regional haze plan, states were required to submit progress reports that evaluate progress towards the RPGs for each mandatory Class I Federal area<sup>2</sup> (Class I area) within the state and in each Class I area outside the state which may be affected by emissions from within the state. 40 CFR 51.308(g). States were also required to submit, at the same time as the progress report, a determination of the adequacy of the state's existing regional haze plan. 40 CFR 51.308(h). On June 28, 2016, the Idaho Department of Environmental Quality (IDEQ) submitted, as a SIP revision, a report on the progress made in the first implementation period towards the RPGs for Class I areas. EPA is proposing to approve Idaho's progress report on the basis that it satisfies the requirements of 40 CFR 51.308. We also propose to find that Idaho's progress report demonstrates that the state's long-term strategy and emission control measures in the existing Regional Haze SIP are sufficient to enable Idaho to meet all established RPGs for 2018.

### II. Context for Understanding Idaho's Progress Report

To facilitate a better understanding of Idaho's progress report as well as the EPA's evaluation of it, this section provides background on the regional haze program in Idaho.

#### A. Framework for Measuring Progress

The EPA has established a metric for determining visibility conditions at Class I areas referred to as the "deciview index," which is measured in deciviews, as defined in 40 CFR 51.301. The deciview index is calculated using monitoring data collected from the Interagency Monitoring of Protected Visual Environments ("IMPROVE") network monitors. Idaho has five Class I areas: Hells Canyon Wilderness, Sawtooth Wilderness, Craters of the Moon National Monument, Yellowstone National Park, and Selway-Bitterroot Wilderness. Both Hells Canyon Wilderness and Yellowstone National Park have portions within Idaho, but the majority of the land masses for both of these Class I areas are in other states. For this reason, Idaho set the RPGs for Hells Canyon Wilderness, Sawtooth

<sup>1</sup> See 76 FR 36329 (Jun. 22, 2011) and 77 FR 66929 (Nov. 8, 2012).

<sup>2</sup> Areas designated as 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 (42 U.S.C. 7472(a)). See 40 CFR part 81, subpart D for a list of Class I areas.

Wilderness, and Craters of the Moon National Monument and the 5-year Progress Report analyzes progress towards the RPGs at these three Class I areas.

In developing its initial Regional Haze SIP as part of the Western Regional Air Partnership (“WRAP”), Idaho determined, and the EPA in its approval agreed, that implementation of best available retrofit technology (“BART”) and other existing measures in the State’s regional haze plan was sufficient to address the visibility impact of sources in Idaho on Class I areas in other states. See 77 FR 66929, 66933. Therefore, Idaho’s progress report does not address the visibility impact of Idaho sources on Class I areas in other states.

Under the Regional Haze Rule, a state’s initial Regional Haze SIP must establish two RPGs for each of its Class I areas: One for the 20-percent least impaired days and one for the 20-percent most impaired days. The RPGs must provide for an improvement in visibility on the 20-percent most impaired days and ensure no degradation in visibility on the 20-percent least impaired days, as compared to visibility conditions during the baseline period. In establishing the RPGs, a state must consider the uniform rate of visibility improvement from the baseline to natural conditions in 2064 and the emission reductions measures needed to achieve it. Idaho set the RPGs for the Hells Canyon Wilderness, Sawtooth Wilderness, and the Craters of the Moon National Monument Class I areas. In setting the RPGs for these three Class I areas, Idaho used atmospheric air quality modeling based on projected emission reductions from control strategies in Idaho’s Regional Haze SIP, as well as emission reductions expected to result from other federal, state, and local air quality programs.

#### *B. Data Sources for Idaho’s Progress Report*

Idaho relied on the WRAP technical data and analyses in a report titled “Western Regional Air Partnership Regional Haze Rule Reasonable Progress Summary Report” (“WRAP Report”), dated June 28, 2013, included as an appendix to the progress report. The WRAP Report analyzes monitoring data collected in Idaho during the 2005–2009 period, and it relies on emission data reported to the EPA’s National Emissions Inventory (NEI) up until 2011. Idaho then supplemented the information in the WRAP report with more current 2007–2011 visibility data for its Class I areas as part of the

progress report adopted by the state in 2015.

### **III. The EPA’s Evaluation of Idaho’s Progress Report**

This section describes the contents of Idaho’s progress report and the EPA’s evaluation of the report, as well as the EPA’s evaluation of the determination of adequacy required by 40 CFR 51.308(h) and the requirement for state and Federal Land Manager (FLM) coordination in 40 CFR 51.308(i).

#### *A. Status of Implementation of All Measures Included in the Regional Haze SIP*

In its progress report, Idaho provided a description of the control measures in the state’s Regional Haze SIP that the state relied on to implement the regional haze program. Idaho relied in its Regional Haze SIP upon, among other things, BART controls, its Prevention of Significant Deterioration/New Source Review permitting program, and its smoke management programs for agricultural and forestry burning to achieve the RPGs it established for its Class I areas. Idaho included a description of these programs in the progress report, which is summarized below.

##### 1. BART-Level Controls

Idaho’s original Regional Haze SIP imposed BART-level controls on two sources, the #5 Rotary Kiln at the P4 Production (formerly Monsanto) Soda Springs facility and the Riley Boiler at The Amalgamated Sugar Company (TASCO), Nampa facility. In 2005, P4 Production underwent a Best Available Control Technology (BACT) review and installed a lime-concentrated dual-alkali (LCDA) scrubber on the #5 Rotary Kiln to control sulfur dioxide (SO<sub>2</sub>) emissions. Idaho determined, and EPA in its approval agreed, that BART for the #5 Rotary Kiln was an emission limit of 143 pounds per hour of SO<sub>2</sub> achieved through application of the LCDA scrubber. See 76 FR 36329, 36339 (Jun. 22, 2011).<sup>3</sup> Idaho also concluded that existing controls were BART for the nitrogen oxide (NO<sub>x</sub>) and particulate matter (PM) emissions from the #5 Rotary Kiln. EPA also approved this determination. See 76 FR 36329, 36339 (Jun. 22, 2011). The emission limits are embodied in federally enforceable permits that Idaho continues to administer.

For TASCO, Idaho determined that flue gas desulfurization and low NO<sub>x</sub>

<sup>3</sup> The SO<sub>2</sub> emissions limit is embodied in Idaho Permit T2–2009.0109, which is included in the Docket for this action.

burners with over-fire air were the appropriate control technologies for the BART-eligible Riley Boiler. EPA approved BART for the Riley Boiler on May 22, 2012 (77 FR 66929). Subsequently, Idaho submitted revisions to its Regional Haze SIP that included a revised BART determination for the TASCO Nampa facility. Specifically, Idaho’s revised BART determination included a more stringent NO<sub>x</sub> emission limit, a more stringent PM emission limit, and a BART alternative to replace the SO<sub>2</sub> BART determination. In addition to the more stringent NO<sub>x</sub> and PM emission limits for the Riley Boiler, the BART alternative relied on control of NO<sub>x</sub> emissions from two non-BART eligible boilers at the TASCO Nampa facility, as well as taking into account the emission reductions resulting from the permanent shutdown of three coal-fired pulp dryers. EPA approved Idaho’s revised BART determination for the TASCO Nampa facility on April 28, 2014. See 79 FR 23273, 23277. The BART emissions limits are embodied in a federally enforceable permit that went into effect on December 23, 2011. Idaho continues to administer this permit.

##### 2. Prevention of Significant Deterioration (PSD)/Major New Source Review (NSR)

Idaho’s progress report states that a key regulatory program for addressing visibility impairment from new or modified industrial stationary sources is the state’s PSD/NSR program. This program protects visibility in Class I areas from impacts from new major or modified major stationary sources. According to the progress report, Idaho’s PSD program requires new or major modifications to model the emissions impacts on Class I areas within 300 kilometers to determine if the change in visibility above natural levels is significant. According to the progress report, Idaho continues to implement the PSD/NSR program.

##### 3. Smoke Management

In addition, Idaho continues to implement its crop residue and burning program. EPA published its approval of Idaho’s SIP revisions relating to open burning and crop residue disposal requirements on August 1, 2008 (73 FR 44915, 44919), March 19, 2013 (78 FR 16760, 16791), and most recently on June 19, 2018 (83 FR 28382, 28385). The compliance rate has improved through education and outreach, and Idaho DEQ has hired a meteorologist to guide burn decisions. There have also been improvements in the prescribed burning (forestry) program. Specifically, Idaho

DEQ is working closely with the Idaho and Montana Airshed group, and Idaho DEQ's smoke manager and meteorologist are involved in the day to day burn decisions. Both the crop residue and burning and the prescribed burning programs have improved through cooperative agreements with the Idaho Department of Lands and the

burn permits now have specific language requiring burners to comply with Idaho open burning rules.

*B. Summary of Visibility Conditions*

In addition to the evaluation of control measures, Idaho documented the differences between the visibility conditions during the baseline period

(2000–2004), the first progress period (2005–2009), and the most current five-year averaging period (2010–2014). Idaho used data available at the time Idaho developed the progress report in 2015. As part of our review, the EPA supplemented this information with current 2012–2016 data, as shown in Table 1.<sup>4</sup>

TABLE 1—IDAHO CLASS I AREA VISIBILITY CONDITIONS ON THE 20-PERCENT MOST AND LEAST IMPAIRED DAY

IMPROVE monitor	Class I area	Baseline (2001–2004) (dv) <sup>5</sup>	First progress period (2005–2009) (dv)	Progress report update (2010–2014) (dv)	Most recent data (2012–2016) (dv)	2018 reasonable progress goal (dv)
<b>20-percent Most Impaired Days</b>						
CRMO1 .....	Craters of the Moon NM .....	14.0	13.6	14.1	14.1	13.06
SWAT1 .....	Sawtooth Wilderness .....	13.8	14.8	15.7	15.2	13.22
SULA1 .....	Selway-Bitterroot Wilderness .....	13.4	17.0	15.0	11.3	12.94
<b>20-percent Least Impaired Days</b>						
CRMO1 .....	Craters of the Moon NM .....	4.3	3.4	3.0	2.8	3.9
SWAT1 .....	Sawtooth Wilderness .....	4	3.8	3.0	2.5	3.8
SULA1 .....	Selway-Bitterroot Wilderness .....	2.6	2.5	1.7	1.5	2.5

As shown in Table 1, all Class I areas experienced improvements in visibility for the 20-percent least impaired days between the baseline (2000–2004) and the most recent (2012–2016) visibility periods. According to Idaho's progress report, all Class I areas are meeting the RPGs for the 20-percent least impaired days. Idaho's progress report included an analysis of progress and impediments to progress. Regarding the 20-percent most impaired days, according to the most recent monitoring data (2012–2016), the Selway-Bitterroot Wilderness (SULA1 monitor) is meeting the RPG for the 20-percent most impaired days. However, according to the 2012–2016 data, visibility in the Sawtooth Wilderness (SWAT1 monitor) and the Craters of the Moon NM (CRMO1 monitor) is not meeting the 2018 RPGs for the 20-percent most impaired days.

According to the progress report, visibility has not improved in the Sawtooth Wilderness and Craters of the Moon NM due to smoke from episodic wildfires in the area. Figures 6, 7, and 8 in the progress report show that SO<sub>2</sub> and NO<sub>x</sub> emissions have decreased since 2000. In contrast, coarse PM emissions have increased during the same period. Figure 14, Figure 15, and Appendix D of the progress report show that, even though there has been a steady reduction in ammonium sulfate

formation since 2000, indicative of a reduction in anthropogenic contributions to visibility impairment, particulate organic mass has consistently remained the dominant contributor to light extinction. The Sawtooth Wilderness and Craters of the Moon NM experienced a notable spike in light extinction caused by particulate organic mass emissions in 2012, which likely contributed to the areas not meeting their RPGs. The 2012 fires potentially impacting the Sawtooth Wilderness and Craters of the Moon NM include the Halstead Fire (181,000 acres), Mustang Complex (340,600 acres), and the Trinity Ridge Fire (146,800 acres).<sup>6</sup>

*C. Visibility Monitoring Strategy*

The progress report also contained a review of Idaho's visibility monitoring strategy. Idaho concluded that the IMPROVE network continues to comply with the monitoring requirements in the Regional Haze Rule and that no modifications to Idaho's visibility monitoring strategy are necessary at this time.

*D. Summary of Emissions Reductions*

The Idaho progress report also included a summary of the emissions reductions achieved throughout the state from the control measures discussed above. Specifically, Idaho

identified emissions reductions achieved through emissions controls on Idaho BART-eligible sources, including the P4 Production and the TASC0 Nampa facilities. According to Idaho, implementation of BART caused significant reductions in emissions at both facilities. Installation of the LCDA scrubber on the P4 Production facility reduced SO<sub>x</sub> emissions by 11,000 tons per year. NO<sub>x</sub> emissions at the TASC0 Nampa facility have also declined due to compliance with the BART requirements, namely implementation of low NO<sub>x</sub> burners, switching to natural gas, and the permanent shutdown of pulp dryers. Specifically, the BART alternative for the TASC0 Nampa Facility achieved NO<sub>x</sub> emissions reductions of 221 tons per year, SO<sub>2</sub> emissions reductions of 20.6 tons per year, and PM emissions reductions of 113 tons per year (78 FR 38872).

The progress report also discussed improvements in Idaho's smoke management programs made during the first planning period, as noted above. The progress report summarized changes in emission inventories for all major visibility impairing pollutants from point, area, on-road mobile, off-road mobile, oil and gas, fugitive and road dust, and anthropogenic fire source categories in the state. For these summaries, emissions during the baseline years are represented using a

<sup>4</sup> See document entitled "visibility data trends" included in the Docket for this action.

<sup>5</sup> For all Idaho Class I monitoring sites, monitoring began in late 2000; therefore, only three

complete years of monitoring data, 2002–2004, define their baselines.

<sup>6</sup> <https://www.ncdc.noaa.gov/sotc/fire/201213>.

2002 inventory, which was developed with support from the WRAP for use in the original Regional Haze SIP development. Differences between inventories are represented as the differences between the 2002 inventory, the 2008 inventory, and the 2011 inventory which leverages recent inventory development work performed by the WRAP for the West-wide Jump Start Air Quality Modeling Study (WestJumpAQMS) and Deterministic & Empirical Assessment of Smoke's

Contribution to Ozone Project (DEASCO<sub>3</sub>) modeling projects. The progress report also included an analysis tracking the change in emissions since the first progress period and the most recent progress period. Specifically, Idaho states that there has been a substantial reduction in anthropogenic sources of both SO<sub>2</sub> and NO<sub>x</sub>. Estimated emissions reductions for SO<sub>2</sub> and NO<sub>x</sub> are summarized in Table 2 and Table 3, below. These reductions are primarily attributed to

the BART controls and the Tier II reductions in sulfur content of fuels and NO<sub>x</sub> vehicle emission standards. We note that the other visibility impairing pollutants (primary organic aerosols, elemental carbon) also generally declined as detailed in Chapter 2.3 of the progress report. As shown in Table 4 below, emissions increased for fine and coarse particulate matter because of a major change to the fugitive road dust calculations between 2008 and 2011.<sup>7</sup>

TABLE 2—SULFUR DIOXIDE EMISSIONS BY CATEGORY

	Sulfur dioxide emissions (tons/year)		
	2002	2008	2011
<b>Anthropogenic Sources</b>			
Point .....	17,613	7,490	6,954
Area .....	3,280	9,068	2,070
On-Road Mobile .....	1,662	339	198
Off-Road Mobile .....	3,702	281	122
Fugitive and Road Dust .....	4	25	95
Anthropogenic Fire .....	895	2,499	2,460
Total Anthropogenic .....	27,156	19,702	11,899
<b>Natural Sources</b>			
Natural Fire .....	12,008	852	3,005
Biogenic .....	0	0	0
Wind Blown Dust .....	0	0	0
Total Natural .....	12,008	852	3,005
<b>All Sources</b>			
Total Emissions .....	39,164	20,554	14,904

TABLE 3—NITROGEN OXIDES EMISSIONS BY CATEGORY

	Nitrogen oxides emissions (tons/year)		
	2002	2008	2011
<b>Anthropogenic Sources</b>			
Point .....	11,487	12,671	11,591
Area .....	30,318	19,892	6,205
On-Road Mobile .....	44,611	44,556	45,575
Off-Road Mobile .....	27,922	14,132	20,900
Fugitive and Road Dust .....	5	13	50
Anthropogenic Fire .....	3,461	11,368	6,122
Total Anthropogenic .....	117,804	102,632	90,443
<b>Natural Sources</b>			
Natural Fire .....	39,401	3,815	7,878
Biogenic .....	16,982	4,806	4,459
Wind Blown Dust .....	0	0	0
Total Natural .....	56,383	8,621	12,337

<sup>7</sup> Fine soil and coarse mass decreased for the windblown dust inventory comparisons and increased for the combined fugitive/road dust inventories. Idaho noted that large variability in changes in windblown dust was observed for the

contiguous WRAP states, which was likely due in large part to enhancements in dust inventory methodology, rather than changes in actual emissions. For most parameters, especially primary organic aerosols, volatile organic compounds, and

elemental carbon, natural fire emission inventory estimates decreased, and anthropogenic fire estimates increased.

TABLE 3—NITROGEN OXIDES EMISSIONS BY CATEGORY—Continued

	Nitrogen oxides emissions (tons/year)		
	2002	2008	2011
<b>All Sources</b>			
Total Emissions .....	174,187	111,253	102,780

TABLE 4—FINE PARTICULATE EMISSIONS BY CATEGORY

	Fine particulate emissions (tons/year)		
	2002	2008	2011
<b>Anthropogenic Sources</b>			
Point .....	305	0	246
Area .....	4,749	2,364	408
On-Road Mobile .....	0	175	185
Off-Road Mobile .....	0	46	0
Fugitive and Road Dust .....	4,839	12,564	44,037
Anthropogenic Fire .....	1,536	8,358	18
Total Anthropogenic .....	11,429	23,507	44,894
<b>Natural Sources</b>			
Natural Fire .....	3,013	2,780	18
Biogenic .....	0	0	0
Wind Blown Dust .....	5,050	5,286	11,068
Total Natural .....	8,063	8,066	11,086
<b>All Sources</b>			
Total Emissions .....	19,492	31,573	55,980

In its progress report, Idaho concluded that the state is making adequate progress in improving visibility as a result of actions identified in the Regional Haze SIP, as well as actions taken by adjoining states, the federal government, the WRAP, and the Western States Air Resources Council.

*E. Determination of Adequacy (40 CFR 51.308(h))*

In accordance with 40 CFR 51.308(h)(1), if the state determines that the existing implementation plan requires no further substantive revision in order to achieve established goals for visibility improvement and emissions reductions, the state must provide to the Administrator a negative declaration that further revision of the existing implementation plan is not needed at this time. Within the progress report, Idaho provided a negative declaration stating that further revision of the existing implementation plan is not needed. The basis for the state's negative declaration is the finding that visibility on the 20-percent least impaired days has improved from the baseline period, and the Selway-Bitterroot Wilderness Class I area

attained its 2018 RPGs at the IMPROVE monitor. The Sawtooth Wilderness and the Craters of the Moon NM did not meet the 2018 RPGs for the 20-percent most impaired days at their respective monitors, which Idaho demonstrated was due to smoke from wildfires in 2012.<sup>8</sup>

Accordingly, the EPA proposes to find that Idaho adequately addressed the requirements in 40 CFR 51.308(h) in its determination that the existing Idaho Regional Haze SIP requires no substantive revisions at this time.

*F. Consultation With Federal Land Managers (40 CFR 51.308(i))*

In accordance with 40 CFR 51.308(i), the state must provide the FLMs with an opportunity for consultation, in person

<sup>8</sup>EPA acknowledged in its approval of Idaho's Regional Haze SIP that the overwhelming amount of visibility impairment due to fire on the 20-percent most impaired days at Idaho's Class I areas is due to natural fire. See 77 FR 66929, 66933. In our approval of Idaho's Regional Haze SIP, we agreed with Idaho's conclusion that no additional controls on non-BART stationary sources in Idaho were reasonable for the first planning period because any visibility improvement expected from additional controls would likely be minimal due to the outsized influence of wildfires on visibility impairment. *Id.* at 66931.

and 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. The State of Idaho invited the FLMs to comment on its draft progress report on January 28, 2016, for a 60-day comment period ending March 28, 2016, prior to releasing the report for public comment. Idaho included the FLM comment and a description of how it addressed the comment in Appendix E of the progress report.

The EPA proposes to find that Idaho has addressed the requirements in 40 CFR 51.308(i). Idaho 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 provided a summary of these comments and responses to these comments in the progress report.

**IV. The EPA's Proposed Action**

The EPA is proposing to approve the Idaho Regional Haze Progress Report submitted to the EPA on June 28, 2016, as meeting the applicable requirements of the CAA and Regional Haze Rule, as set forth in 40 CFR 51.308(g). The EPA proposes to find that the existing

Regional Haze SIP is adequate to meet the state's visibility goals and requires no substantive revision at this time, as set forth in 40 CFR 51.308(h). We propose to find that Idaho fulfilled the requirements in 40 CFR 51.308(i) regarding state coordination with FLMs.

## V. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because it does not involve technical standards; 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).

The proposed SIP would not be approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Therefore, Executive Order 13175 does not apply to this action.

### List of Subjects in 40 CFR Part 52

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

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

Dated: March 27, 2019.

**Chris Hladick,**

*Regional Administrator, Region 10.*

[FR Doc. 2019-06739 Filed 4-4-19; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

**[Docket No. FWS-R1-ES-2018-0033; FXES11130000900000 178 FF09E42000]**

**RIN 1018-BC65**

#### **Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of the California Condor in the Pacific Northwest**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; availability of supplemental information.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service or USFWS), propose to establish a nonessential experimental population (NEP) of the California condor (*Gymnogyps californianus*) in the Pacific Northwest, under section 10(j) of the Endangered Species Act of 1973, as amended (Act). Establishment of this NEP will facilitate reintroduction of California condors to the region and provide for allowable legal incidental taking of the California

condor within a defined NEP area. The geographic boundaries of the NEP would include northern California, northwest Nevada, and Oregon. The best available data indicate that reintroduction of the California condor into the Pacific Northwest is biologically feasible and will promote the conservation of the species. We are seeking comments on this proposal and on our joint FWS-National Park Service environmental assessment (EA), prepared pursuant to the National Environmental Policy Act of 1969, as amended, which analyzes the potential environmental impacts associated with the proposed reintroduction and designation of a nonessential experimental population.

**DATES:** We will accept comments received or postmarked on or before June 4, 2019. Please note that if you are using the Federal eRulemaking Portal (see **ADDRESSES**), the deadline for submitting an electronic comment is 11:59 p.m. Eastern Time on this date.

#### **ADDRESSES:**

**Written comments:** You may submit comments by one of the following methods:

- **Electronically:** Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter Docket No. FWS-R1-ES-2018-0033, which is the docket number for this rulemaking. Then, click the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, click on the box next to Proposed Rules to locate this document. You may submit a comment by clicking on "Comment Now!"

- **By hard copy:** Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS-R1-ES-2018-0033, Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service, MS; BPHC; 5275 Leesburg Pike; Falls Church, VA 22041-3803.

We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Public Comments, below, for more information).

**Copies of documents:** This proposed rule is available on <http://www.regulations.gov> under Docket No. FWS-R1-ES-2018-0033. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1-800-877-8339.

You may obtain copies of the EA and submit comments on that document at: <http://parkplanning.nps.gov/redwood>. Information regarding public meetings

will be posted here as well. The EA is also available for public inspection at: Redwood National and State Parks, Newton B. Drury Center, 1111 2nd Street, Crescent City, CA 95531.

**FOR FURTHER INFORMATION CONTACT:**

Jesse D'Elia, Pacific Regional Office, U.S. Fish and Wildlife Service, Ecological Services, 911 NE 11th Ave, Portland, OR 97232 (telephone 503-231-6131, facsimile 503-231-6243). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:**

**Public Comments**

We want any final rule resulting from this proposal to be as effective as possible. Therefore, we invite Tribal and governmental agencies, the scientific community, industry, and other interested parties to submit comments or recommendations concerning any aspect of this proposed rule. Comments should be as specific as possible.

To issue a final rule to implement this proposed action, we will take into consideration all comments and any additional information we receive. Such information may lead to a final rule that differs from this proposal. All comments, including commenters' names and addresses, if provided to us, will become part of the supporting record.

You may submit your comments and materials concerning the proposed rule by one of the methods listed in **ADDRESSES**. Comments must be submitted to <http://www.regulations.gov> before 11:59 p.m. (Eastern Time) on the date specified in **DATES**. We will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in **DATES**.

We will post your entire comment—including your personal identifying information—on <http://www.regulations.gov>. If you provide personal identifying information in your comment, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <http://www.regulations.gov>. All comments and materials we receive, as well as all supporting documentation, will be available by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Pacific

**Regional Office (see FOR FURTHER INFORMATION CONTACT).**

We particularly seek comments regarding:

- The proposed geographic boundary of the NEP;
- Information pertaining to the California condor as it relates to the proposed reintroduction effort;
- Effects of the proposed reintroduction on other native species and the ecosystem; and
- The adequacy of the proposed regulations for the NEP.

**Peer Review**

In accordance with our Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities, which was published on July 1, 1994 (59 FR 34270), and the internal memorandum clarifying the Service's interpretation and implementation of that policy (USFWS *in litt.* 2016), we will seek the expert opinion of at least three appropriate independent specialists regarding scientific data and interpretations contained in this proposed rule. We will send copies of this proposed rule to the peer reviewers immediately following publication in the **Federal Register**. The purpose of such review is to ensure that our decisions are based on scientifically sound data, assumptions, and analysis. Accordingly, the final decision may differ from this proposal.

**Background**

*Statutory and Regulatory Framework*

The 1982 amendments to the Act (16 U.S.C. 1531 *et seq.*) included the addition of section 10(j), which allows for the designation of reintroduced populations of listed species as "experimental populations." Under section 10(j) of the Act and our regulations in title 50 of the Code of Federal Regulations (at 50 CFR 17.81), the Service may designate as an experimental population a population of endangered or threatened species that has been or will be released into suitable natural habitat outside the species' current natural range (but within its probable historic range, absent a finding by the Director of the Service in the extreme case that the primary habitat of the species has been unsuitably and irreversibly altered or destroyed).

Before authorizing the release as an experimental population of any population (including eggs, propagules, or individuals) of an endangered or threatened species, and before authorizing any necessary transportation to conduct the release,

the Service must find by regulation that such release will further the conservation of the species. In making such a finding the Service uses the best scientific and commercial data available to consider:

(1) Any possible adverse effects on extant populations of a species as a result of removal of individuals, eggs, or propagules for introduction elsewhere (see Donor Stock Assessment and Effects on Donor Population, below);

(2) the likelihood that any such experimental population will become established and survive in the foreseeable future (see Likelihood of Population Establishment and Survival and Addressing Causes of Extirpation, below);

(3) the relative effects that establishment of an experimental population will have on the recovery of the species (see Relationship of NEP to Recovery Efforts, below); and

(4) the extent to which the introduced population may be affected by existing or anticipated Federal or State actions or private activities within or adjacent to the experimental population area (see Likelihood of Population Establishment and Survival, below; National Park Service (NPS) 2018, entire).

Furthermore, as set forth in 50 CFR 17.81(c), all regulations designating experimental populations under section 10(j) must provide:

(1) Appropriate means to identify the experimental population, including, but not limited to, its actual or proposed location, actual or anticipated migration, number of specimens released or to be released, and other criteria appropriate to identify the experimental population(s) (see Location and Boundaries of the NEP, below);

(2) a finding, based solely on the best scientific and commercial data available, and the supporting factual basis, on whether the experimental population is, or is not, essential to the continued existence of the species in the wild (see Is the Proposed Experimental Population Essential or Nonessential?, below);

(3) management restrictions, protective measures, or other special management concerns of that population, which may include but are not limited to, measures to isolate and/or contain the experimental population designated in the regulation from natural populations (see Management, below); and

(4) a process for periodic review and evaluation of the success or failure of the release and the effect of the release on the conservation and recovery of the

species (see Monitoring and Evaluation, below).

Under 50 CFR 17.81(d), the Service must consult with appropriate State fish and wildlife agencies, local governmental entities, affected Federal agencies, and affected private landowners in developing and implementing experimental population rules. To the maximum extent practicable, 10(j) rules represent an agreement between the FWS, the affected State and Federal agencies, and persons holding any interest in land that may be affected by the establishment of an experimental population.

Under 50 CFR 17.81(f), the Secretary may designate critical habitat as defined in section 3(5)(A) of the Act for an essential experimental population. No designation of critical habitat will be made for nonessential populations. In those situations where a portion or all of an essential experimental population overlaps with a natural population of the species during certain periods of the year, no critical habitat will be designated for the area of overlap unless implemented as a revision to critical habitat of the natural population for reasons unrelated to the overlap itself.

Any population determined by the Secretary to be an experimental population will be treated as if it were listed as a threatened species for purposes of establishing protective regulations with respect to that population. The protective regulations adopted for an experimental population will contain applicable prohibitions, as appropriate, and exceptions for that population.

Any experimental population designated for a listed species (1) determined not to be essential to the survival of that species and (2) not occurring within the National Park System or the National Wildlife Refuge System, will be treated for purposes of section 7 (other than paragraph (a)(1) thereof) as a species proposed to be listed under the Act as a threatened species.

Any experimental population designated for a listed species that either (1) has been determined to be essential to the survival of that species, or (2) occurs within the National Park System or the National Wildlife Refuge System as now or hereafter constituted, will be treated for purposes of section 7 of the Act as a threatened species. Notwithstanding the foregoing, any biological opinion prepared pursuant to section 7(b) of the Act and any agency determination made pursuant to section 7(a) of the Act will consider any experimental and nonexperimental populations to constitute a single listed

species for the purposes of conducting the analyses under such sections.

#### Legal Status

We listed the California condor as an endangered species under the Endangered Species Preservation Act of 1966 (ESPA) on March 11, 1967 (32 FR 4001, March 11, 1967). This list was later codified in part 17 of title 50 in the U.S. Code of Federal Regulations (35 FR 16048, October 13, 1970). With the passage of the Endangered Species Act of 1973 (ESA), those species previously listed in the Code of Federal Regulations were directly incorporated into the Lists of Endangered and Threatened Wildlife and Plants under the ESA, found at 50 CFR 17.11 and 17.12. In October 1996, we designated a nonessential experimental population of the California condor in portions of northern Arizona, southern Utah, and southern Nevada (61 FR 54044, October 16, 1996). Therefore, the California condor is currently listed as an endangered species wherever it is found, except in portions of northern Arizona, southern Utah, and southern Nevada, where it is considered a nonessential experimental population.

The California condor is protected by the State of California under both the State Endangered Species Act and the California Fish and Game Code as a Fully Protected species. It is also listed as a Sensitive Species under California Forest Practice Rules. In September of 2018, the State of California passed legislation that allows the California Department of Fish and Wildlife (CDFW) to consider the content of any final rules under section 10(j) of the Federal Endangered Species Act for the California condor. This recently enacted legislation (AB2640) allows the Director of the CDFW to evaluate the final rule, and exempt take associated with the rule if the Director finds the Service's final rule would further the conservation of the species.

If this proposal is finalized, and we are subsequently compelled to change the California condor's NEP status to essential, threatened, all condors will be removed from the area and the experimental population rule will be revoked, unless the parties to the memorandum of understanding agree that the condors should remain in the wild. Changes in the legal status and/or removal of this population of California condors will be made in compliance with any applicable Federal rulemaking and other procedures.

#### Biological Information

##### Species Description

The California condor is one of seven New World vultures in the Cathartidae family and the only extant species in the genus *Gymnogyps* (Amadon 1977, pp. 413–414; Johnson et al. 2016, pp. 193, 197). It is the largest of the North American vultures and the largest soaring land bird on the continent with a wingspan of approximately 9.5 feet (ft) (2.9 meters (m)) (Koford 1953, p. 3; Finkelstein et al. 2015, Introduction, Appearance). Males weigh slightly more than females (average weight of 19.4 pounds (lb) (8.8 kilograms (kg)) for males and 17.9 lb (8.1 kg) for females), but otherwise there are no obvious differences in coloration or morphology between the sexes (Finkelstein et al. 2015, Appearance). California condors exhibit age-related coloration changes (Koford 1953, p. 5; Snyder and Snyder 2000, pp. 14–19). Adults have black feathers except for prominent white underwing linings and edges of the upper secondary coverts. The head and neck of adults are mostly naked and range in color from yellowish to reddish orange on the head to gray, yellow, orange, and red on the neck (Koford 1953, pp. 4–5). The heads of juveniles up to 3 years old are grayish-black, and their wing linings are variously mottled or completely dark (Koford 1953, p. 5; Snyder and Snyder 2000, pp. 14–19). During the third year, the head develops yellow coloration, and the wing linings become gradually whiter (Snyder and Snyder 2000, pp. 15, 17). By the time individuals are 5 or 6 years of age, they are essentially indistinguishable from adults, but full development of the adult wing patterns may not be completed until 7 or 8 years of age (Snyder and Snyder 2000, pp. 15, 17; Finkelstein et al. 2015, Appearance).

As obligate scavengers (*i.e.*, relying entirely on dead animals for food), California condors have a number of physical and physiological adaptations that accommodate their highly specialized diet, including: (1) Large size, which is necessary to successfully compete at carcasses; (2) the ability to retain large amounts of food, which sustains individuals for extended periods between meals; (3) soaring and gliding flight and excellent eyesight, which help condors efficiently find food; (4) hooked bills, long necks, and largely naked heads, which allow condors to access muscle tissue deep within a carcass and to rip pieces of meat from a carcass, while minimizing the potential for feather fouling (a condition where feathers become soiled such that their performance is

degraded); and (5) resistance to bacterial toxins, which is necessary for species that rely on carcasses (Snyder and Snyder 2005, pp. 7–31).

#### *Historical Range*

During the Pleistocene Epoch, the California condor was broadly distributed in North America from southern British Columbia to Baja California, and eastward throughout the southern United States and northern Mexico to Florida (Koford 1953, p. 7; Brodtkorb 1964, pp. 253–254; Messing 1986, pp. 284–285; Steadman and Miller 1987, p. 423; Snyder and Snyder 2005, p. 6; D'Elia and Haig 2013, p. 17). The extent of its distribution along the east coast of North America during the late Pleistocene also extended to the boreal forests of upstate New York (Steadman and Miller 1987, pp. 416–423). The disappearance of the California condor from its prehistoric range in North America east of the Rocky Mountains occurred about 10,000–11,000 years ago coinciding with the late-Pleistocene extinction of the North American megafauna (Emslie 1987, pp. 768–770; Steadman and Miller 1987, pp. 422–425). Analysis of stable isotopes in bone collagen suggests that the California condor's persistence along the Pacific coast at the end of the Pleistocene was at least partially due to the availability of marine-derived carrion (Chamberlain et al. 2005, p. 16710; Fox-Dobbs et al. 2006, p. 688).

Historical observations of California condors indicate that they were widespread and locally abundant from southern British Columbia, Canada, to Baja California, Mexico, during Euro-American colonization (Koford 1953, pp. 8–19; Wilbur 1978, pp. 13, 72–85; Snyder and Snyder 2005, pp. 4–5; D'Elia and Haig 2013, pp. 38–59). At that time they were apparently restricted to the area west of the Rocky Mountains and were infrequently encountered east of the Cascade or Sierra Nevada mountain ranges (Snyder and Snyder 2000, p. 12; D'Elia and Haig 2013, pp. 38–59). California condor population declines and range contractions were concurrent with Euro-American settlement of the West, with condors disappearing from the Pacific Northwest in the early 1900s (D'Elia and Haig 2013, pp. 58–59), and from Baja California by the end of the 1930s (Wilbur and Kiff 1980, entire). By the middle of the 20th century, the species was reduced to about 150 individuals limited to the mountains of southern California (Snyder and Snyder 2000, pp. 81–82), and at the time we formally classified them as an endangered species in 1967, the population had further declined to an

estimated 60 condors (Snyder and Snyder 2000, pp. 82–83). Most probable causes of their historical decline include: (1) Secondary poisoning from predator removal campaigns, (2) direct persecution, and (3) lead poisoning from spent ammunition that fragmented in animals condors later fed upon (D'Elia and Haig 2013, pp. 77–122).

#### *Captive Breeding, Reintroduction Efforts, and Current Range*

Due to concerns over the few remaining California condors and the population's continued downward trend, beginning in 1983, we took all condor eggs from the wild to the San Diego Wild Animal Park and Los Angeles Zoo for artificial incubation to form a captive flock (Snyder and Hamber 1985, p. 378; Snyder and Snyder 2000, pp. 278–293). By taking all wild eggs and inducing multiple clutches and annual nesting, the productivity of the population was increased several fold, allowing the captive population to grow rapidly (Snyder and Hamber 1985, p. 378). However, with the sudden loss of several wild California condors in 1984 and 1985, it became necessary for us to capture the remaining wild individuals to ensure the genetic viability of the species and enhance the chances of the captive-breeding program's success (Snyder and Snyder 2000, pp. 298–304). By 1987, the California condor existed only in captivity, having suffered a severe population bottleneck and loss of genetic diversity (Ralls and Ballou 2004, p. 225; D'Elia et al. 2016, pp. 707–708). Thus, the conservation of the species was dependent upon captive breeding and releases back into the wild.

We first released captive-reared California condors in 1992 in southern California, but because of behavioral problems exhibited by these individuals we returned them all to captivity in early 1995 (Snyder and Snyder 2000, pp. 344–345). We reinitiated releases of captive-reared and formerly wild California condors in southern California in 1995, and additional release sites were established in northern Arizona in 1996, central California near Big Sur in 1997, Sierra de San Pedro Mártir in Baja California, Mexico, in 2002, Pinnacles National Park (formerly Pinnacles National Monument) in 2003, and in the mountains near San Simeon, California, in 2015. Currently, these release sites comprise four general release areas (central California, southern California, Baja California, and Arizona/Utah) in three condor populations (a population in central and southern California—where individuals from each release

area occasionally intermingle—and independent populations in northern Arizona/southern Utah and Baja California). The California condor is currently absent from the northern portion of its historical range and remains reliant on the release of captive-bred individuals for population growth (USFWS 2013, p. 14).

As of December 2017, there were 290 California condors in the wild, divided among the four release areas: Central California (90 condors); southern California (80 condors); northern Arizona and southern Utah (82 condors); and the Sierra de San Pedro Mártir release site in Baja California (38 condors) (USFWS 2018, p. 1). There were also 173 California condors in captivity (USFWS 2018, p. 1) distributed among release sites, zoos, and four captive-breeding facilities. Breeding facilities include the Peregrine Fund's World Center for Birds of Prey, the Oregon Zoo's Jonsson Center for Wildlife Conservation, the Los Angeles Zoo, and the San Diego Zoo's Safari Park.

Despite population growth, the total number of wild California condors is still relatively small and the species requires intensive management for survival, including: (1) Monitoring all condors in the wild to track resource use, identify behavioral problems, and detect mortalities; (2) biannual trapping for health screening, to test blood samples for lead, inoculate for West Nile virus, and to attach or replace wing tags and transmitters; (3) taking injured or poisoned condors back into captivity temporarily to administer treatment; and (4) nest observations and interventions to maximize productivity in the wild (Walters et al. 2010, pp. 972, 976, 982–984; USFWS 2017, pp. 5–19).

#### *Habitat Use and Movement Ecology*

Along with our conservation partners, we have reintroduced California condors to a variety of habitats, including coastal mountains, old-growth forests, desert cliffs, and temperate montane shrublands and grasslands. Within these habitats they can have enormous home ranges (Meretsky and Snyder 1992, p. 321; Hunt et al. 2007, pp. 84–87; Romo et al. 2012, pp. 43–47; Rivers et al. 2014a, pp. 496–498) and often use different portions of their range for nesting and foraging (Meretsky and Snyder 1992, p. 329; Snyder and Snyder 2000, pp. 140–147; D'Elia et al. 2015, p. 96). Home range size varied among release sites (95 percent confidence intervals for southern California: 173,295–282,760 acres (ac) (70,130–114,429 hectares (ha)); Pinnacles National Park: 86,825–

174,266 ac (35,137–70,523 ha); and Big Sur: 42,613–90,495 ac (17,245–36,622 ha)), probably as a result of geography, food availability (Rivers et al. 2014a, pp. 496–497, 500), years since the release program started, and flock size (Bakker et al. 2017, p. 100).

Nesting habitat is generally characterized by steep, rugged terrain (Wilbur 1978, p. 7; Snyder and Snyder 2000, p. 18; D'Elia et al. 2015, pp. 94–95). Within these areas, nests have been documented in various types of rock formations including crevices, overhung ledges, potholes, and in cavities or broken tops of giant sequoia (*Sequoia giganteus*) (Snyder et al. 1986, pp. 235–236) or coast redwood (*Sequoia sempervirens*) trees (Burnett et al. 2013, pp. 478–479). Breeding adults segregate themselves into nesting territories, rarely crossing into the active nesting territories of other California condors (Finkelstein et al. 2015, Behavior). California condors will generally use the same nesting territory in successive years as long as pairs remain intact, but will often switch nesting sites within that territory, regardless of whether they fail or succeed in their nesting efforts (Snyder et al. 1986, p. 236).

California condors roost communally along rocky outcrops, steep canyons, and in tall trees or snags near foraging grounds, water sources, and nests (Koford 1953, pp. 35–36; Snyder and Snyder 2000, p. 167). California condors select roosts that offer good peripheral visibility, where there is a long unobstructed space for taking off downhill and for approaching the roost in flight, and areas where there is some protection from high winds (Koford 1953, pp. 35–36). While at a roost, condors devote considerable time to preening, sunning, and other maintenance activities (Snyder and Snyder 2000, p. 24).

California condors are obligate scavengers and obligate soaring birds, making them reliant on the availability of sufficient food resources and upward air movement (Ruxton and Houston 2004, p. 434). Foraging habitats generally have high landscape productivity, moderate to steep slopes, sparse vegetation, and upward air movements necessary to keep California condors aloft (Rivers et al. 2014b, pp. 7–9; D'Elia et al. 2015, p. 96). In coastal areas condors show strong selection for beaches, likely because of the relative abundance of marine mammal carcasses (Rivers et al. 2014b, p. 8). A feature of carrion as an exclusive food resource is that dead animals are highly dispersed and ephemeral (Ruxton and Houston 2004, p. 433). This has resulted in evolutionary pressure for condors to be

large, obligate soaring birds that forage socially (Ruxton and Houston 2004, p. 433). Social foraging means the population is particularly susceptible to contaminated food resources, as a contaminated carcass can poison a large number of individuals in a single feeding (Finkelstein et al. 2012, p. 11453; D'Elia and Haig 2013, p. 87).

As birds with a large wingspan that use soaring and gliding flight, California condors can move long distances while expending minimal energy (see Pennycuik 1969, pp. 542–545; Ruxton and Houston 2004, p. 435). Examples of exceptional flight distances include: California condor movements between the central and southern California flocks—a distance of approximately 150 miles (mi) (241 kilometers (km)) (e.g., USFWS 2017, pp. 20–21); a condor released at Pinnacles National Park flying to the southern Sierra Nevada and back—a one-way distance of approximately 249 mi (400 km) (USFWS, unpublished data); a condor released in the Sierra de San Pedro Mártir in Baja California, Mexico, traveling north to San Diego County, a distance of approximately 140 mi (225 km) (Romo et al. 2012, p. 44); and observations of condors released in northern Arizona in southern Wyoming, Colorado, and New Mexico, at distances of approximately 340 mi (547 km), 400 mi (643 km), and 325 mi (523 km), respectively. In addition, GPS telemetry data is now revealing that California condors in southern California are beginning to regularly travel 93–124 mi (150–200 km) away from core use areas (USFWS unpublished data). As the populations continue to grow, the number of long-distance flights is likely to increase.

To date, nests have been concentrated in a relatively limited area around release sites when compared to exceptional flight distances. The farthest nest documented from release sites in each release area is approximately 47 mi (76 km) in central California, 57 mi (92 km) in southern California, 62 mi (100 km) in Arizona/Utah, and 15 mi (24 km) in Baja California. We expect that as flock size grows the population will continue to expand and nest sites will eventually be located farther from release sites.

Based on the California condor's fidelity to nesting territories, their social foraging behaviors, and our monitoring of current populations, we do not expect major geographic shifts in the breeding populations. The California condor's long nesting period coupled with extended dependency of chicks on adults also precludes latitudinal migration in the breeding population

(D'Elia and Haig 2013, pp. 61–75). However, seasonal shifts in movements to foraging grounds occur with changes in food availability, and perhaps as a result of social factors (e.g., traditional movements) (Meretsky and Snyder 1992, p. 328; Snyder and Snyder 2000, pp. 145–147; Hunt et al. 2007, pp. 85–87). Seasonal changes in daylight hours and the availability of thermals for soaring mean that home ranges can be up to 5–6 times larger in the late summer and early fall compared to late fall and early winter (Rivers et al. 2014a, pp. 497, 499).

#### Life Cycle

Breeding California condors form pairs in late fall or early winter and visit various potential nest sites within their nesting territory in January and February (Finkelstein et al. 2015, Breeding). Once pairs are formed they tend to stay together year-round for multiple years until one member of the pair dies (Snyder and Snyder 2000, p. 19). However, the death of one member of a pair can trigger a chain reaction with multiple pairs switching mates. This situation can occur because each California condor that loses its mate represents a potentially more desirable mate to individuals of lower rank in the social hierarchy of the flock. Breeding California condors lay a single egg between late January and early April (Finkelstein et al. 2015, Breeding). The egg is incubated by both parents and hatches after approximately 53–60 days (Snyder and Snyder 2000, p. 19). California condor pairs that lose their egg early in the breeding season (February through mid-April) will generally lay a replacement egg (Snyder and Hamber 1985, p. 377). When a replacement egg is lost, it has occasionally been followed by a third egg (Finkelstein et al. 2015, Breeding).

Both parents share responsibilities for feeding the nestling (Snyder and Snyder 2000, p. 19). Feeding, via regurgitation, usually occurs daily for the first 2 months, then gradually diminishes in frequency (Snyder and Snyder 2000, p. 197). As early as 6 weeks after hatching, California condor chicks leave the nest cavity but remain in the vicinity of the nest where they are fed by their parents (Snyder and Snyder 2000, p. 201). The chick takes its first flight at about 5.5 to 6 months of age, but does not become fully independent of its parents until the following year (Snyder and Snyder 2000, pp. 201–202). Parents occasionally continue to feed a fledgling even after it has begun to make longer flights to foraging grounds (Koford 1953, p. 103; Snyder and Snyder 2000, pp. 202–203).

Because of the long period of parental care, it was formerly assumed that successful California condor pairs normally nested successfully every other year (Koford 1953, pp. 22–23). However, this pattern varies, depending mostly on the time of year that the nestling fledges. If a nestling fledges relatively early (in late summer or early fall), its parents may nest again in the following year, but late fledging inhibits nesting in the following year (Snyder and Hamber 1985, pp. 377–378; Snyder and Snyder 2000, p. 19).

Once independent, juvenile California condors often associate with one another on the foraging grounds and join adults and other juveniles at communal roosts (Finkelstein et al. 2015, Breeding). In a study of the remnant wild population in southern California (1982–1987), Meretsky and Snyder (1992, pp. 324–325; 329–330) found that California condors in their first 2 years after fledging were generally limited to natal nest areas and foraging areas relatively close to natal nest areas, while older juveniles would forage more widely and visit additional non-natal nesting territories and it was not until age 4 or 5 that condors were capable of visiting virtually all foraging and nesting areas within a given population. However, more recent data from the reintroduced populations shows that fledglings under 1 year of age can be fully integrated into the flock, foraging hundreds of miles from natal or release areas and by 2 years of age are capable of covering the flock's entire range (USFWS, unpublished data). This difference between the remnant wild population in the 1980s and the current populations is likely a product of the larger size of the current population, and the larger number of older California condors that are available to serve as mentors to recently fledged condors.

#### *Population Demography and Threats*

California condors are long-lived birds. In captivity, they can live more than 50 years. Average age of first breeding is 8 years and 6 months for females and 9 years and 10 months for males (Mace 2017, pp. 240, 243). The oldest known breeding female was 38 years old (Mace 2017, p. 239).

Slow maturation and low reproductive rates in California condors demand low mortality rates for the population to be stable or to grow (Mertz 1971, p. 448; Verner 1978, pp. 19–21; Meretsky et al. 2000, pp. 960–961). Population demographic models indicate that annual adult mortality rates certainly must average <10 percent annually to achieve stable or increasing

populations (Verner 1978, pp. 19–21; Meretsky et al. 2000, p. 961), and likely need to be <5 percent (Meretsky et al. 2000, p. 961; Cade 2007, p. 2129; Woods et al. 2007, p. 65; Walters et al. 2010, p. 974). Estimates of mortality rates in the first decade of the release program in California and Arizona—when individuals treated for lead poisoning were considered mortalities—were between 17–35 percent, greatly exceeding the mortality rates needed for a self-sustaining stable population (Meretsky et al. 2000, p. 963). Currently, populations in the wild are only viable as a result of augmentation through ongoing captive-breeding and release efforts, in concert with intensive monitoring and management to reduce mortality (Green et al. 2008; Finkelstein et al. 2012, p. 11452; USFWS 2013, pp. 27–30).

The primary threat to the viability of the California condor is lead poisoning from spent ammunition left in gut-piles or carcasses of animals that condors feed upon (Meretsky et al. 2000, p. 963; Church et al. 2006, p. 6148; Cade 2007, entire; Woods et al. 2007, pp. 73–75; Green et al. 2008, p. 9; Walters et al. 2010, pp. 993–994; Finkelstein et al. 2012, pp. 11452–11453; Rideout et al. 2012, pp. 108–109; Kelly et al. 2015, pp. 395–398; Bakker et al. 2017, pp. 101–103). Without intensive management of the impacts from this threat, which includes periodic trapping for health exams, monitoring blood lead levels, and treatment if necessary, the wild populations would trend toward extinction (Woods et al. 2007, p. 65; Green et al. 2008, pp. 8–9; Walters et al. 2010, pp. 993–994; Finkelstein et al. 2012, pp. 11452–11453). In the absence of this threat, California condor populations would likely grow and become self-sustaining, without the need for intensive management (Woods et al. 2007, p. 65; Green et al. 2008, p. 9; Finkelstein et al. 2012, pp. 11452–11453).

Several laws and voluntary programs to reduce the threat from lead ammunition have been enacted. The State of California instituted a restriction on the use of lead ammunition for hunting within the range of the California condor in southern and central California in July 2008 (Ridley-Tree Condor Preservation Act 2008, entire). The geographic and regulatory scope of this restriction was expanded with Assembly Bill 711 (AB711) that was signed into law in October 2013. AB711 amended section 3004.5 of the California Fish and Game Code, relating to hunting. The law, which restricts the use of lead ammunition for taking wildlife, is

currently being phased in, with a full State-wide ban for all take of wildlife by 2019. In addition to these laws, voluntary lead reduction programs are in place in California, Oregon, Arizona, and Utah; while these voluntary programs vary by State, actions under these programs have included: (1) Surveys to understand attitudes toward lead reduction, (2) outreach to hunters at sportsman shows and in the field, (3) coordination with hunter constituency groups, and (4) targeted vouchers for free non-lead ammunition (Sieg et al. 2009, pp. 344–345; Chase and Rabe 2015, pp. 2–3; AGFD 2017, web page, UDWR 2017, web page, ODFW 2017, web page; Huntingwithnon-lead.org 2017, web page).

Other threats to California condors include: Rangeland conversion, wind energy development, collision with and electrocution from powerlines, predation, disease, inadequacy of existing regulatory mechanisms, shooting, microtrash ingestion, organochlorine pesticides, and habituation to humans. A full description of these threats, and efforts to abate them, are provided in our most recent status review for the California condor (USFWS 2013, entire).

#### **Relationship of NEP to Recovery Efforts**

We published a California condor recovery plan in 1974 (USFWS 1975, entire), and revised the plan in 1980 (USFWS 1980, entire), 1984 (USFWS 1984, entire), and 1996 (USFWS 1996, entire). To date, recovery efforts have focused on reintroduction and recovery in the southern portion of the species' historical range (see *Captive Breeding and Reintroduction Efforts*, above). Recovery criteria for removing the California condor from the endangered species list were not provided in the 1996 revision to the recovery plan, as its primary focus was keeping the species from going extinct. At the time the revised recovery plan was written, there were only 17 California condors in the wild (USFWS 1996, p. 9) and we could not anticipate at that time all actions that would be necessary for full recovery. The overall strategy for recovery outlined in the 1996 recovery plan was to focus on: (1) Increasing reproduction in captivity to provide condors for release, (2) the release of condors to the wild, (3) minimizing condor mortality factors, (4) maintaining habitat for condor recovery, and (5) implementing condor information and education programs (USFWS 1996, p. 21). While the recovery plan did not have delisting criteria, it included as criteria for reclassifying (or downlisting) to a threatened species an objective of

establishing at least two, preferably more, self-sustaining disjunct wild populations in order to reduce the risks to the overall population and to facilitate genetic and demographic management (USFWS 1996, p. 24).

The 1996 revised recovery plan does not provide specific recovery targets or actions for the Pacific Northwest, but our 1980 recovery plan recommended surveys of Oregon, Washington, and California to identify potential habitat for future releases into unoccupied portions of the historical range (USFWS 1980, p. 50). Recent habitat modeling has revealed large areas of potentially suitable nesting, roosting, and feeding habitats in the Pacific Northwest (D'Elia et al. 2015, pp. 95–96). Although criteria for full recovery were not provided in our latest recovery plan revision (USFWS 1996, entire), increasing the global population of the California condor and expanding its geographic distribution among the ecosystems it once occupied are, on first principles, consistent with efforts to recover the species.

An existing population model based on published demographic rates (Bakker et al. 2017, entire) was used to simulate State-wide California condor population growth in California over the next 30 years (2018–2048), assessing scenarios with and without the allocation of some of the available captive-bred individuals, to a new geographically disjunct flock (Bakker and Finkelstein 2018, entire). These model simulations demonstrate that allocating captive-bred individuals to a new, geographically disjunct flock, which is expected to have lower survival and reproduction compared to the existing flocks, would reduce the population growth of condors in California. Under the scenarios where the total number of chicks distributed currently remains approximately equal to current levels, this effect would increase as the ratio of releases allocated to the new flock versus the existing flock increases. Model simulations reinforce the importance of increasing captive chick production and releases to the wild. The number of chicks produced in the captive program and released to the wild has been variable over time, but continues to drive population growth in the wild due to the high chick and juvenile survivorship attainable in a captive setting and to ongoing mortality in the free-flying population combined with the long generational gap between chick stage and breeding age (approximately 6–8 years) in California condors (Finkelstein et al. 2012, entire; Bakker et al. 2017, entire; Bakker and Finkelstein 2018, entire).

The California Condor Recovery Program is currently proposing to increase the number of captive-produced condors for release into the wild, and would continue to allocate the number of chicks to each release site necessary to maintain positive population growth at each site, to the extent practicable. Continuing to grow the wild population of California condors while reestablishing them in an unoccupied portion of their historical range is consistent with our overall strategy to recover the species.

In summary, a NEP in the Pacific Northwest would establish an additional population in the United States, beyond the minimum of two populations envisioned for downlisting to a threatened species. This would contribute to the conservation of the species by: Further reducing the risk that any one catastrophic event would affect a large proportion of the species (increasing the population redundancy); increasing the global population of the species (increasing resiliency); and expanding the geographic distribution of the species among ecosystems (increasing representation by expanding the ecological settings in which the species occurs).

#### **Is the proposed experimental population essential or nonessential?**

When we establish experimental populations under section 10(j) of the Act, we must determine whether such a population is essential to the continued existence of the species in the wild. Although the experimental population will contribute to the recovery of the California condor, it is not essential to the continued existence of the species in the wild. California condors are currently distributed among three disjunct and intensively managed populations in California, Arizona and Utah, and Baja California, Mexico. Management at these sites includes: Monitoring individuals with VHF or GPS/GSM transmitters; biannual trapping for health screenings; vaccination for West Nile virus; aversive conditioning to power poles prior to release; chelation therapy to treat California condors with elevated blood-lead levels; and nest observations, entries, and interventions to maximize productivity in the wild (Walters et al. 2010, pp. 972, 976, 982–984; Romo et al. 2012, pp. 28–56; Southwest Condor Review Team 2017, pp. 4–21; USFWS 2017, pp. 5–19). In addition, there are ongoing releases of captive California condors into each of the wild populations. Releases are carefully coordinated among sites to ensure a healthy age structure, sex ratio, and

distribution of founder genomes (Ralls and Ballou 2004, pp. 221–225). As a result of these efforts, the populations of wild California condors continue to grow (USFWS 2018, p. 6).

In addition to the three wild populations, there is also a sizable captive population at four breeding facilities, which are widely distributed in California, Oregon, and Idaho (see Biological Information, above). The breeding facilities are secure facilities, not open to the public, where California condors are kept under 24-hour surveillance by condor keepers or video cameras. The captive population is given extensive care, and deaths and injuries are rare, with a captive annual survival rate after the first month of life of 0.989 percent (95 percent confidence interval: 0.984–0.992) (Bakker et al. 2017, p. 97). In addition, the geographic separation of the four breeding facilities protects the captive population from the threat of extinction due to a single catastrophic event.

The captive population was formed with only 13 apparent genetic founders that comprised three genetic clans (Geyer et al. 1993, p. 573; Ralls and Ballou 2004, p. 219; Pryor and Ralls 2016, p. 3). Genetic management, which includes control of all captive matings, has been implemented to minimize the loss of remaining genetic diversity and ensure this remaining genetic diversity is well distributed among the captive-breeding facilities and reintroduction sites (Ralls et al. 2000, p. 152; Ralls and Ballou 2004, p. 226; Pryor and Ralls 2016, p. 2). California condors released within the proposed experimental population would come from a mixture of the founder clans represented in the captive population and would not represent a unique genetic lineage of California condors. Therefore, loss of this population would not represent a substantive change in the genetic diversity or genetic viability of the worldwide population of California condors.

The proposed reintroduction project will further the recovery of the California condor by attempting to establish another wild population in an unoccupied portion of the species' historical range. However, for the reasons stated above, California condors released into the Pacific Northwest are not essential to the survival of the species in the wild. Therefore, as required by 50 CFR 17.81(c)(2), we find that the proposed experimental population is not essential to the continued existence of the species in the wild, and we propose to designate the experimental population in the Pacific

Northwest as a nonessential experimental population (NEP).

#### Location and Boundaries of the NEP

Section 10(j) of the Act requires that an experimental population be geographically separate from wild populations of the same species. Considering a number of factors (as described in detail, below), we drew the NEP area to include a portion of northern California, northwestern Nevada, and all of Oregon. The western boundary of the NEP is the Submerged Lands Act boundary line along the Pacific coast. The southern boundary of the NEP is formed by an east-west line from California's Submerged Lands Act boundary to Hare Creek; Hare Creek from the Pacific Ocean to its junction with California State Route 1; north to the junction of State Route 1 and State Route 20; east along California State Route 20 to where it meets Interstate 80; and Interstate 80 from its intersection with California State Route 20 to U.S. Route 95 in Nevada. The eastern boundary of the NEP is U.S. Route 95 in Nevada to the State boundary of Oregon and then east and north along Oregon's southern and eastern boundaries, respectively. The northern boundary of the NEP is the northern State boundary of Oregon. All highway boundaries are inclusive of the entire highway right of way. See map below and in the Environmental Assessment (NPS et al. 2018, Figure 2, p. 5)

The last California condor specimen collected within the proposed NEP area was in 1892 along Yager Creek in Humboldt County, California (Smith 1916, p. 205; D'Elia and Haig 2013, pp. 39–46). Although there were a few reported California condor sightings up to 1925 in the area we are proposing to designate an NEP, since then there have been no credible sightings of condors in the wild in this area—or anywhere north of San Francisco (D'Elia and Haig 2013, pp. 58–59). Given that all released California condors are actively tracked with radio or GPS/GSM transmitters, we are confident that there are no wild condors in the proposed NEP.

The location of the proposed reintroduction site is the Bald Hills of Redwood National Park, an area proximal to suitable nesting and feeding habitat. Ten potential release sites were identified by the Yurok Tribe, and the proposed release site was selected following careful consideration of site suitability, logistics, threats and hazards, cultural resources, and suitability of adjacent lands (Yurok Tribe Wildlife Program, *pers. comm.* 2016). The proposed release site would be situated in grassland habitat above a

redwood forest with sufficient topography to allow young California condors to more easily achieve flight. Redwood forests in the vicinity of the release site, as well as proximal mountain ranges (Oregon Coast Range, Klamath-Siskiyou Mountains, and the Northern Coast Range in California) are expected to provide ample roosting and nesting habitat. Inland valleys and mountaintop prairies, in conjunction with a proximal coastline, are expected to provide a mixture of sufficient terrestrial and marine feeding areas and food resources. Landscape-scale models indicate that the amount and characteristics of habitat in the region compare favorably to other portions of the historical range (D'Elia et al. 2015, pp. 95–96).

In defining the experimental population boundary, we attempted to encompass the area where the population is likely to become established in the foreseeable future. For the purposes of this proposed rule, we define the foreseeable future as approximately 20 years. This time horizon was based on our ability to reasonably forecast population expansion given the number of years of data we have on California condor movements from release sites in southern and central California (22 years in southern California and 20 years central California). We expect that the relative contribution of the experimental population toward recovery of the California condor will be evident during this time span, although we recognize that establishing a self-sustaining population of condors in the region may take longer given the species' extremely low reproductive rates. We may draw our experimental population boundary large enough to account for expansion over time as the introduced population begins to breed in the wild, and to assist in identifying any individuals belonging to the NEP. When possible, we use recognizable features on the landscape, legal land descriptions, or administrative boundaries to demark experimental population boundaries. We are proposing to include the entire State of Oregon to ensure that any California condors originating from the releases at Redwood National Park and flying north into Oregon are recognized as members of the NEP and are covered by the NEP regulations.

Information we considered in drawing our NEP boundary included California condor movement data from existing release sites, and the location of the closest existing condor population, as well as input from State wildlife agencies. Movement data indicate that,

after 20 years of releasing California condors, most individuals remain within approximately 124 mi (200 km) of the release site—although exceptional flight distances occasionally occur and the existing populations continue to expand as flock size increases. The closest California condor release site to the proposed release site is at Pinnacles National Park, approximately 350 mi (563 km) to the south. The proposed release site is approximately 124 mi (200 km) from the nearest edge of the experimental population boundary; and the southern edge of the experimental population boundary is approximately 112 mi (180 km) from the northern extent of the closest endangered population of California condors. Thus, the proposed southern boundary of the NEP approximates a mid-point between the nearest population in central California and the proposed release site at Redwood National Park. The farthest documented nesting pair of California condors from any release site since the inception of the captive-breeding program was approximately 62 mi (100 km), while most nests are within 47 mi (75 km) of their release site of origin. Given our definition of foreseeable future and the information from existing release sites, we anticipate that the small number of California condors initially released at Redwood National Park—with the exception of occasional exceptional flights—would remain within the experimental population boundary over the first 20 years of reintroductions.

If a reintroduction of California condors in northern California is successful, it is possible that some individuals from the NEP may eventually move outside of the NEP area. It is also possible that California condors from the other California release sites may enter the proposed NEP. We expect that these movements, if they occur, would be infrequent in the foreseeable future given the size of the NEP, the NEP's distance from existing populations, and observed California condor movements at other release areas over the last two decades. Furthermore, we find that the interaction of individuals among the NEP and existing endangered populations, and the merging of these populations are even more unlikely to occur in the foreseeable future given the distance between the populations and the small number of California condors likely to occupy the NEP. Even if California condors occasionally moved into or out of the proposed NEP, the presence of one or a few individual dispersing condors would not constitute a

“population” and any individuals dispersing into or out of the experimental population area would be treated as if they were part of the population at the location where they are found (*See Wyoming Farm Bureau Federation v. Babbitt*, 199 F.3d 1224, 1234–6, FN 5 (10th Cir. 2000) (finding the Secretary reasonably exercised his management authority under section 10(j) in defining the experimental wolf population by location). Based on definitions of “population” used in other experimental population rules (*e.g.*, 59 FR 60252, November 22, 1994 (gray wolves), 71 FR 42298, July 26, 2006 (Northern aplomado falcons)), we consider a population to require a minimum of two successfully reproducing California condor pairs over multiple breeding cycles. Using this definition of a population, the best available information suggests that the population of California condors formed from releases in Redwood National Park is likely to be wholly separate from other populations of California condors for the foreseeable future.

#### Likelihood of Population Establishment and Survival

The best available scientific data indicate that the reintroduction of California condors into suitable habitat in Redwood National Park is biologically feasible and would promote the conservation of the species. Along with our numerous recovery partners, we have over 25 years of experience breeding and releasing California condors into the wild at several release areas across various ecosystems. Release techniques are well established, as are protocols for managing released California condors. Based on our collective knowledge gained from these efforts, we anticipate California condors will become successfully established for the following reasons:

(1) Landscape-scale modeling indicates the NEP may have some of the most extensive nesting, roosting, and feeding habitats remaining within the historical range in California, Oregon, and Washington (D’Elia et al. 2015, pp. 95–97). California condors are habitat generalists and have been successfully reintroduced to variety of ecosystems including the mountain foothill of southern California, coastal forests of central California, high desert and canyon lands in northeastern Arizona and mountainous areas in Baja California, Mexico. This species is flexible in its diet, eating carrion of many different species of wildlife and livestock. Therefore, we do not anticipate climate change effects on habitat will negatively impact our

ability to re-establish a population of this species in the Pacific Northwest.

(2) A site-specific habitat evaluation, which considered site suitability, logistics, threats and hazards, cultural resources, and suitability of adjacent lands, found the release site to have suitability ratings similar to existing release sites (Yurok Tribe Wildlife Program, *pers. comm.* 2016).

(3) The causes for California condor extirpation from the region are either no longer active or are being addressed through a mixture of regulatory and proactive voluntary conservation measures (see Addressing Causes of Extirpation, below).

(4) The extent of effects of existing and proposed actions and activities within the NEP on the reintroduced population have been evaluated in an environmental assessment and are compatible with conservation of the California condor (NPS et al. 2018, entire).

(5) The reintroduced population will receive ongoing demographic support from a managed captive population and an active field monitoring and management program (Similar population support has allowed population growth and establishment at all of the other California condor release sites).

(6) The reintroduced population will be integrated with the California Condor Recovery Program to ensure that California condors released in Redwood National Park have an appropriate sex ratio, age-structure, and include representatives of the founder genomes.

(7) There is broad institutional and partner support for a California condor reintroduction in Redwood National Park and Yurok ancestral territory.

On June 14, 2016, a Memorandum of Understanding (MOU) between 16 parties was finalized. The purpose of the MOU was to formalize an agreement to assess the potential to recover California condors in the Pacific Northwest and to work to seek funding to support that effort if it proved feasible. Signatories to the MOU included the U.S. Fish and Wildlife Service, National Park Service (NPS), Bureau of Land Management, Yurok Tribe, California Department of Fish and Wildlife (CDFW), California Department of Parks and Recreation (CDPR), Oregon Department of Fish and Wildlife (ODFW), Oregon Zoo, Sequoia Park Zoo, Ventana Wildlife Society, Oakland Zoo, Pacific Gas and Electric Company, Pacific Power Company, Green Diamond Resource Company, and Hells Canyon Preservation Council. In 2018, the U.S. Forest Service, also signed this MOU. Based on all of these

considerations, we anticipate that reintroduced California condors are likely to become established and persist within the NEP.

#### Addressing Causes of Extirpation

Investigating the causes for decline and extirpation of California condors is necessary to understand whether the threats have been sufficiently curtailed such that reintroduction efforts are likely to be successful. Evaluation of various hypotheses for the extirpation of California condors in the Pacific Northwest revealed that secondary poisoning related to predator control and extermination campaigns, direct persecution, and possibly lead poisoning from spent ammunition were the primary causes (D’Elia and Haig 2013, pp. 119–122). Two of these primary drivers of regional extirpation—predator poisoning and direct persecution—are no longer the primary threats to the California condor.

According to the most comprehensive assessment of California condor deaths from 1992 through 2009, of the 76 deaths where a definitive cause was determined, there were no confirmed cases of secondary poisoning related to predator control (although there was one possible case involving glycol toxicosis) and only five cases of condors directly persecuted by gunshot or arrow (Rideout et al. 2012, pp. 108, 110).

Based on multiple lines of evidence, the primary threat to the recovery of the California condor is lead poisoning from spent ammunition (see Biological Information, above). Regulations banning lead ammunition for taking wildlife in California will be in effect by the time of the reintroduction effort (see Biological Information, above). In addition, voluntary efforts to reduce lead exposure in wildlife are ongoing in Oregon (see Biological Information, above). Finally, the reintroduction program will carefully monitor the population and conduct regular health checks to evaluate whether reintroduced California condors are being exposed to lead, the rate of exposure, and how this situation compares to other portions of the species’ range. When necessary, California condors with elevated lead levels will be treated for lead poisoning. While the threat from lead ammunition is still present in the proposed experimental population area, it is being addressed through a mixture of regulatory and proactive voluntary measures (see Biological Information, above); therefore, we will not request further regulation of lead ammunition for this proposed experimental population. Sources of mortality will be carefully monitored, and if high

mortality rates are preventing the establishment of a self-sustaining population, we will work with our conservation partners to implement additional voluntary measures to address threats, as we have at other California condor release sites.

### Release Procedures

Release procedures at Redwood National Park are described in the environmental assessment (NPS et al. 2018, pp. 23–28) and would be similar to those at existing release sites.

Procedures include: (1) The use of an onsite release pen where California condors are kept for a short period of time prior to release, (2) tracking of all released condors via telemetry (VHF and GPS/GSM), and (3) supplying condors with proffered food at the release site to allow for repeated trappings to monitor health and replace transmitters.

In general, a new cohort of captive-reared California condors will be released annually. The size of each release group will depend on the number of California condors in captivity available for release, but annual releases will likely involve up to six condors. California condors hatched in captivity will be raised by their parents or a condor look-alike hand puppet until they are approximately 6 months to 1 year old. They will then be placed with other California condors in a single large pen so they will form social bonds and undergo aversion training to power poles. The young California condors will be transported to the release site at Redwood National Park when they are approximately 1.5 to 2 years old. At the release site they will be placed in a flight pen and will remain there for an acclimation period of approximately 3 months.

Biologists will remain near the release pen, observing the young California condors' behavior and guarding against predators or other disturbance. After the initial adjustment period, California condors will be released from the flight pen. Any release candidate showing signs of physical or behavioral problems will not be released. A small area of NPS land will be closed to recreational activity to protect the California condors in or around the release facility. Carcasses will be provided at the release site, as supplemental food for newly released California condors, and as necessary, to attract condors for periodic trapping to check their health and swap-out transmitters.

All California condors released to the wild will be marked to allow identification of individuals. Current methods for doing this include placing

electronic transmitters (e.g., GPS/GSM and radio transmitters) and wing markers on the wings of each California condor. The movements and behavior of each California condor will be monitored remotely using electronic transmitters and ground observations. Aerial tracking will be used to find lost individuals, and telemetry flights will be coordinated with the appropriate land management agencies. Our methods for identifying and monitoring individuals will be adaptive and may change as technology improves.

An effort will be made to maintain an even sex-ratio across a range of age-classes in the released population. Adult California condors unfit for release may be transported to the release site and kept in the pen as mentors for the acclimating cohort. Adjustments will be made in release cohort structure annually based on availability from captive-breeding facilities, genetics, sex-ratio, and age.

### Donor Stock Assessment and Effects on Donor Population

The donor population for the proposed reintroduction of California condors to Redwood National Park is the captive population of California condors. Although the captive population is located at four breeding facilities, these facilities cooperate to manage the entire wild population and captive population as a single entity, exchanging California condors and condor eggs among the facilities as necessary for population and genetic management (Ralls and Ballou 2004, p. 216).

As of December 2017, there were 173 California condors in captivity, and the size of the captive population has been relatively stable over the last 5 years, with end-of-year counts ranging from 167 to 193 during this time period (USFWS 2018, pp. 1, 6). With the assistance of the captive-breeding program, the total population of California condors increased from 370 condors in 2010 to 463 condors in 2017 (USFWS 2018, p. 6).

The donor population is carefully managed to ensure its long-term viability. Annual reviews of breeding, captive pairings, genetic health, and demographic factors are undertaken to ensure that captive-releases will not be detrimental to the stability of the captive flock. In addition, the captive-breeding program has capacity to pair additional captive California condors to increase reproductive output as they become available for breeding and to replace senescent condors. This could be done through multiple clutching, the use of non-breeding adults to serve as

foster parents, and/or puppet rearing. Given the careful management of the donor population, the ability to increase its productivity, and the relatively small number of California condors that will be released at Redwood National Park annually, impacts to the donor population are expected to be negligible.

### Management

The Service, NPS, and the Yurok Tribe will plan and manage the reintroduction of California condors at Redwood National Park. In addition, these agencies will carefully collaborate on releases, monitoring, coordination with landowners and land managers, public awareness, and other tasks necessary to ensure successful reintroduction of the species. A few specific management considerations related to the experimental population are addressed below.

(a) *Incidental Take*: Experimental population special rules contain specific prohibitions and exceptions regarding the taking of individual animals. These special rules are compatible with most routine human activities in the expected reestablishment area. Section 3(19) of the Act defines “take” as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.”

“Incidental take” is further defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. If we adopt the 10(j) rule as proposed, most incidental take of California condors within the experimental population area would be allowed, provided that the take is unintentional and not due to negligent conduct. With the exception of fuels treatment activities by Federal and State agencies to reduce the risk of catastrophic wildfire, habitat alteration (e.g., removing trees, erecting structures, altering the nest structure or perches near the nest) or significant visual or noise disturbance (e.g., tree felling, chainsaws, helicopter overflights, concrete cutters, fireworks, explosives) within 656 ft (200 m) of an active nest that result in incidental take of California condors would be prohibited. Activities such as livestock grazing and use of existing roads and trails would not be considered a significant visual or noise disturbance. For the purposes of this rule, an active California condor nest is defined as a nest that is: (1) Attended by a breeding pair of condors, (2) occupied by a condor egg, or (3) occupied or attended by a <1-year-old condor.

The 656-ft (200-m) buffer is meant to serve to minimize visual and auditory impacts associated with human

activities near nest sites. We chose a 656-ft (200-m) buffer after considering buffer distances used for other raptors, which varied widely from 162–5,249 ft (50–1,600 m) (Richardson and Miller 1997, pp. 635–636; Romin and Muck 2002; USFWS 2007, p. 13), as well as past recommendations on buffer distances for California condor nests, which ranged from 0.5–1.5 mi (0.8–2.4 km) (Carrier 1973, pp. 71–73). This variation is likely the result of differences in environmental setting, species-specific responses, status of the species at the time of the recommended buffer, the nature of the disturbance, and the purpose of the buffer. It is important to note that historical California condor buffer distances of 0.5 to 1.5 mi (0.8–2.4 km) were based on anecdotal observations of a small number of condor nests in a declining population, and were necessarily conservative given the context of a nearly extinct species. The nest buffer we are proposing is smaller than those earlier recommendations because of new information suggesting that nesting California condors may be more tolerant of disturbance than previously believed (see below). We also accounted for the fact that we are proposing this population as nonessential experimental. Therefore, our buffer distance around nests may be less conservative than our recommended buffer distances from nests where California condors are listed as endangered.

While species-specific responses to disturbance have not been formally studied for the California condor, observations in the 1950s and 1960s found that once a condor nest is started, it will not be abandoned unless the egg or chick is lost or the parents killed (Sibley 1969, p. 8). In addition, recent observations have documented successful nests within 0.5 mi (0.8 km) from active oil and gas operations and within 656 ft (200 m) of busy highways, hiking trails, and forestry practices such as operating chainsaws and chippers (A. Welch, NPS, pers. comm. 2015). One nest in a giant sequoia tree was successful despite being “right on the edge” of a clearcut operation (which ceased only 3 weeks prior to egg laying) and only about 656 ft (200 m) from, and in direct view of, an intermittently active dirt road (Snyder et al. 1986, p. 238).

Although the best available information suggests that California condors may not be as susceptible to disturbance as we thought in the 1960s–1980s, flushing of condors from nests has been documented due to disturbance and this activity has the

potential to result in the egg breaking if the adult that is flushed is incubating the egg (Sibley 1969, p. 8). It is also possible that prolonged or repeated disturbances may cause nest failure (Sibley 1969, p. 15). To minimize the chances of nest or egg destruction and to preserve the structural integrity of habitat around nests while minimizing impacts to stakeholders, we are proposing to prohibit habitat alteration or significant visual or noise disturbance within 656 ft (200 m) of active nests. However, fuels treatments by Federal and State agencies designed to reduce the risk of catastrophic wildfire would not be prohibited within 656 ft (200 m) of active nests given the anticipated long-term conservation benefits to California condor nesting habitat. Other actions within 656 ft (200 m) of an active California condor nest may be permissible if they will not result in incidental take of California condors because of mitigating factors (e.g., topography or limited duration or extent of the action); however, we recommend that persons who intend to take an action within this distance of an active California condor nest first contact us for technical assistance.

Existing and proposed activities and land uses surrounding the park that could potentially result in incidental take include wind power, utility transmission lines, mining, commercial timber production, and ranching operations (NPS et al. 2018). As noted above in our evaluation of the likelihood of population establishment and survival, we determined that the extent of effects of these activities within the NEP is compatible with conservation of the California condor. We expect few restrictions on these activities because most incidental take, including take associated with lead ingestion, would be not be prohibited. Some activities, such as those associated with timber harvest or erecting structures, within 200 meters of an active nest would be prohibited, as described above. However, because (1) the number of individuals initially released would be small, (2) California condors nest only on cliffs and in large tree cavities, (3) California condors tend to nest in less accessible and remote areas, and (4) the nests would be dispersed rather than concentrated in a particular area, we expect impacts to existing and proposed activities to be minimal (NPS et al. 2018). For the reasons stated above, it is unlikely that a condor would nest within areas with active timber harvest operations, as only about 0.5 percent of harvestable timber on private lands within the study area

are likely to contain suitable nesting trees. (NPS 2018). Once the condor chick has fledged, activities could resume, so any prohibitions on activities would be temporary in nature.

(b) *Interagency Consultation*: For purposes of section 7 of the Act, section 10(j) of the Act and our regulations (50 CFR 17.83) provide that nonessential experimental populations are treated as species proposed for listing under the Act except on National Park System and National Wildlife Refuge System lands, where they are treated as threatened species for the purposes of section 7 of the Act.

(c) *Special Handling*: USFWS, NPS, California Department of Parks and Recreation, CDFW, ODFW, Nevada Department of Wildlife (NDOW), and Yurok Wildlife Department employees, and authorized agents acting on their behalf, may handle California condors for scientific purposes; to relocate or haze California condors to avoid conflict with human activities; for recovery purposes; to aid sick or injured California condors; and to salvage dead California condors. However, non-Service or other non-authorized personnel will need to acquire permits from the Service and the appropriate State or Tribal agency for these activities.

(d) *Public Awareness and Cooperation*: During January 2017, in cooperation with the Yurok Tribe and Redwood National Park, we conducted five NEPA scoping meetings on this proposed action in northern California and Oregon. We notified a comprehensive list of stakeholders of the meetings including affected Federal and State agencies, Native American Tribes, local governments, landowners, nonprofit organizations, and other interested parties. The comments we received were included in the formulation of alternatives considered in the NEPA process, and were considered in formulating this proposed regulation to designate the reintroduced California condors as an NEP.

#### **Monitoring and Evaluation**

In cooperation with conservation partners, we will monitor movements, habitat use, and survival of all released California condors (NPS et al. 2018, pp. 23–28). Monitoring individual movements will allow field staff to identify potential problem-behaviors and to capture, relocate, or haze individual California condors for their safety. It will also allow us to detect any California condors that move outside of the experimental population area. Trapping will occur at the release site to allow for hands-on physical exams of

individuals, replacement of faulty or aging transmitters, marking growing feathers, sampling feathers marked previously for lead history construction, and drawing blood for immediate testing of circulating blood lead levels and laboratory analysis for other contaminants of interest including, but not limited to, organophosphates and anticoagulant rodenticides.

Annual reports that summarize monitoring and management activities will be collaboratively developed by the Yurok Tribe, NPS, and USFWS. We will evaluate the reintroduction program to determine whether to continue or terminate reintroductions every 5 years as part of our 5-year status review for the species.

### Findings

Based on the best scientific and commercial data available (in accordance with 50 CFR 17.81), we find that releasing the California condors into Redwood National Park with the regulatory provisions in this proposed rulemaking will further the conservation of the species. The nonessential experimental population status is appropriate for the reintroduced population because we have determined that it is not essential to the continued existence of the species in the wild.

### Required Determinations

#### *Regulatory Planning and Review* (*Executive Orders 12866 and 13563*)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

#### *Executive Order 13771*

Under E.O. 13771 ("Reducing Regulation and Controlling Regulatory Costs") (82 FR 9339, February 3, 2017), this rule is not a regulatory action because this rule is not significant under E.O. 12866.

#### *Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 60 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare, and make available for public comment, a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We certify that this rule would not have a significant economic effect on a substantial number of small entities. The following discussion explains our rationale.

The areas that would be affected under this rule include the release site at Redwood National Park and areas where individual California condors are likely to disperse. Because of the regulatory flexibility for Federal agency actions provided by the NEP designation and the exemption for incidental take in the rule (with a minor exception around active nests), we do not expect this rule to have significant effects on any activities within Federal, State, or private lands within the NEP. In regard to section 7(a)(2) of the Act, the population would be treated as proposed for listing, and Federal action agencies are not required to consult on their activities, except on National Wildlife Refuges and National Park System lands, where the NEP is treated as a threatened species for the purposes of section 7 of the Act.

Section 7(a)(4) of the Act requires Federal agencies to confer (rather than consult) with the Service on actions that are likely to jeopardize the continued existence of a species proposed for listing. However, because the NEP is, by definition, not essential to the survival

of the species, conferring will likely never be required for the California condor population within the NEP area. Furthermore, the results of a conference are advisory in nature and do not restrict agencies from carrying out, funding, or authorizing activities. Section 7(a)(1) of the Act requires Federal agencies to use their authorities to carry out programs to further the conservation of listed species, which would apply on any lands within the NEP areas. On National Wildlife Refuges and National Park System lands within the NEP the California condor would be treated as a threatened species for the purposes of section 7 of the Act. As a result, and in accordance with our regulations, some modifications to proposed Federal actions within National Wildlife Refuges and National Park System lands may occur to benefit the California condor, but we do not expect projects to be substantially modified because these lands are already administered in a manner that is compatible with California condor conservation.

This rule broadly authorizes incidental take of the California condor within the NEP area. The regulations implementing the Act define "incidental take" as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity, such as agricultural activities and other rural development, camping, hiking, hunting, vehicle use of roads and highways, and other activities in the NEP areas that are in accordance with Federal, Tribal, State, and local laws and regulations. Intentional take for purposes other than authorized data collection or recovery purposes would not be authorized. Intentional take for research or recovery purposes would require a section 10(a)(1)(A) recovery permit under the Act.

The principal activities on private property near the proposed release site are recreation, timber production, agriculture, and activities associated with private residences. We believe the presence of the California condor will not significantly affect the use of lands for these purposes because—with a minor exception around active condor nests—there will be no new or additional economic or regulatory restrictions imposed upon States, non-Federal entities, or private landowners due to the presence of the California condor (NPS, 2018). Therefore, this rulemaking is not expected to have any significant adverse impacts to activities on private lands within the NEP area.

*Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(1) This rule would not “significantly or uniquely” affect small governments. We have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that, if adopted, this rulemaking would not impose a cost of \$100 million or more in any given year on local or State governments or private entities. A Small Government Agency Plan is not required. Small governments would not be affected because the proposed NEP designation would not place additional requirements on any city, county, or other local municipalities.

(2) This rule would not produce a Federal mandate of \$100 million or greater in any year (*i.e.*, it is not a “significant regulatory action” under the Unfunded Mandates Reform Act). This proposed NEP designation for the California condor would not impose any additional management or protection requirements on the States or other entities.

*Takings (E.O. 12630)*

In accordance with Executive Order 12630, the proposed rule does not have significant takings implications. When reintroduced populations of federally listed species are designated as nonessential experimental populations, the Act’s regulatory requirements regarding the reintroduced population are significantly reduced. This rule would allow for the taking of reintroduced California condors when such take is incidental to an otherwise legal activity, with a minor exception for habitat alteration and significant visual or noise disturbance within 656 ft (200 m) of active condor nests.

A takings implication assessment is not required because this rule: (1) Would not effectively compel a property owner to suffer a physical invasion of property, and (2) would not deny all economically beneficial or productive use of the land or aquatic resources. This rule would substantially advance a legitimate government interest (conservation and recovery of a listed species) and would not present a barrier to all reasonable and expected beneficial use of private property.

*Federalism (E.O. 13132)*

In accordance with Executive Order 13132, we have considered whether this proposed rule has significant Federalism effects and have determined that a Federalism assessment is not

required. This rule would not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. In keeping with Department of the Interior policy, we requested information from and coordinated development of this proposed rule with the affected resource agencies in California, Nevada, and Oregon. Achieving the recovery goals for this species will contribute to its eventual delisting and return to State management. No intrusion on State policy or administration is expected, roles or responsibilities of Federal or State governments would not change, and fiscal capacity would not be substantially directly affected. The proposed rule operates to maintain the existing relationship between the State and the Federal Government and is being undertaken in coordination with the States of California, Nevada, and Oregon. We have cooperated with CDFW, the NDOW, and ODFW in the preparation of this proposed rule. Therefore, this proposed rule does not have significant Federalism effects or implications to warrant the preparation of a Federalism assessment pursuant to the provisions of Executive Order 13132.

*Civil Justice Reform (E.O. 12988)*

In accordance with Executive Order 12988 (February 7, 1996, 61 FR 4729), the Office of the Solicitor has determined that this rule would not unduly burden the judicial system and would meet the requirements of sections (3)(a) and (3)(b)(2) of the Order.

*Paperwork Reduction Act*

This rule does not contain any new collection of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). OMB has previously approved the information collection requirements associated with permitting and reporting requirements associated with native endangered and threatened species, and experimental populations, and assigned the following OMB Control Numbers:

- 1018–0094, “Federal Fish and Wildlife Permit Applications and Reports—Native Endangered and Threatened Species; 50 CFR 10, 13, and 17” (expires 03/31/2021), and
- 1018–0095, “Endangered and Threatened Wildlife, Experimental Populations, 50 CFR 17.84” (expires 12/31/2020).

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.

*National Environmental Policy Act*

In compliance with all provisions of the National Environmental Policy Act of 1969 (NEPA), we have analyzed the impact of this proposed rule. Based on this analysis and any new information resulting from public comment on the proposed action, we will determine if there are any significant impacts or effects caused by this rule. In cooperation with the NPS and the Yurok Tribe, we have prepared an environmental assessment on this proposed action and have made it available for public inspection: (1) In person at Redwood National and State Parks, Newton B. Drury Center, 1111 2nd Street, Crescent City, CA 95531; and (2) online at <http://www.regulations.gov> or <https://parkplanning.nps.gov/condor>. All appropriate NEPA documents will be finalized before this rule is finalized.

*Government-to-Government Relationship With Tribes*

In accordance with the President’s memorandum of April 29, 1994, “Government-to-Government Relations with Native American Tribal Governments” (59 FR 229511), Executive Order 13175, and the Department of the Interior Manual Chapter 512 DM 2, we have coordinated closely with the Tribal governments near the proposed release site throughout the development of this rule. In collaboration with the NPS, we have extended an invitation for government-to-government consultation to all federally recognized Tribes in the proposed NEP area, have formally met with tribes that have requested government-to-government consultation, stand ready to meet with other tribes that request government-to-government consultation, and will fully consider information and comments received through the consultation process. We will also consider all comments received from Tribes and tribal members during the public comment period.

*Energy Supply, Distribution, or Use (E.O. 13211)*

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action

and no Statement of Energy Effects is required.

*Clarity of This Regulation (E.O. 12866)*

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell

us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

**References Cited**

A complete list of all references cited in this proposed rule is available upon request from the Pacific Region Office (see **FOR FURTHER INFORMATION CONTACT**) or online at <http://www.regulations.gov> in Docket No. FWS-R1-ES-2018-0033.

**Author**

The primary author of this proposed rule is Jesse D'Elia of the Pacific Regional Office (see **FOR FURTHER INFORMATION CONTACT**).

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and

recordkeeping requirements, Transportation.

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

**PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS**

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h) by revising the entry for “Condor, California” under BIRDS in the List of Endangered and Threatened Wildlife to read as follows:

**§ 17.11 Endangered and threatened wildlife.**

\* \* \* \* \*  
(h) \* \* \*

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
<b>Birds</b>				
Condor, California .....	<i>Gymnogyps californianus</i>	U.S.A. only, except where listed as an experimental population.	E	32 FR 4001, 3/11/1967; 61 FR 54045, 10/16/1996; 50 CFR 17.95(b) <sup>CH</sup> .
Condor, California .....	<i>Gymnogyps californianus</i>	U.S.A. (specific portions of Arizona, Nevada, and Utah)—see § 17.84(j).	XN	61 FR 54045, 10/16/1996; 50 CFR 17.84(j) <sup>10j</sup> .
Condor, California .....	<i>Gymnogyps californianus</i>	U.S.A. (Oregon, and specific portions of northern California and northwest Nevada).	XN	[ <b>Federal Register</b> citation of the final rule]; 50 CFR 17.84(i) <sup>10j</sup> .
*	*	*	*	*

■ 3. Amend § 17.84 by adding a paragraph (i) to read as follows:

**§ 17.84 Special rules—vertebrates.**

\* \* \* \* \*

(i) California condor (*Gymnogyps californianus*). (1) *Where is the California condor designated as a nonessential experimental population (NEP)?* (i) The NEP area for the California condor is within the species' historical range in northern California, northwestern Nevada, and Oregon. The western boundary of the NEP is the Submerged Lands Act boundary line along the Pacific coast. The southern boundary of the NEP is formed by: An east-west line from California's Submerged Lands Act boundary to Hare Creek; Hare Creek from the Pacific Ocean to its junction with California State Route 1; north to the junction of State Route 1 and State Route 20; east along California State Route 20 to where it meets Interstate 80; and Interstate 80

from its intersection with California State Route 20 to U.S. Route 95 in Nevada. The eastern boundary of the NEP is U.S. Route 95 in Nevada to the State boundary of Oregon and then east and north along Oregon's southern and eastern boundaries, respectively. The northern boundary of the NEP is the State boundary between Oregon and Washington. All highway boundaries are inclusive of the entire highway right of way.

(ii) We are designating the experimental population area to accommodate the potential future movements of a wild population of California condors. The released population is expected to remain in the experimental area for the foreseeable future (approximately 20 years) due to the geographic extent of the designation.

(iii) We do not intend to change the status of this nonessential population unless:

(A) The California condor is recovered and subsequently removed from the list in § 17.11(h) in accordance with the Act; or

(B) The reintroduction is not successful and the regulations in this paragraph (i) are revoked.

(iv) Legal actions or other circumstances may compel a change in this nonessential experimental population's legal status to essential, threatened, or endangered, or compel the Service to designate critical habitat for the California condors within the experimental population area defined in this rule. If this happens, all California condors will be removed from the area and this experimental population rule will be revoked, unless the participating parties in the reintroduction effort agree that the condors should remain in the wild. Changes in the legal status and/or removal of this population of California condors will be made in compliance

with any applicable Federal rulemaking and other procedures.

(v) We will not designate critical habitat for this NEP, as provided by 16 U.S.C. 1539(j)(2)(C)(ii).

(2) *What take of the California condor is allowed in the NEP area?* (i)

Throughout the California condor NEP, you will not be in violation of the Act if you unavoidably and unintentionally take a California condor (except as noted in paragraph (i)(3)(ii) of this section), provided such take is non-negligent and incidental to a lawful activity, such as hunting, ranching, driving, or recreational activities, and you report the take as soon as possible as provided under paragraph (i)(2)(iii) of this section.

(ii) Any person with a valid permit issued by the Service under § 17.32 may take California condors in the wild in the experimental population area, pursuant to the terms of the permit. Additionally, any employee or agent of the Service, National Park Service, Yurok Tribe Wildlife Department, California Department of Parks and Recreation, California Department of Fish and Wildlife, Nevada Department of Wildlife, or Oregon Department of Fish and Wildlife who is designated and trained for such purposes, when acting in the course of official duties, may take a California condor within the NEP area if such action is necessary:

(A) For scientific purposes;

(B) To relocate or haze California condors within the experimental population area to improve California condor survival or recovery;

(C) To relocate California condors that have moved outside the experimental population area;

(D) To transport California condors to and from veterinary facilities or captive-breeding facilities;

(E) To address conflicts with ongoing or proposed activities in an attempt to improve California condor survival;

(F) To aid a sick, injured, or orphaned California condor;

(G) To salvage a dead specimen that may be useful for scientific study;

(H) To dispose of a dead specimen; or

(I) To aid in law enforcement investigations involving the California condor.

(iii) Any take pursuant to paragraph (i)(2)(i), (i)(2)(ii)(F), (i)(2)(ii)(G), or (i)(2)(ii)(H) of this section must be reported as soon as possible to the California Condor Field Coordinator, California Condor Recovery Office, 2493 Portola Road, Suite A, Ventura, California 93003 (805/644-5185) who will determine the disposition of any live or dead specimens.

(3) *What take of the California condor is not allowed in the NEP area?* (i)

Except as expressly allowed in paragraph (i)(2) of this section, all of the provisions of § 17.31(a) and (b) apply to the California condor in areas identified in paragraph (i)(1) of this section, and any manner of take not described under paragraph (i)(2) of this section is prohibited in the NEP.

(ii) With the exception of fuels treatment activities by Federal and State agencies to reduce the risk of catastrophic wildfire, habitat alteration (e.g., removing trees, erecting structures, altering the nest structure or perches near the nest) or significant visual or noise disturbance (e.g., tree felling, chainsaws, helicopter overflights, concrete cutters, fireworks, explosives) within 656 ft (200 m) of an active nest that result in incidental take of California condors would be prohibited. Activities such as livestock grazing and use of existing roads and trails would not be considered a significant visual or noise disturbance. For the purposes of this rule, an active California condor nest is defined as a nest that is attended by a breeding pair of condors, occupied by a condor egg, or occupied or attended by a condor less than 1 year of age. If you intend to take an action within 656 ft (200 m) of an active California condor nest and believe that your action will not result in incidental take of

California condors because of mitigating factors (e.g., topography or limited duration or extent of the action), we recommend you first contact us for technical assistance.

(iii) You must not possess, sell, deliver, carry, transport, ship, import, or export, by any means whatsoever, any California condor or part thereof from the experimental population taken in violation of this paragraph (i) or in violation of applicable tribal or State laws or regulations or the Act.

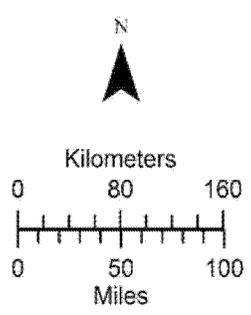
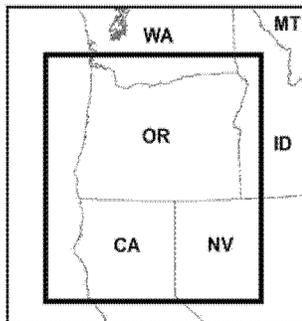
(iv) It is unlawful for you to attempt to commit, solicit another to commit, or cause to be committed, any take of the California condor, except as expressly allowed in paragraph (i)(2) of this section.

(4) *How will the effectiveness of this reintroduction be monitored?* (i) The status of the reintroduction project will receive an informal review on an annual basis, and we will evaluate the reintroduction program to determine whether to continue or terminate reintroductions every 5 years as part of our 5-year status review for the species. This evaluation will include, but will not be limited to: A review of management issues; California condor movements and post-release behavior; assessment of food resources and dependence of California condors on supplemental food; fecundity of the population; causes and rates of mortality; project costs; public acceptance; and progress toward establishing a self-sustaining population. If a formal evaluation indicates the project is experiencing a 40 percent or greater mortality rate or released California condors are not finding food on their own, serious consideration will be given to terminating the project.

(5) *Map of the NEP areas for the California condor in the Pacific Northwest:*

BILLING CODE 4333-15-P

### Nonessential Experimental Population for the California Condor in the Pacific Northwest



-  NEP
-  Reintroduction site
-  City
-  Highway
-  State
-  County

BILLING CODE 4333-15-C

\* \* \* \* \*

Dated: March 20, 2019.

**Margaret E. Everson,***Principal Deputy Director Exercising the Authority of the Director for the U.S. Fish and Wildlife Service.*

[FR Doc. 2019-06293 Filed 4-4-19; 8:45 am]

BILLING CODE 4333-15-P

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 18****[Docket No. FWS-R7-ES-2019-0012; FXES111607MRG01-190-FF07CAMM00]****RIN 1018-BD63****Marine Mammals; Incidental Take During Specified Activities: Cook Inlet, Alaska****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule; extension of the comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, in response to a request from Hilcorp Alaska, LLC, Harvest Alaska, LLC, and the Alaska Gasline Development Corporation, have proposed to issue regulations authorizing the nonlethal, incidental take by harassment of small numbers of northern sea otters in State and Federal waters (Alaska and the Outer Continental Shelf) within Cook Inlet, Alaska, as well as all adjacent rivers, estuaries, and coastal lands. Take may result from oil and gas exploration, development, production, and transportation activities occurring for a period of 5 years. We previously published these proposed regulations and requested comments and now, in response to requests, extend the deadline for comment submission.

**DATES:** The comment period for the proposed rule that published March 19, 2019 (84 FR 10224), is extended. We will accept comments on the proposed incidental take regulations and the accompanying draft environmental assessment that are received or postmarked on or before April 18, 2019. If you comment using the Federal eRulemaking Portal (see **ADDRESSES**), you must submit your comments by 11:59 p.m. Eastern Time on the closing date.

**ADDRESSES:**

*Document availability:* You may view the proposed rule, the application package, supporting information, draft environmental assessment, and other

information at <http://www.regulations.gov> under Docket No. FWS-R7-ES-2019-0012, or these documents may be requested as described under **FOR FURTHER INFORMATION CONTACT**.

*Comment submission:* You may submit comments on the proposed rule by one of the following methods:  
*U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS-R7-ES-2019-0012, Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: BPHC, Falls Church, VA 22041-3803.

*Electronic submission:* Federal eRulemaking Portal at: <http://www.regulations.gov>. Follow the instructions for submitting comments to Docket No. FWS-R7-ES-2019-0012.

We will post all comments at <http://www.regulations.gov>. You may request that we withhold personal identifying information from public review; however, we cannot guarantee that we will be able to do so. See Request for Public Comments, below, for more information.

*Information collection requirements:* Send your comments on the requested revision of the information collection request (ICR) to the Desk Officer for the Department of the Interior at OMB-OIRA at 202-395-5806 (fax) or [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov) (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041-3803 (mail); or [info\\_coll@fws.gov](mailto:info_coll@fws.gov) (email). Please include "1018-0070" in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** Mr. Christopher Putnam, U.S. Fish and Wildlife Service, MS 341, 1011 East Tudor Road, Anchorage, Alaska 99503, by email at [christopher\\_putnam@fws.gov](mailto:christopher_putnam@fws.gov), or by telephone at 907-786-3844. Persons who use a telecommunications device for the deaf may call the Federal Relay Service at 1-800-877-8339, 24 hours a day, 7 days a week.

Questions regarding the Service's request to revise the Information Collection control number 1018-0070 may be submitted to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041-3803 (mail); 703-358-2503 (telephone), or [info\\_coll@fws.gov](mailto:info_coll@fws.gov) (email). Please include "1018-0070" in the subject line of your email request.

**SUPPLEMENTARY INFORMATION:** On March 19, 2019, we, the U.S. Fish and Wildlife

Service (Service), published a proposed rule under section 101(a)(5)(A) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361(a)(5)(A)) (MMPA), which gives the Secretary of the Interior (Secretary) the authority to allow the incidental, but not intentional, taking of small numbers of marine mammals in response to requests by U.S. citizens engaged in a specified activity in a specified region. The Secretary has delegated authority for implementation of the MMPA to the Service.

**Background**

On May 3, 2018, Hilcorp Alaska, LLC (Hilcorp), Harvest Alaska, LLC, and the Alaska Gasline Development Corporation, hereinafter referred to as the "applicant," petitioned the Service to promulgate regulations pursuant to section 101(a)(5)(A) of the MMPA for the nonlethal, unintentional taking of small numbers of northern sea otters (*Enhydra lutris kenyoni*) incidental to oil and gas exploration, development, production, and transportation activities in Cook Inlet, Alaska, for a period of 5 years. On June 28, 2018, the applicant submitted an amended request providing additional project details.

As described in the proposed rule of March 19, 2019 (84 FR 10224), the proposed incidental take regulations (ITR), if finalized, will not authorize the proposed activities. Rather, they will authorize the nonlethal incidental, unintentional take of small numbers of sea otters associated with those activities based on standards set forth in the MMPA. The proposed ITR includes: Permissible amounts and methods of nonlethal taking; measures to ensure the least practicable adverse impact on sea otters and their habitat; measures to avoid and reduce impacts to subsistence uses; and requirements for monitoring and reporting. For further information, please see the proposed rule.

In comments received thus far on the proposed rule, the Service received requests from the Marine Mammal Commission, the Center for Biological Diversity, and the Cook Inlet Keepers to extend the comment period deadline. Accordingly, we will now accept comments until the date specified above in **DATES**.

**Request for Public Comments**

If you wish to comment on the proposed regulations, the associated draft environmental assessment, or the information collection, you may submit your comments by any of the methods described in **ADDRESSES**. Please identify if you are commenting on the proposed regulations, draft environmental assessment, or the information

collection, make your comments as specific as possible, confine them to issues pertinent to the proposed regulations, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph that you are addressing. The Service will consider all comments that are received by the close of the comment period (see **DATES**).

Comments, including names and street addresses of respondents, will become part of the administrative record. Before including your address, telephone number, email address, or other personal identifying information in your comment, be advised that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comments to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Dated: March 27, 2019.

**Karen Clark,**

*Acting Regional Director.*

[FR Doc. 2019-06677 Filed 4-2-19; 11:15 am]

BILLING CODE 4333-15-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 216

[Docket No. 190212104-9261-01]

RIN 0648-B158

#### Regulations Governing the Taking of Marine Mammals

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

**ACTION:** Proposed rule.

**SUMMARY:** On February 14, 2005, NMFS received a request from the Makah Indian Tribe for a waiver of the Marine Mammal Protection Act (MMPA) moratorium on take of Eastern North Pacific (ENP) gray whales (*Eschrichtius robustus*). The Tribe requested that NMFS authorize a tribal hunt in the coastal portion of the Tribe's usual and accustomed fishing area (U&A) for ceremonial and subsistence purposes, and authorize the making and sale of handicrafts. The MMPA imposes a general moratorium on the taking of marine mammals but authorizes the Secretary of Commerce to waive the

moratorium and issue regulations governing the take of marine mammals if certain statutory criteria are met. The decision to waive the moratorium and issue regulations must be made on the record after an opportunity for an agency hearing on both the waiver and regulations. The hearing is governed by agency regulations, which call for the appointment of a presiding officer and prescribe other procedures. This notice announces the proposed waiver and regulations. A related notice announcing a hearing on the proposed waiver and regulations is published elsewhere in this issue of the **Federal Register**.

**DATES:** NMFS has scheduled a hearing before an Administrative Law Judge at 9:30 a.m. PDT on August 12, 2019, to consider the issuance of a waiver of the take moratorium and the regulations (see **ADDRESSES**). Parties interested in participating in the hearing process should consult the related notice of hearing published elsewhere in this issue of the **Federal Register**.

**Filing deadlines:** Any person desiring to participate as a party in the hearing must notify the Regional Administrator (see **ADDRESSES**), by certified mail, postmarked on or before May 6, 2019. Interested parties should consult the related notice of hearing and regulations at 50 CFR part 228 for additional deadlines and hearing procedures.

**ADDRESSES:** The hearing before Administrative Law Judge George J. Jordan will be held beginning at 9:30 a.m. PDT on August 12, 2019, at the Henry M. Jackson Federal Building, 915 Second Avenue, 4th Floor Auditorium, Seattle, WA 98174.

Information related to the hearing and the Draft Environmental Impact Statement (DEIS), a complete list of references cited in this rulemaking, and background on the Makah Tribe's waiver request will be available on the NMFS website at: <https://www.fisheries.noaa.gov/action/formal-rulemaking-proposed-mmpa-waiver-and-hunt-regulations-governing-gray-whale-hunts-makah>.

**FOR FURTHER INFORMATION CONTACT:** Michael Milstein, NMFS West Coast Region, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232-1274; 503-231-6268.

**SUPPLEMENTARY INFORMATION:** The following table of contents is intended as an aid to readers:

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#### I. List of Acronyms

AWMP	Aboriginal Whaling Management Plan
CFR	Code of Federal Regulations
DEIS	Draft Environmental Impact Statement
ENP	Eastern North Pacific
ESA	Endangered Species Act
E.O.	Executive Order
ICRW	International Convention for the Regulation of Whaling
IWC	International Whaling Commission
K	Carrying Capacity

MMC Marine Mammal Commission  
 MMPA Marine Mammal Protection Act  
 NEPA National Environmental Policy Act  
 NMFS National Marine Fisheries Service  
 OSP Optimum Sustainable Population  
 PBR Potential Biological Removal  
 PCFG Pacific Coast Feeding Group  
 SAR Stock Assessment Report  
 U&A Usual and Accustomed Fishing Area  
 (of the Makah Tribe)  
 U.S.C. United States Code  
 WCA Whaling Convention Act  
 WNP Western North Pacific

## II. Background

On February 14, 2005, the Makah Indian Tribe, consistent with its treaty right to hunt whales as defined in the 1855 Treaty of Neah Bay and with the International Convention for the Regulation of Whaling (ICRW), submitted a request seeking authorization under the MMPA for a whale hunt. The Tribe requested a waiver of the MMPA take moratorium to authorize a tribal hunt for ENP gray whales in the coastal portion of the Tribe's U&A in northwest Washington State for ceremonial and subsistence purposes and to allow the making and sale of handicrafts.

The Tribe submitted its 2005 request to the Assistant Administrator of NMFS, who delegated to the Northwest Region (now the West Coast Region) of NMFS authority to complete an analysis under the National Environmental Policy Act (NEPA) and make the initial waiver determination under the MMPA (NMFS, 2005; Makah Tribe, 2006). On May 9, 2008, we, the West Coast Region of NMFS, released a DEIS. We later terminated that DEIS because of new scientific information, published a notice of intent to prepare a new DEIS, and opened a scoping process (77 FR 29967, May 21, 2012). On March 13, 2015, we released a new DEIS (80 FR 13373). The Tribe's request is included as an attachment to the DEIS. After full consideration of the detailed information found in the 2015 DEIS (NMFS, 2015), public comments on our NEPA analysis, consultation with the Marine Mammal Commission (MMC), and information obtained during our review of the Tribe's request, we are proposing to issue a waiver and regulations that would authorize a limited Tribal hunt for ENP gray whales over a 10-year period. The proposed waiver and regulations also reflect our consultation with the Makah Tribe pursuant to Executive Order 13175 (see Section VI).

### A. Relevant MMPA Provisions

The primary objective of marine resource management under the MMPA is to maintain the health and stability of

the marine ecosystem (16 U.S.C. 1361). The MMPA states that species and population stocks of marine mammals should not be permitted to diminish beyond the point at which they cease to be a significant functioning element of the ecosystem, and they should not be permitted to diminish below their optimum sustainable population (OSP). The MMPA defines the term "population stock" or "stock" as a group of marine mammals of the same species or smaller taxa in a common spatial arrangement, that interbreed when mature (16 U.S.C. 1362(11)). OSP is defined in the MMPA and NMFS regulations as a population size that is within a range from the carrying capacity of the ecosystem (abbreviated as K) down to the number of animals that results in the maximum productivity of the population or the species.

The MMPA requires NMFS (or the U.S. Fish and Wildlife Service) to prepare a stock assessment report (SAR) for each marine mammal stock occurring in waters under U.S. jurisdiction (16 U.S.C. 1386(a)). The SAR must, among other things, describe the stock's geographic range, estimate its minimum abundance (N<sub>min</sub>) and productivity, estimate human-caused mortality, and estimate the potential biological removal (PBR) for the stock. In most cases, N<sub>min</sub> is the lower 20th percentile of the distribution of the most recent abundance estimate and is the value selected by Wade (1998) in developing the PBR methodology. The MMPA defines PBR as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its OSP and includes a formula for calculating PBR (16 U.S.C. 1362(20)).

The MMPA establishes a moratorium on the taking and importing of marine mammals (16 U.S.C. 1371(a)). "Take" means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal (16 U.S.C. 1362(13)). The moratorium is not absolute. One exception allows NMFS to waive the take moratorium from time to time (16 U.S.C. 1371(a)(3)(A)), adopt suitable regulations governing that take (16 U.S.C. 1373), and issue permits authorizing the take (16 U.S.C. 1374), if certain criteria are met. The Makah Tribe has requested that NMFS waive the take moratorium and issue regulations allowing a tribal hunt for ENP gray whales and the making and sale of handicrafts. If a waiver is granted and regulations are promulgated, then the Tribe must separately seek an

MMPA permit to implement a hunt (16 U.S.C. 1374).

A decision to waive the MMPA take moratorium must: Be based on the best scientific evidence available; be made in consultation with the MMC; and have due regard to the distribution, abundance, breeding habits, and times and lines of migratory movements of the marine mammal stock subject to take. Also, in order to waive the moratorium, NMFS must be assured that the taking is in accord with sound principles of resource protection and conservation as provided in the purposes and policies of the MMPA (which include maintaining marine mammals as a significant functioning element in the ecosystem of which they are a part, maintaining the health and stability of the marine ecosystem, and obtaining an optimum sustainable population keeping in mind the carrying capacity of the habitat) (16 U.S.C. 1371(a)(3)(A)).

A decision to waive the take moratorium must be accompanied by regulations governing the take. Regulations to implement a waiver must ensure that the taking will not be to the disadvantage of the stock and will be consistent with the purposes and policies of the MMPA (16 U.S.C. 1373(a)). NMFS has interpreted "disadvantage" in relation to the impact of take on the stock's OSP (*e.g.*, 45 FR 72178, 72185, October 31, 1980).

In prescribing regulations, NMFS must give full consideration to all factors that may affect the extent to which the stock may be taken, including but not limited to: Existing and future levels of marine mammal species and population stocks; existing international treaty and agreement obligations of the United States; the marine ecosystem and related environmental considerations; the conservation, development, and utilization of fishery resources (in this case, fishery resources will not be affected); and the economic and technological feasibility of implementation (16 U.S.C. 1373(b)). The regulations may restrict, among other things, the number, age, size, and sex of animals taken and the season, manner, and location of the taking (16 U.S.C. 1373(c)). Regulations are subject to periodic review and modification to carry out the purposes of the MMPA (16 U.S.C. 1373(e)).

The MMPA (16 U.S.C. 1373(d)) provides that an agency decision to waive the take moratorium and issue regulations governing the take of marine mammals must be made on the record after an opportunity for an agency hearing. Agency regulations govern the conduct of the agency hearing, call for the appointment of a presiding officer,

and prescribe other procedures (50 CFR part 228). Either before or concurrent with the public notice of our intention to issue regulations, we must make available to the public:

1. A statement of the estimated existing levels of the species and population stocks of the marine mammal concerned;
2. A statement of the expected impact of the proposed regulations on the OSP of such species or population stock;
3. A statement describing the evidence before the agency that forms the basis for the regulations; and
4. Any studies made by or for the agency or any recommendations made by or for the agency or the MMC that relate to the establishment of the regulations.

16 U.S.C. 1373(d). These statements are provided in Section V below.

If NMFS waives the MMPA take moratorium for ENP gray whales and issues regulations governing a tribal hunt, the Makah Tribe would have to obtain a permit from NMFS prior to taking any whales. The permit process includes the opportunity for public notice and comment (16 U.S.C. 1374). Under the MMPA, the permit applicant must demonstrate that the taking of marine mammals under the permit would be consistent with the purposes and policies of the MMPA and the applicable regulations. A permit must specify the following:

1. The number and kinds of animals authorized to be taken;
2. The location and manner (which the Secretary must determine to be humane) in which they may be taken;
3. The period during which the permit is valid; and
4. Other terms or conditions that the Secretary deems appropriate.

The MMPA defines “humane” as that method of taking which involves the least possible degree of pain and suffering practicable to the mammal involved (16 U.S.C. 1362(4)). NMFS has worked within the IWC to improve the humaneness of whale-killing methods in aboriginal subsistence whaling, focusing on reducing the length of time to death of a whale (*i.e.*, reducing the amount of time between the strike and the death) to improve humaneness (IWC, 2004; IWC, 2007; IWC, 2012) as well as to address hunting efficiency. The Makah Tribe proposed to use a toggle point harpoon as the weapon for striking whales and a .50 caliber rifle as the weapon for killing whales. The DEIS describes the detailed analyses commissioned by NMFS and others to examine the suitability of using a .50 caliber rifle to dispatch a gray whale and the conclusions of the reviewers

that a .50 caliber rifle is capable of quickly killing a gray whale (DEIS Subsection 3.4.3.5.4, Method of Killing and Time to Death). A determination regarding whether the Tribe’s proposed method of hunting is humane and meets the other requirements listed above for issuance of a permit would be decided through the permit process (16 U.S.C. 1374). The permit process is subsequent to and separate from the waiver process and therefore not part of this proceeding. The permit process is described here and discussed elsewhere in this proposed rule to provide context for the proposed regulations. In addition to a NMFS-issued permit, the Tribe would establish a separate process for the issuance of tribal whaling permits by the Makah Tribal Council (Makah Tribe, 2005; Makah Tribe, 2013).

#### B. Whaling Convention Act

Because the Tribe’s request involves a large whale species, the Tribe would need to obtain authorization from NMFS in accordance with the Whaling Convention Act (WCA), which implements the United States’ obligations under the ICRW. The ICRW establishes the International Whaling Commission (IWC), an inter-governmental organization whose purpose is the conservation of whales and the management of whaling. The ICRW includes a legally binding document called the “Schedule,” which, among other things, sets out catch limits for aboriginal subsistence whaling.

Since 1997, the Russian Federation and the United States have regularly submitted a joint proposal to the IWC for an aboriginal subsistence whaling catch limit for ENP gray whales on behalf of Chukotkan natives and the Makah Tribe, respectively. In response, the IWC has repeatedly established catch limits for ENP gray whales. At its September 2018 meeting, the IWC approved a new catch limit of 980 ENP gray whales for the period 2019–2025 with an annual cap of 140 whales. This catch limit became effective December 29, 2018 (IWC, 2018a). A bilateral agreement between the United States and Russian Federation sets overall and annual limits for the two countries (Fominykh and Wulff, 2018), with the Makah Tribe entitled to a maximum of 5 whales per year. This agreement also specifies that any quota unused by one country may be transferred to the other. In past years, the United States has transferred its entire quota to Russia for use by the Chukotkan hunters (*e.g.*, Ilyashenko and Hogarth, 2007; Ilyashenko and DeMaster, 2012;

Fominykh and Smith, 2016; Fominykh and Wulff, 2017).

If NMFS waives the MMPA take moratorium for ENP gray whales and issues regulations governing a tribal hunt, the Makah Tribe and NMFS would need to complete procedures established in the WCA and implementing regulations at 50 CFR part 230 to allocate a domestic catch limit for ENP gray whales to the Makah Tribe consistent with the IWC Schedule and the bilateral agreement. This would include publishing those catch limits and entering into a cooperative agreement with the Tribe. Those processes are subsequent to and separate from the MMPA process of waiving the take moratorium and issuing regulations.

#### C. North Pacific Gray Whales

The life history, status, and distribution of North Pacific gray whales are described in detail in the DEIS (Subsection 3.4, Gray Whales). We summarize that information here and discuss the ENP gray whale stock in more detail in a companion biological report (NMFS, 2019a), which we incorporate by reference.

NMFS recognizes two stocks of gray whales, one from the western North Pacific (WNP stock) and one from the eastern North Pacific (ENP stock). Through the SAR process, NMFS concluded that the best scientific information available consists of genetic information showing significant mitochondrial and nuclear genetic differences between the WNP and ENP stocks (Carretta *et al.*, 2017). The IWC also manages the two stocks separately (IWC, 2018a), and the International Union for Conservation of Nature recognizes them as two subpopulations (Reilly *et al.*, 2008).

Commercial whaling from the mid-nineteenth through early twentieth centuries dramatically reduced the abundance of the gray whale, leading to its protection by a suite of international agreements and federal laws including the WCA and MMPA. The gray whale was listed as an endangered species under the Endangered Species Act (ESA) and its predecessor statute beginning in 1970 (35 FR 8495, June 2, 1970). As a result of protection from commercial exploitation, the ENP gray whale stock recovered and in 1994 was removed from the ESA’s list of endangered and threatened wildlife (59 FR 21094, June 16, 1994). It currently numbers approximately 27,000 animals (Durban *et al.*, 2017). NMFS has continued monitoring the population since its delisting (Carretta *et al.*, 2017). The WNP stock remains listed as

endangered (50 CFR 223.102) and numbers approximately 200 non-calf animals (Cooke, 2018).

The ENP gray whale stock spends the winter as far south as the Baja California Peninsula and Gulf of California in northwestern Mexico and migrates north to summer feeding areas as far as the Chukchi and Beaufort Seas. A small group of ENP whales, referred to as the Pacific Coast Feeding Group (PCFG) exhibits seasonal fidelity to feeding grounds off the West Coast of the United States and Canada. Whales that are photo-identified within the region between northern California and northern Vancouver Island (from 41°N lat. to 52°N lat.) during the summer feeding period of June 1 to November 30, in two or more years, are defined by the IWC as belonging to the PCFG (IWC, 2011a; IWC, 2011b; IWC, 2011c). NMFS has adopted this definition (Carretta *et al.*, 2017).

Scientists have studied the PCFG for several decades, and NMFS has monitored the PCFG for more than 15 years. The size of the group has remained relatively stable at about 200 animals since 2002 and is recently increasing (Calambokidis *et al.*, 2017).

NMFS scientists and others have examined genetic and other information to determine whether the PCFG should be considered a separate stock under the MMPA (Frasier *et al.*, 2011; Lang *et al.*, 2011b). They found that sampled whales that meet the definition of the PCFG have small but significant differences in the diversity of mitochondrial DNA (mtDNA), which is inherited only from the mother, compared to whales on the northern feeding grounds of the Bering, Chukchi, and Beaufort Seas. However, no significant differences were found between these two groups when nuclear microsatellite data, which represent the DNA inherited from both parents, were analyzed. Similar results were found by other researchers (D'Intino *et al.*, 2013) despite different sample collections used to represent the PCFG and the larger ENP stock. These results indicate that calves likely follow their mothers to feeding areas and to some extent return to those feeding areas in subsequent years. Whales that frequent one feeding area, however, are not necessarily reproductively isolated from whales that frequent other feeding areas.

NMFS considered whether the PCFG warrants designation as a stock under the MMPA through the SAR process. NMFS has issued several SARs addressing this issue (78 FR 19446, April 1, 2013; 79 FR 49053, August 19, 2014; 80 FR 50599, August 20, 2015). NMFS continues to find that the

existing information does not support a conclusion that the PCFG is a stock. This finding is based in part on the deliberations of a NMFS task force that found the evidence equivocal as to whether the population dynamics of the PCFG are more a product of internal recruitment (calves coming to the area with mothers) versus external recruitment (whales recruiting to the area who are not calves of PCFG mothers) (Weller *et al.* 2013). The current SAR (Carretta *et al.*, 2017) represents NMFS' determination on this issue, although NMFS will continue to evaluate through the SAR process any new science on this issue as it does for the identification of marine mammal stocks in general. Accordingly, this waiver process applies at the level of the ENP gray whale stock as a whole (which includes whales in the PCFG).

In the 2012 SAR, NMFS determined that the ENP gray whale stock was within its OSP range (Carretta *et al.*, 2013). It has remained within OSP since that time. The most recent ENP gray whale SAR notes that abundance will continue to fluctuate in response to human and natural factors affecting carrying capacity, consistent with a population approaching carrying capacity (K) (Carretta *et al.*, 2017). The SAR calculates the PBR for the ENP gray whale stock to be 624 whales per year (Carretta *et al.*, 2017). The primary source of human-caused mortality is the Chukotkan hunt, which took 127 whales per year on average from 2008 to 2012 (Carretta *et al.*, 2017). Other sources of human-caused mortality in U.S. waters, such as ship strikes and entanglement in fishing gear, result in about 6 ENP gray whale deaths per year. The SAR does not calculate a separate PBR for ENP gray whales in U.S. waters, or report on human-caused mortality outside of U.S. waters except for ENP gray whales killed in the Chukotkan hunt. NMFS guidance on preparing stock assessments (NMFS, 2016) advises calculating a PBR for U.S. waters for transboundary stocks when there is no international conservation regime in place and it is reasonable to do so.

Although NMFS does not recognize the PCFG as a separate stock, the 2012 SAR (Carretta *et al.*, 2013) and subsequent SARs have reported on population parameters and calculated an informational PBR for the PCFG, because the PCFG appears to be a feeding aggregation and may warrant consideration as a stock in the future. The term "feeding aggregation" is used by biologists in the scientific literature to describe concentrations of whales that forage in a specific area but the term is not intended to signify that such

whales constitute a stock as that term is defined under the MMPA. The SAR notes that calculating this separate PBR allows NMFS to assess whether levels of human-caused mortality are a management concern for this group. (The SAR uses the term "local depletion," which is not defined in agency regulations or guidelines, so we have not adopted that concept here.) It is unknown whether the PCFG, if it were eventually designated a stock, would be within OSP due to uncertainties in population parameters such as emigration and immigration rates, bycatch mortality, and recruitment (Punt and Moore, 2013).

The most recent (2015) abundance estimate of PCFG whales (Calambokidis *et al.*, 2017) is 243 whales with an Nmin of 228. Calambokidis *et al.* (2017) note that PCFG abundance estimates show a high rate of increase in the late 1990s and early 2000s and now appear to be relatively stable since 2002. The most recent SAR (Carretta *et al.*, 2017) reports human-caused mortality of PCFG whales in U.S. waters as 0.25 whales per year, based on data from 2008 through 2012. As with most SARs, this is a minimum estimate because not all whales killed as a result of human actions are documented. Similar to the analysis for the entire ENP stock, the SAR does not calculate a separate informational PBR for PCFG whales in U.S. waters, or report on human-caused mortality outside of U.S. waters.

Concerns for ENP gray whales identified in the SAR include injuries due to fisheries interactions, ship strikes, and marine debris, as well as a number of habitat concerns such as industrialization, pollution, and shipping congestion throughout the nearshore migratory corridors. Climate change is likely to affect the availability of habitat and prey species, but species such as the gray whale (which feed on both benthic and pelagic prey) have been predicted in some studies (*e.g.*, Bluhm and Gradinger, 2008) to adapt better than trophic specialists. Human exploration and development activities (*e.g.*, for oil and gas deposits) are also expected to increase in the Arctic and elsewhere, which in turn could increase risks to whales from spills, ship strikes, and anthropogenic noise. The SAR does not indicate that these factors are a threat to the OSP status of the ENP stock at this time.

### III. Proposed Regulations

The Tribe has requested a waiver allowing the harvest of 20 ENP gray whales every 5 years and a limit of 7 strikes per hunting season, with the presumption that a struck whale would

die. The Tribe proposes hunting only in the coastal portion of their U&A. Its request included provisions to satisfy IWC requirements, avoid local depletion of PCFG whales, safeguard public and hunter safety, and preserve cultural aspects of the hunt while promoting humaneness. The Tribe is also requesting authorization to use non-edible whale products for the making and sale of handicrafts.

Our proposed waiver and regulations respond to the Tribe's request by authorizing a more limited hunt for ENP gray whales for a 10-year period and allowing for the making and sale of handicrafts. Our proposed regulations adopt the Tribe's proposals to limit hunting to the coastal portion of the Tribe's U&A (the hunt area) and to presume that any struck whale will die.

Two key management goals shaped many of the provisions in the proposed regulations: (1) Limiting the likelihood that tribal hunters would strike or otherwise harm a WNP gray whale and (2) ensuring that hunting does not reduce PCFG abundance below recent stable levels. Regarding the first management goal, in adopting regulations to implement a waiver, NMFS must consider all factors that may affect the allowable level of take (16 U.S.C. 1373(b)). Although the Tribe has not requested a waiver of the take moratorium for WNP gray whales, we determined that potential effects of a hunt on WNP whales are a relevant consideration. While uncommon, there are documented occurrences of WNP whales transiting the Makah U&A, and hunters would not be able to visually distinguish WNP whales from ENP whales during a hunt. The regulations are designed to minimize the risk of a WNP whale being struck or harmed over the duration of the waiver.

Regarding the second management goal, the MMPA requires that in waiving the take moratorium we give due regard to, among other things, the distribution and times and lines of migratory movements of the stock subject to waiver, and that the waiver be in accord with the purposes and policies of the MMPA, which include maintaining marine mammals as a functioning element of their ecosystem. PCFG whales exhibit site fidelity during the feeding season to the northern California current ecosystem, a unique area within the range of the ENP gray whale stock. The proposed regulations would limit lethal and sub-lethal effects to PCFG whales to ensure that hunting does not reduce their abundance and distribution within the PCFG range.

Measures in the proposed regulations to achieve these two management goals include:

- *Alternating Hunt Seasons.* Even-year hunts would occur during the migration season (December 1 of an odd-numbered year through May 31 of the subsequent even-numbered year) to reduce risk to PCFG whales. Odd-year hunts would occur during the feeding season (July 1 through October 30 of odd-numbered years) to reduce risk to WNP whales.
- *Strike Limits.* 3 strikes during even-year hunts and 2 strikes during odd-year hunts.
- *PCFG Strike Limits.* 16 strikes over 10 years.
- *Landing Limits.* 3 whales in even-year hunts and 1 whale in odd-year hunts.
- *PCFG Abundance Trigger.* Hunting ceases if PCFG abundance falls below 192 whales (or the PCFG minimum abundance estimate falls below 171 whales).

Other management measures in the proposed regulations are described in Subsection III(C) below.

#### *A. Measures To Limit the Likelihood That Tribal Hunters Would Strike a WNP Whale*

The Tribe originally proposed a hunting season of December 1 through May 31, when most ENP gray whales are migrating to and from northern feeding grounds (the migration season), to minimize the potential that a PCFG whale would be killed. Scientists subsequently observed WNP whales in the ENP, including in the Tribe's U&A, during the migration season (Mate *et al.*, 2015). Although the risk is very small (there are about 200 WNP whales and about 27,000 ENP whales), this creates the possibility that a tribal hunt at that time could strike a WNP whale that is mixed in with ENP whales. To limit the risk of a WNP whale being struck, the proposed regulations would authorize a hunt during the migration season with two important restrictions: (1) Hunting would only be allowed every other year, proposed for even years, and (2) only three whales could be struck in an even-year hunt. The proposed regulations would also authorize a hunt in odd years during the feeding season (July 1 through October 31), when WNP whales would be feeding in the western North Pacific. Because WNP whales are not expected to be in the Tribe's U&A during the feeding season, authorizing a hunt at this time would avoid impacts to WNP whales.

During an even-year hunt, the regulations would allow only one strike in a 24-hour period as a precaution

against striking multiple WNP gray whales that might be travelling together in a group (Weller *et al.*, 2012). Also, once a whale were landed, the Tribe could not hunt again until NMFS notified the Tribe whether the landed whale was a WNP whale. In the unlikely event the Tribe did strike a WNP whale (in either an even- or odd-year hunt), all hunting would cease unless and until the Regional Administrator determined that measures were taken to ensure that no additional WNP gray whales were struck during the waiver period. In addition to limits on strikes, the regulations would impose limits on approaches, hunt training activities, and unsuccessful strike attempts, as explained in Subsection III(C) below. Finally, the regulations would not allow hunting in the month preceding and the month following the migration season (*i.e.*, November and June) to provide extra protection against striking or otherwise harming a WNP whale.

#### *B. Measures To Maintain PCFG Abundance by Limiting Lethal Impacts*

The proposed regulations contain a number of restrictions to limit PCFG mortality, with the goal of maintaining ENP gray whale distribution and functioning within the PCFG feeding area. Consistent with the Tribe's proposal, the regulations would prohibit hunting in the portion of the Tribe's U&A within the Strait of Juan de Fuca, in part as a human safety measure, but also because during the migration season there is a higher proportion of PCFG whales in the Strait. Also, the regulations would allow only 2-strikes during odd-year (summer/fall) hunts, when PCFG whales are most likely to be present in the hunt area. As an additional protection, the regulations would impose a limit of one landed whale in odd-year hunts, creating the potential for a single strike.

The proposed regulations would include a cumulative limit of 16 strikes on PCFG whales over the 10 years of the regulations (for an average of 1.6 whales per year), of which no more than 8 could be females. The strike limit for PCFG females is a precautionary measure given recent evidence that PCFG whales may be recruited through maternally directed site fidelity (Frasier *et al.*, 2011; Lang *et al.*, 2011b). The regulations would also limit approaches, training activities, and unsuccessful strike attempts on PCFG whales, as discussed in Subsection III(C) below, to minimize the risk that the hunt would cause PCFG whales to avoid the PCFG feeding area.

Under the proposed regulations, strikes and unsuccessful strike attempts

would be counted against the PCFG strike limits in various ways depending on the season and whether the whale's identity (PCFG or non-PCFG) could be determined through photographic or genetic matching. The regulations propose that any whale struck (landed or struck and lost) during odd-year (summer/fall) hunts would count as a PCFG whale, unless identified as a WNP gray whale. This method of accounting is conservative, as PCFG whales are currently estimated to comprise about 48 percent of gray whales in the hunt area during this time (Calambokidis *et al.*, 2017). During even-year (winter/spring) hunts, a struck whale identified as a PCFG whale would be counted against the PCFG strike limit, while a whale not identified as PCFG would not count against that limit. Struck whales for which identification could not be performed due to lack of a useable photograph or tissue sample would be counted in proportion to the estimated percentage of PCFG whales in the hunt area during the month of the strike, based on the best available information (the current estimate is that about 28 percent of whales in the hunt area during the migration season are PCFG whales (IWC, 2018b)). Females are currently estimated to comprise 50 percent of the PCFG (A. Lang, NMFS, personal communication, 2017), which would be factored into the accounting for struck and lost whales if the animal's sex was unknown.

Finally, in addition to these limits, the proposed regulations would not allow hunting in a given year if the estimated PCFG abundance for that year were below 192 whales or the Nmin were below 171 whales (low abundance triggers). The purpose of this additional measure is to ensure that, in the event PCFG abundance declines, for whatever reason, the hunt would not exacerbate the decline. Given that recent PCFG abundance estimates are around 240 whales with an overall increasing trend and the proposed strike limits would result in PCFG mortality of 1.6 whales per year on average, a reduction on this scale would likely be due to some cause unrelated to the hunt. Because published population estimates typically lag one or more years behind the most currently available survey data, estimates for an upcoming hunting season would be projected using a population forecast model fit to the time series of data. The threshold values of 192 and 171 represent the best and minimum (20th percentile) estimates of abundance for the PCFG in 2007. We selected these levels as the low-abundance triggers because they are the

lowest values estimated for the population during the recent period of stability starting in 2002 (Calambokidis *et al.*, 2017).

The Tribe's request, as well as some of the DEIS alternatives, used PBR-based approaches to manage impacts on PCFG whales instead of the combination of PCFG strike limits and low-abundance triggers that we are now proposing. After considering the best available scientific information, including the Tribe's proposal, public and MMC comments on the DEIS, and recommendations from the MMC, we chose the current approach for a number of reasons. First, some public comments and the MMC suggested that a PBR approach should account for total human-caused mortality, including deaths and serious injuries that occur outside U.S. waters. As noted above, the SAR for ENP gray whales (Carretta *et al.*, 2017) calculates an informational PBR overall for the PCFG, not an allocation of PBR for U.S. waters, and reports only human-caused mortality in U.S. waters. Though future SARs might attempt such estimates, we currently lack sufficient information to do so.

Second, the PBR approach establishes a precautionary way (use of PBR achieves the abundance goals in 95 percent of model runs) to manage marine mammal stocks for which relatively little population data exist, such as imprecise and infrequent abundance estimates or little information on trends and productivity, as is often the case for cetaceans and other marine mammals (Taylor *et al.*, 2000; Wade, 1998). For the PCFG, population dynamics are well understood (for example population size and growth are measured accurately and frequently), allowing us to make informed management decisions using other tools. Over 20 years of annual photo-identification surveys have been conducted for the PCFG, yielding relatively precise abundance estimates compared to other cetacean populations. These estimates allow us to employ the population forecast model mentioned above to assist in making more timely decisions for managing PCFG mortality (NMFS, 2019a). This approach is appropriate for the PCFG, where population information is readily available and abundance has been stable over a period of nearly 15 years.

Third, the PBR approach was developed for "closed" populations, where the maximum rate of recruitment is determined in part by the number of births that are biologically possible. In the case of the PCFG, new recruits come from immigration as well as births, and whales leave the population by

emigration as well as death. While the informational PBR in the SAR represents a useful tool for the agency to monitor the stability of the PCFG, it may not reflect actual population dynamics because recruitment for an open population is not limited by reproductive biology. Given these considerations, we concluded that reliance on the informational PCFG PBR was not the best available tool for managing the proposed hunt and that the PCFG strike limits and low-abundance triggers would provide a more robust and timely mechanism for achieving our management goal of maintaining PCFG abundance.

### C. Additional Management Considerations

In addition to the management goals stated above, the management considerations described below informed our proposed waiver and regulations.

#### 1. Use of Marine Mammal Products

The proposed regulations would allow the Makah Tribe to use edible and nonedible ENP gray whale products with certain restrictions. Tribal members would be able to use, share or gift (*i.e.*, voluntarily transfer to another person without compensation), and barter (*i.e.*, noncommercial exchange for items other than money) edible whale products with other members, both within and outside the reservation. Tribal members could also share edible products with non-members within the reservation, but could only share them with non-members outside the reservation as part of a gathering sanctioned by the tribal council where limited quantities were served. This would allow Makah tribal members wide use of edible products within the reservation, including sharing with non-tribal members. Limitations on use outside the reservation are intended to prevent opportunities for commercial exchange. No person would be allowed to sell or purchase edible ENP gray whale products.

For non-edible products, permissible uses would depend on the type and location (on or off the reservation) of the product. The regulations identify three types of non-edible products: Unaltered products (those that have not been fashioned into handicrafts), handicrafts that have been marked and certificated by the Tribe, and handicrafts that have not been marked and certificated. Only handicrafts made by tribal members and marked and certificated by the Tribe could be sold or be possessed off-reservation by non-tribal members. The regulations would allow tribal members

to freely exchange unaltered products with one another for personal use or for later fabrication into handicrafts and would allow tribal members to share their handicrafts with non-members without going through the marking and certification process, however possession of non-certificated handicrafts by non-tribal members would be allowed only within the reservation boundaries. To ensure compliance with these provisions, the Tribe would be required to maintain an official record of all articles of Makah Indian handicraft certificated by the Tribe.

Some of the proposed definitions and concepts regarding the use of marine mammal products are similar to those governing the take of marine mammals by Alaska Natives. For example, the definition for barter is consistent with agency regulations at 50 CFR 216.3 pertaining to subsistence use of marine mammals by Alaskan Natives, and the definition for Makah Indian handicrafts is largely based on the agency's definition of authentic native articles of handicrafts in 50 CFR 216.3. Additionally, similar to regulations in 50 CFR 216.23 on Alaska Native exceptions to the marine mammal take moratorium, the proposed regulations provide for different uses of edible and non-edible products, and restrict the location and types of transactions that may occur.

## 2. Humane Killing

As explained in Section II, if NMFS issues a waiver and regulations allowing a tribal hunt, the Tribe would be required to follow a separate MMPA process to obtain a permit before carrying out a hunt (16 U.S.C. 1374). Prior to issuing any MMPA permit, NMFS must determine, among other things, that the proposed method of taking is "humane," as defined in the MMPA (16 U.S.C. 1362(4), 1374(b)). To ensure that advances in science and methodology addressing efficiency and humaneness are incorporated in a timely fashion, NMFS would regularly review this issue through the permit process. The proposed regulations provide that NMFS will convene a team of experts to evaluate hunt humaneness and effectiveness after 8 gray whales have been struck, to inform any subsequent hunt permits.

## 3. Approaches, Unsuccessful Strike Attempts, and Hunt Training Provisions

Recognizing that actions by tribal hunters short of killing a gray whale may affect whales and may constitute a take under the MMPA, the proposed regulations would limit the number of

approaches and unsuccessful strike attempts, including those associated with hunt training. The regulations define a "hunting approach" as causing a vessel to be within 100 yards of a gray whale during a hunt. The 100-yard limit is consistent with permit conditions NMFS imposes for research vessels on large cetaceans (*e.g.*, 60 FR 3775, January 19, 1995; 66 FR 29502, May 31, 2001), as well as guidelines for all motorized and non-motorized vessels as defined in NMFS' "Be Whale Wise" guidelines that recommend staying 100 yards (91 m) from all marine mammals, noting that there is a regulation prohibiting approaches closer than 200 yards (183 m) for killer whales in inland waters of Washington (50 CFR 224.103(e)).

The regulations would authorize no more than 353 approaches of ENP gray whales (including both hunting and training approaches) each calendar year, of which no more than 142 could be of PCFG whales. As with strikes, approaches would be accounted for proportionally in even-year (winter/spring) hunts and presumed to all be PCFG whales in odd-year (summer/fall) hunts. These values were analyzed in the DEIS and are maximum estimates based on observations during the Tribe's hunt in 2000 (Gearin and Gosho, 2000). The purpose of this provision is to limit the extent to which WNP and PCFG whales may be encountered and possibly disturbed in the hunt area.

The proposed regulations would authorize no more than 18 unsuccessful strike attempts during even-year hunts and 12 unsuccessful strike attempts during odd-year hunts. These limits are based on experience gained from Makah gray whale hunts conducted in 1999 and 2000 and, as described in the DEIS, rely on a 6:1 ratio of unsuccessful strike attempts to successful strikes. Each training harpoon throw would count as an unsuccessful strike attempt because the level of impact on whales is expected to be similar. Training harpoon throws could occur in any month in even-numbered years but would be restricted to the hunting season (July through October, when WNP whales are not expected in the hunt area) in odd-numbered years to reduce the risk of encountering WNP whales over the waiver period. All training harpoon throws would count against the unsuccessful strike attempt limit in effect during the calendar year of the throw. Similar to the limit on approaches, the purpose of these provisions is to limit the risk of non-lethal impacts, particularly to WNP and PCFG whales.

The proposed regulations recognize training as an important component of the management of a tribal hunt. The proposed regulations define training vessels as those not carrying hunting weapons; training approaches as those made by training vessels; and a training harpoon throw as the use of a blunted spear incapable of penetrating a whale's skin. The proposed regulations would authorize training approaches at any time but would limit the times when training harpoon throws could occur as described above.

## 4. NMFS Oversight

Although we expect the Makah tribal government to manage any hunting by tribal members, the proposed regulations anticipate an ongoing oversight role by NMFS through the Regional Administrator for the West Coast Region. The regulations include a number of provisions that facilitate NMFS' oversight. For example, the Tribe must provide NMFS advance notice of hunts; hunt parties must accommodate a NMFS observer on hunt expeditions if requested; and the Tribe must allow NMFS to sample and photograph landed whales. The first hunt permit must be limited to a 3-year term (as opposed to the 5-year maximum under the MMPA) to allow for adjustments in future years if areas for improvement are identified.

## 5. Identification of Individual Gray Whales

The regulations include provisions for photographic (or genetic) identification of WNP and PCFG gray whales. For PCFG whales, we expect most identifications would be performed by the Cascadia Research Collective (Cascadia), which has maintained photo-identification catalogs for many years. Cascadia receives some but not all of its catalog funding for gray whales from NMFS. Several researchers participate in Cascadia's photo-identification program and provide photographs to Cascadia. Photographs taken by researchers under NMFS funding are also provided to the NMFS Marine Mammal Lab in Seattle, Washington. For WNP gray whales, there are currently two catalogs maintained by Russian researchers. The IWC is currently facilitating the development of a unified WNP catalog and related database to be held under the auspices of the IWC (IWC, 2017). Once developed, we expect that Cascadia will have access to this unified catalog and be able to provide identifications of WNP gray whales to NMFS via a contractual agreement.

To ensure that the photo-ID requirements can be effectively implemented, the regulations would require that, before issuing a hunt permit to the Tribe, the Regional Administrator determine that there are adequate photo-identification catalogs and processes available to allow for the identification of PCFG and WNP whales. In addition to the quality of the catalogs, there must be reliable processes in place for making identifications. Currently Cascadia provides this service for the PCFG catalog and has demonstrated an ability to make matches within 24 hours (J. Calambokidis, Cascadia Research Collective, personal communication, 2017). As with the PCFG catalog, Cascadia and curators of the WNP catalogs are able to rapidly compare newly obtained photographs of whales with existing photographs in the WNP catalogs to look for individual matches (J. Calambokidis, Cascadia Research Collective, and Dave Weller, NMFS, personal communication 2019). NMFS will either develop a contractual mechanism or in-house expertise prior to issuing permits to ensure adequate catalogs for PCFG and WNP whales are maintained and matches can be quickly made. Also, we have developed a protocol that describes the requirements for adequate catalogs and for photo and genetic identification processes (NMFS, 2019b).

#### 6. Impacts to Species Other Than ENP Gray Whales

Under the proposed regulations, any hunt permit issued by the Regional Administrator could require that hunters avoid specified areas to prevent and/or reduce the risk of disturbance to Olympic Coast National Marine Sanctuary resources such as seabirds and pinnipeds. This provision is intended to protect other living resources in the hunt area. Also, if a hunt for ENP gray whales is expected to result in the incidental take of other marine mammals, the regulations require that the Tribe obtain separate MMPA authorizations for such take, as determined necessary by the Regional Administrator, before a hunt permit may be issued.

#### IV. Consistency With MMPA Requirements

Relying on the best available scientific evidence and the statutory factors related to gray whale biology and ecosystem considerations, this section presents our determination that the proposed waiver and the proposed regulations are consistent with MMPA requirements.

#### A. The Proposed Waiver Is Consistent With the MMPA

As discussed above, the MMPA requires that any decision to waive the MMPA take moratorium be based on the best scientific evidence available; be made in consultation with the MMC; and have due regard to the distribution, abundance, breeding habits, and migratory movements of the marine mammal stock subject to take. Also, we must be assured that the taking is in accord with sound principles of resource protection and conservation as provided in the purposes and policies of the MMPA (16 U.S.C. 1361, 1371(a)(3)(A)).

##### 1. The Proposed Waiver Is Based on the Best Scientific Evidence Available

In developing the proposed waiver, we relied on the best available scientific evidence related to the statutory requirements, including the following: the most recent SARs for ENP and WNP gray whales (Carretta *et al.*, 2017); the 2015 DEIS (NMFS, 2015); the NMFS gray whale stock identification workshop (Weller *et al.*, 2013); the NMFS analysis estimating the probability of encountering WNP gray whales during a Makah hunt (Moore and Weller, 2018); IWC modeling of our proposed regulations relative to IWC conservation objectives for North Pacific gray whales (IWC, 2018b); and the NMFS biological report (NMFS, 2019a). We incorporate by reference those documents and the documents cited in those reports.

##### 2. The Proposed Waiver Was Made in Consultation With the MMC

Subsection V(D) describes the consultation we completed with the MMC.

##### 3. The Proposed Waiver Demonstrates Due Regard for the Distribution, Abundance, Breeding Habits, and Times and Lines of Migratory Movements of ENP Gray Whales

The biological report (NMFS, 2019a) provides a detailed description of our consideration of the distribution, abundance, breeding habits, and migration of ENP gray whales. Below we summarize our assessment of those criteria.

##### Distribution

The proposed waiver is unlikely to have an appreciable effect on the distribution of ENP gray whales through mortality of PCFG whales or disturbance of migrating whales or feeding whales. The proposed waiver and regulations demonstrate due regard for the possibility that hunting could result in

changes in distribution by including provisions limiting mortality of PCFG whales and limiting interactions with ENP whales in general and PCFG whales in particular. No more than 25 whales could be struck, and only 16 of the strikes could be PCFG whales (average 1.6/year), with a limit of 8 strikes (average 0.8/year) of PCFG females. Unsuccessful strike attempts would be limited to 18 during even-year hunts and 12 in odd-year hunts, and approaches within 100 yards would be limited to 353 (142 PCFG) per year. In addition, the PCFG low abundance triggers would require that hunting cease if PCFG abundance declined below recent stable levels.

Through hunt-related mortality, the proposed waiver may reduce the abundance of PCFG whales by up to 16 whales over a 10-year period. The proposed waiver demonstrates due regard for this possibility by including provisions to maintain PCFG abundance. We conclude that these measures will ensure that the waiver does not reduce range-wide distribution of the ENP stock, including distribution within the PCFG range, based on the following considerations: (1) Agency modeling indicates that the PCFG is likely to grow in the future with or without a tribal hunt (NMFS 2018a). The proposed regulations include protections in the event the PCFG declines rather than increases; (2) If PCFG abundance continues to be stable, removal by hunting of 16 PCFG whales over 10 years is projected to result in an abundance of around 227 whales, which is well above the lowest abundance level observed during the recent period of stability. That level was 192 whales in 2007, and by 2015 the population had grown 25 percent to 243 animals; (3) From 2002 through 2015, the PCFG grew from 197 to 243 animals, which is a total of 46 whales, or an average annual increase of 3.5 whales over 13 years. At that rate of increase, the PCFG would grow by an additional 35 animals over the 10 years of the proposed waiver. That number is twice the maximum number of PCFG whales that could be killed (16) under the proposed regulations; and (4) If PCFG abundance declines, the low abundance trigger would ensure that no hunting will occur if abundance falls below the levels observed during a recent 14-year stable period, specifically 192 animals or an Nmin of 171 animals. Also, the inclusion of an Nmin trigger provides a safeguard against incomplete or lagging abundance estimates.

Though hunt-related activities might cause ENP gray whales to alter their distribution in the hunt area

temporarily, it is unlikely that ENP gray whales will exhibit noticeable redistribution during either the migration or feeding seasons. Even-year hunts and training exercises conducted from December through May would encounter mostly migrating whales that must pass through the ocean portion of the Makah U&A during their lengthy north- and southbound transits. These whales are slow but steady swimmers that often exhibit directed swimming and predictable breathing and dive patterns (Jones and Swartz, 2002). Whales travelling at 3–6 miles per hour (5–10 km per hour; Jones and Swartz, 2002) would be able to transit the widest portion of the Makah U&A (approximately 32 miles or 51 km north-south) in several hours. During migration, gray whales generally remain close to shore (especially where the continental shelf is narrow) and the best available information indicates that most northbound and southbound whales migrate within 27 miles (43 km) of shore (Pike, 1962; Green *et al.*, 1992; Green *et al.*, 1995). Some researchers have suggested that gray whales alter their migration distance from shore in response to vessels and other human activity (Rice, 1965; Hubbs and Hubbs, 1967; Wolfson, 1977; Schulberg *et al.*, 1989; Mate and Urbán-Ramirez, 2003), however the ENP population has also demonstrated a tolerance and resiliency to decades of active hunting by Chukotkan natives (Borodin *et al.*, 2012; IWC, 2016).

During even-year hunts, adverse weather conditions in the Makah U&A in winter and early spring coupled with shorter periods of daylight would keep most hunts and training exercises close to shore and of shorter duration than during the summer. There would be only a few vessels associated with the hunt (generally 5 or less). Chukotkan hunters typically use a similar number of motorized vessels to pursue individual whales (IWC, 2018c). Since the 1950s, Chukotkan hunters have landed, on average, over 100 ENP gray whales per year (Borodin *et al.*, 2012), and an average of 126 whales per year during the past decade (IWC, 2016). During that decade the majority of whales have consistently been killed in the Chukotsky region with no apparent change in the distance offshore that whales are killed (IWC, 2016). Given these considerations, it is reasonable to expect that most of the roughly 27,000 ENP whales would be subject to little or no hunting pressure in the Makah U&A. Those animals subject to hunting and hunt training activities would experience them as temporary and

localized nearshore events within the vast area of the Pacific Ocean. We therefore expect that whales traveling through the Makah U&A during the migration season will not change their migration patterns and avoid the area.

Odd-year hunts during July through October would likely encounter whales exhibiting feeding behavior, including milling in small, localized areas close to shore and typically within 3 miles (5 km) of shore (Brueggeman *et al.*, 1992; Darling, 1984; Sumich, 1984; Mallonée, 1991; Dunham and Duffus, 2001; Scordino *et al.*, 2011). Some animals have been seen clustering relatively far offshore (12–16 miles or 19–26 km) but these sightings are considered unusual (Calambokidis *et al.*, 2009). During summer hunts and training exercises most whales would be found in the PCFG range from northern California to northern Vancouver Island, within which the Makah U&A is a relatively small portion (less than 5 percent of the coastline in the PCFG range). Whales are known to focus on specific areas within this range but also move extensively in search of food (Calambokidis *et al.*, 1999; Calambokidis *et al.*, 2004; Calambokidis *et al.*, 2014). Odd-year hunts would result in fewer whales being struck (1 or 2 per year) than in even-year hunts (up to 3 per year). As noted above, despite hundreds of whales being hunted and killed in Chukotkan hunts (many of which are killed during the summer months) there has not been a discernible change in the availability and location of hunted whales (IWC, 2016).

The proposed waiver allows for over 350 approaches of gray whales each year, most of these approaches would likely involve paddle-driven canoes that, compared to the motorized vessels used in Chukotkan hunts, have much less speed and maneuverability to pursue and maintain close contact with approached whales. This is a very small number of approaches compared with what NMFS authorizes for research permits. Activities that employ vessel approaches on large whales are regularly reviewed by NMFS under the MMPA. When issuing permits under the MMPA, NMFS generally limits the number of approaches within defined distances (typically 100 yards or less for large cetaceans) because of the potential for such approaches within those limits to affect or disrupt whale behavior. For example, NMFS Permit #15569 for ENP gray whales (77 FR 35657, June 14, 2012) authorized 5,000 approaches of gray whales over the course of 5 years. While this is a large number of authorized approaches, the NEPA analysis prepared for that permit found

that approaches during research have not been shown to result in long-term or permanent adverse effects on individual animals or their behavior regardless of the number of times the activity occurs because the frequency and duration of the activities allows adequate time for animals to recover from any potential adverse effects such that additive or cumulative effects of the action on its own are not expected. That analysis further notes that no measurable effects on population demographics are anticipated because any sub-lethal effects are expected to be short-term, and the proposed action is not expected to result in mortality of any animals. Given these considerations, we expect that animals exposed to approaches and hunt training activities within the Makah U&A would experience the encounter as a temporary and localized nearshore event that would be insufficient to discourage them from a known source of food. As a result, we do not expect the proposed waiver to cause PCFG whales to abandon the Makah U&A or to otherwise affect ENP gray whale distribution.

#### Abundance

The proposed waiver and regulations are unlikely to have an appreciable effect on the ENP gray whale stock's abundance. The proposed waiver would result in a maximum of 3 strikes/deaths per even year hunt and 2 strikes/deaths per odd year hunt, or an average of 2.5 deaths per year. Two and a half animals represent 0.009 percent of the population of 27,000 animals. This level of mortality is a small fraction of the annual variability in the stock's abundance (~16,000–27,000 animals since the mid-1990s) and well below the PBR level (624 whales per year) for the ENP gray whale stock (Carretta *et al.*, 2017). This small number of removals would not have an appreciable effect on the stock's abundance, especially given that any portion of the IWC quota for ENP gray whales that is not harvested by the Makah Tribe is likely to be allocated to Chukotkan hunters, based on recent practice and as articulated in a joint U.S.-Russia monitoring agreement (*e.g.*, Fominykh and Wulff, 2017). If that practice continues, the total harvest of ENP gray whales would be the same with or without the waiver.

#### Breeding Habits

Male and female gray whales are thought to be promiscuous breeders and copulate repeatedly with more than one mate (Jones and Swartz, 1984). Mating occurs throughout the southward migration in the migratory corridor with a mean conception date of December 5

(Rice and Wolman, 1971). Females that have not successfully bred may enter a second estrous cycle within 40 days (Rice and Wolman, 1971). Hunting or hunt training is most likely to overlap with gray whale breeding in December–January. As described in the DEIS Subsection 3.15.3.2.2, Description of Weather and Sea Conditions in the Project Area, NMFS expects that few if any hunt activities would occur in December–January due to inclement weather (NMFS, 2015). While it is possible that hunt activities could occur in December–January and could encounter mating whales, we do not expect adverse biological effects due to the small portion of the migration corridor where hunt activities could occur. The limited level of hunt activity likely to occur, and the fact that whales can mate repeatedly throughout the migration, suggests that any whales disturbed by hunt activities would have additional opportunities to breed.

#### Times and Lines of Migratory Movements

Based on the analysis above regarding effects on distribution of ENP gray whales, the proposed waiver is not expected to affect the times and lines of migratory movements of ENP gray whales.

#### 4. NMFS Is Assured That the Proposed Waiver Is in Accord With the MMPA's Purposes and Policies

The purposes and policies of the MMPA include maintaining marine mammal stocks as a significant functioning element in the ecosystem of which they are a part, maintaining the health and stability of the marine ecosystem, and obtaining an optimum sustainable population keeping in mind the carrying capacity of the habitat (16 U.S.C. 1361). Thus we considered the effects of the proposed waiver on both the ecosystem and on the ENP stock and documented those findings in the Biological Report (NMFS, 2019a). We summarize those findings below.

##### (a) Effect of the Proposed Waiver on the Role of ENP Gray Whales in Their Ecosystem, and on the Health and Stability of That Ecosystem

The MMPA does not specify a geographic scale for identifying marine mammal ecosystems. Because of their long migration route, ENP gray whales occupy multiple large marine ecosystems at different times. The hunt area is located within what oceanographers call the California Current System (Sherman and Alexander, 1989) or Province (Longhurst, 1998), a part of the North

Pacific Gyre that moves cool ocean waters south along the western coast of North America, beginning off British Columbia, flowing southward past Washington, Oregon and California, and ending off Baja California. Within that province, scientists regularly study and predict physical and biological features and processes in the northern California Current ecosystem, which is generally described as extending from northern California to Vancouver Island (*e.g.*, Field *et al.*, 2001; Field *et al.*, 2006; Hickey and Banas, 2008; Sydeman and Elliott, 2008; Harvey *et al.*, 2017; Wells *et al.*, 2017), though some studies extend only to the U.S.–Canada border in the north because of differing management regimes between the two countries (Field *et al.*, 2001; Field *et al.*, 2006). For purposes of the MMPA analysis, we took a precautionary approach of examining the impact of the proposed waiver and regulations on the smaller northern California Current ecosystem. This area also corresponds to the seasonal range of the PCFG.

The entire range of the ENP gray whale stock is vast and crosses many large marine ecosystems, including the Pacific Central American Coast, California Current, Gulf of Alaska, and Bering and Chukchi Seas (Longhurst, 1998; Sherman and Alexander, 1989). The proposed waiver could result in the removal of up to 2.5 whales annually, on average, from the hunt area. This level of removal is an order of magnitude less than the natural variability of the population, which numbered nearly 27,000 individuals in 2016, and would not have an appreciable effect on the functioning of ENP gray whales as an element of these large ecosystems, or on the health of the ecosystems themselves. To the extent approaches and attempted strikes affect whales, those actions would do so in a very small portion of one of these large ecosystems and would therefore be unlikely to result in a change in gray whale use of any of these large ecosystems.

Also, the proposed waiver will not result in gray whales ceasing to be a significant functioning element of the smaller northern California Current ecosystem or the environment of the northern Washington coast for at least two reasons. First, these habitats are shaped by dynamic, highly energetic, large-scale processes, and the role of ENP gray whales in structuring these habitats is limited. Second, the proposed waiver and regulations are unlikely to result in an appreciable decrease in the numbers of whales present in the northern California Current ecosystem or the northern

Washington coastal environment because of the limits on ENP and PCFG strikes.

Based on the best available evidence as summarized in the Biological Report, we conclude that the proposed waiver and regulations would not cause ENP gray whales to cease to be a significant functioning element in the ecosystem of which they are a part.

To summarize:

- ENP gray whales annually traverse five large marine ecosystems;
- Average annual removal by Makah hunters of up to 2.5 ENP gray whales from a population of approximately 27,000 individuals would not have an appreciable effect on the functioning of ENP gray whales in any of these large marine ecosystems or on the ecosystems themselves;

- The northern California Current ecosystem is the smallest recognized marine ecosystem that encompasses the area of the proposed hunt;

- ENP gray whales play a limited role in structuring the northern California Current ecosystem, which is shaped by dynamic, highly energetic, large-scale ecosystem processes;

- There will continue to be approximately 27,000 ENP gray whales migrating along the coast through the northern California Current ecosystem, thus the functioning of ENP gray whales in that ecosystem will not change;

- Although it is not considered a separate ecosystem, even at the scale of the northern Washington coast (the coastal portion of the Makah U&A) we would not expect the proposed waiver to have any meaningful effects on the marine environment, because ENP gray whales play a limited role in structuring the habitat, which is shaped by dynamic, highly energetic, large-scale ecosystem processes;

- The best available evidence indicates the proposed waiver would not cause gray whales to abandon the hunt area as a summer feeding area or interfere with the PCFG being a significant functioning element of their ecosystem during the summer feeding period in the PCFG range.

##### (b) Effect of the Proposed Waiver on the Status of the ENP Gray Whale Stock Relative to OSP

The proposed waiver would result in a maximum of 3 strikes/deaths per even year hunt and 2 strikes/deaths per odd year hunt, or an average of 2.5 deaths per year. Two and a half animals represent 0.009 percent of the population of 27,000 animals. This number of removals would not have a discernable effect on the status of the ENP stock relative to OSP. Moreover,

any portion of the IWC quota for ENP gray whales that is not harvested by the Makah Tribe is likely to be allocated to Chukotkan hunters, based on recent practice and as articulated in joint U.S.-Russia monitoring agreements dating back to the IWC catch limit set in 2003 (e.g., Ilyashenko and Hogarth, 2007; Ilyashenko and DeMaster, 2012; Fominykh and Smith, 2016; Fominykh and Wulff, 2017). Assuming this practice continues, the proposed waiver would have no net effect on ENP gray whale abundance or OSP.

#### *B. The Proposed Regulations Are Consistent With the MMPA*

The MMPA directs NMFS to adopt regulations implementing an MMPA waiver that NMFS deems necessary and appropriate to insure that the taking will not be to the disadvantage of the affected stock and will be consistent with the purposes and policies of the MMPA (16 U.S.C. 1373(a)). Regulations must be based on the best scientific evidence available and consultation with the MMC. NMFS must give full consideration to all relevant factors affecting the extent to which the marine mammals may be taken, including but not limited to: Existing and future levels of marine mammal stocks; international treaty and agreement obligations of the United States; the marine ecosystem and related environmental considerations; the conservation, development, and utilization of fishery resources; and, the economic and technological feasibility of implementation (16 U.S.C. 1373(b)). In addition to these factors, we have considered the potential effects of the proposed regulations on the WNP stock.

##### 1. The Proposed Regulations Are Based on the Best Scientific Evidence Available and Consultation With the Marine Mammal Commission

See Subsections IV(A)(1) and IV(A)(2) above.

##### 2. The Proposed Regulations Will Not Disadvantage the ENP Gray Whale Stock

Because the proposed regulations will not affect the status of the ENP gray whale stock relative to its OSP, we conclude that the proposed regulations will not disadvantage the ENP gray whale stock.

##### 3. The Proposed Regulations Are Consistent With the Purposes and Policies of the MMPA

These findings are described above in Subsection IV(A)(4) above.

##### 4. We Have Fully Considered the Effects of the Proposed Regulations on the Statutory Factors

###### (a) Existing and Future Levels of Marine Mammal Species and Population Stocks

The proposed regulations are unlikely to have any effect on the future levels of ENP gray whales, as described above under Subsection IV(A)(4)(b), *Effect of the proposed waiver on the status of the ENP gray whale stock relative to OSP*.

###### (b) Existing International Treaty and Agreement Obligations of the United States

The proposed regulations limit the harvest of ENP gray whales consistent with the ICRW Schedule, Article 13, and the U.S.-Russia bilateral agreement. In March 2018 the U.S. requested that the IWC Scientific Committee (specifically the Standing Work Group on Aboriginal Subsistence Whaling Management Procedures or AWMP) evaluate a potential Makah gray whale hunt under the proposed regulations. The goal of the AWMP's review was to determine if the aboriginal harvest of gray whales under hunt proposals by the U.S. and the Russian Federation would meet the IWC's conservation objectives. Those objectives focus on ensuring that aboriginal hunt requests (1) do not seriously increase risks of extinction (highest priority), (2) enable hunts "in perpetuity," and (3) maintain stocks at the highest net recruitment level (and if below that, ensure they move towards it). After modeling the available data (i.e., biology, ecology, abundance and trends, removals including direct hunting, ship strikes and bycatches), the AWMP agreed (and the Scientific Committee supported) that the proposed hunt management plan for a Makah tribal hunt meets the IWC conservation objectives for ENP gray whales as well as for PCFG and WNP gray whales (IWC, 2018b).

###### (c) The Marine Ecosystem and Related Environmental Considerations

The biological report (NMFS, 2019a) describes our consideration of effects on the marine ecosystem and Subsection IV(A)(4)(a) describes our conclusion regarding ecosystem function and health. The DEIS (NMFS, 2015) describes our consideration of other elements of the marine environment.

###### (d) The Conservation, Development, and Utilization of Fishery Resources

The proposed regulations would have no effect on the conservation, development, or utilization of fishery resources.

###### (e) The Economic and Technological Feasibility of Implementation

Subsection 4.6.2.5 of the DEIS analyzes the economic costs of hunt management and law enforcement. NMFS' costs would primarily involve the continuation of longstanding whale surveys and photo-identification work, with additional funding of approximately \$2,000 per day of hunting needed to support NMFS monitoring and enforcement personnel. As noted in the DEIS, the annual NMFS budget for marine mammal management in the West Coast Region is over \$700,000, so such costs are feasible to obtain and are not expected to affect NMFS' ability to regulate a hunt. The Tribe's 1999 gray whale hunt successfully demonstrated the economic and technological feasibility of prosecuting a hunt according to the proposed regulations. Also, the Tribe has a detailed Tribal Whaling Ordinance in effect, which demonstrates the Tribe's ability to regulate a tribal ceremonial and subsistence whale hunt (Makah Tribe, 2013). The proposed regulations include provisions for matching photographs of killed whales to those of known whales, a procedure which is technologically feasible (Calambokidis *et al.*, 2017; NMFS, 2019b). The proposed regulations include provisions for marking and tracking handicrafts made from harvest whale parts, which is technologically feasible.

#### *C. The Proposed Waiver and Regulations Appropriately Manage Risk to WNP Gray Whales*

In evaluating the Tribe's waiver request, we determined that the potential effect of the proposed hunt on the WNP stock was an additional relevant factor that should be considered in the proposed regulations. To evaluate the risk to WNP gray whales we considered both: (1) The probability of encountering a WNP gray whale (exposure) during an ENP gray whale hunt or training; and (2) the likelihood that an encounter would kill or otherwise harm a WNP whale. To address the first question and to reduce the risk of encountering WNP gray whales during an ENP hunt, the regulations include several important restrictions: (1) Hunting would only be allowed every other year (proposed for even-numbered years) during the migration season when WNP gray whales may be present; (2) only three whales could be struck in an even-year hunt; (3) training harpoon throws would be restricted to the non-migration season in odd-numbered years; and (4)

if a WNP is confirmed to be struck in any year, the hunt will cease until steps are taken to ensure such an event will not recur.

To address the second question, we considered the biological impact of strikes, strike attempts, and approaches on WNP whales. Striking a WNP gray whale has the potential to kill or injure it. An unsuccessful strike attempt, training harpoon throw, or approach of a WNP gray whale might or might not harm a whale by disrupting its behavior, depending on the reaction of the whale to the encounter.

With hunting at the time of year when WNP gray whales may be present limited to every other year and strikes limited to 3 (and thus limited to 15 over the 10-year regulation period), there is about a 6 percent probability of hunters striking one WNP gray whale over the 10 years of the regulations (Moore and Weller, 2018). This probability is the most likely point estimate; the 95 percent confidence interval ranges from 3.0 percent to 9.3 percent. Stated another way, the most likely point estimates indicate that one in 17 10-year hunt periods (*i.e.*, one year out of 170) would result in an individual WNP gray whale being struck by Makah hunters, if the Tribe made the maximum number of strike attempts allowed in even-year hunts and if ENP and WNP population sizes and migration patterns remained constant (Moore and Weller, 2018). If the 95 percent confidence interval is considered, the expectation is that one WNP whale would be struck out of every 108 years of hunting. By comparison, the PBR for WNP gray whales reported in the current SAR is 0.06 WNP gray whales per year, or approximately 1 whale every 17 years. Based on this analysis, we conclude that the risk of a lethal take or injury to WNP gray whales posed by the proposed regulations is slight.

With unsuccessful strike attempts during even-year hunts limited to 18, there is about a 30 percent probability (95 percent confidence interval, range from 17 percent to 44 percent) that one WNP whale would be subjected to an unsuccessful strike attempt over the 10 years of the regulations (Moore and Weller, 2018), or one such encounter every 33 years if the Tribe made the maximum number of strike attempts allowed in even-year hunts and if ENP and WNP population sizes and migration patterns remained constant (Moore and Weller, 2018). If the 95 percent confidence interval is considered, the expectation is that one WNP whale would be subjected to an unsuccessful strike attempt every 23 years. Making an unsuccessful strike

attempt or training harpoon throw on a WNP gray whale is a concern but would not result in death or injury and would likely elicit a response similar to that observed in whales that are tagged or biopsied for research purposes (DEIS Subsection 4.4.3.3.2, Change in Abundance and Viability of the WNP Gray Whale Stock). As summarized above in Subsection III(C)(3), the best available scientific evidence suggests that such encounters would be unlikely to have a lasting effect on the health or behavior of the affected animal because there is no mortality associated with unsuccessful strike attempts and impacts associated with such an event are temporary.

Based on the best available information and as observed during the Chukotkan hunt, gray whales would likely display a range of reactions to hunting- or training-related approaches, and it is uncertain whether any of the approaches would disrupt normal whale behavior. However, to be precautionary we believe it is reasonable to conclude that some of those approaches have the potential to disrupt whale behavior, so the regulations limit the number of approaches. The geographical area where the approaches might occur is not known to be biologically important for WNP gray whales and the very limited number of likely approaches on WNP whales does not create the magnitude, frequency (repetitive, chronic), and duration of encounter that might cumulatively disrupt their behavior (NMFS, 2015). Actual approach distances are not possible to predict. However, as was the case in the Tribe's 1999 and 2000 hunts, even-year hunts would occur during a time when gray whales are migrating, which may further limit close and sustained approaches on gray whales and chronic, repeated, or cumulative exposure to individual whales. Also, some of the approaches could be made during training exercises involving only paddle-driven canoes that have limited ability to pursue and maintain close contact with whales that are actively migrating.

Our risk analysis predicts that approximately 14 WNP gray whales would be approached within 100 yards over the duration of the waiver period (Moore and Weller, 2018). This analysis assumed that all 353 approaches would be made each year, and all of them, including all training approaches, would be made between December 1 and May 31, when WNP gray whales could be present in the hunt area. These conservative assumptions are a useful management tool for understanding the maximum potential impacts to WNP gray whales, but present an unlikely

scenario given that hunting in odd-numbered years may also be authorized during the summer and fall when weather and ocean conditions are more suitable for hunting and training. In our 2015 DEIS, we estimated that there would be almost twice as many suitable days for hunting and training during odd-year hunts as during even-year hunts. So, for example, if half of the allowed number of approaches were made during even-year hunts, we would expect that less than one WNP gray whale (0.7) would be approached per year.

Even if all approaches were made between December 1 and May 31, potentially exposing 1.4 WNP gray whales per year to an approach, we consider any risks to such whales to be slight because there is no mortality associated with approaches, some approaches may be so far away as to be undetectable by the whales, and any reactions by approached whales would likely be temporary and not interfere with the whales' active migration.

To summarize, under the proposed regulations, there is a 6 percent probability of killing a gray whale over the 10-year waiver period (put another way, it is likely that one WNP whale would be killed every 170 years), which we consider to be a remote risk. There is a 30 percent probability of an unsuccessful strike attempt on at least one WNP gray whale (or one every 33 years) and a near 100 percent probability of a WNP gray whale being approached (average of 1.4 whales per year), based on conservative assumptions, over the 10-year period of the regulations (Moore and Weller, 2018). We find that this constitutes an acceptable level of risk for management purposes and under the MMPA. In addition, prior to issuing final regulations, NMFS would be required to ensure, pursuant to the consultation requirements of ESA section 7(a)(2), that the hunt would not be likely to jeopardize the WNP stock (16 U.S.C. 1376(a)(2)).

## V. Required Statements Related to the Intention To Issue Regulations

The MMPA requires that, either before or concurrent with publication of our notice of intent to prescribe regulations, we publish certain statements (16 U.S.C. 1373(d)). This section includes those statements.

### A. A Statement of the Estimated Existing Levels of the Species and Population Stocks of the Marine Mammal Concerned

ENP gray whales are the subject of the proposed waiver and regulations and

are recognized as a population stock under the MMPA (Carretta *et al.*, 2017). The most recent population assessment by Durban *et al.* (2017) estimates the abundance of the ENP gray whale stock at 24,420 to 29,830 whales, with a point estimate of 26,960 and resultant minimum abundance estimate, used for calculating PBR, of 25,849.

*B. A Statement of the Expected Impact of the Proposed Regulations on the Optimum Sustainable Population of Such Species or Population Stock*

The proposed regulations will not have a discernible effect on the ENP gray whale stock relative to its OSP (see Subsection IV(B), *The Proposed Regulations are Consistent with the MMPA*).

*C. A Statement Describing the Evidence Before the Agency That Forms the Basis for the Regulations*

In proposing the waiver and regulations, we relied on the references cited in the March 2015 Draft Environmental Impact Statement on the Makah Tribe Request to Hunt Gray Whales (NMFS, 2015). We also list relevant references to the scientific literature in a separate biological report (NMFS, 2019a), which identifies other and more recent studies not included in the DEIS. We incorporate by reference the 2015 DEIS and the Biological Report and their associated references. The proposed regulations were also informed by the public comments on the DEIS and our consultation with the MMC.

*D. Any Studies or Recommendations Made By or For the Agency or the MMC That Relate to the Establishment of the Regulations*

Relevant studies made by or for NMFS include those on gray whale abundance and stock structure (Punt and Wade, 2012; Weller *et al.*, 2013; Calambokidis *et al.*, 2017), estimation of potential biological removal levels and human caused mortalities (Carretta *et al.*, 2017), forecasting PCFG abundance estimates (NMFS, 2019a), estimating the probability of encountering WNP gray whales (Moore and Weller, 2018) and modeling the proposed regulations relative to IWC conservation objectives for North Pacific gray whales (IWC, 2018b). Also, the DEIS (NMFS, 2015) analyzes the principle components of a Makah gray whale hunt.

Regarding recommendations by the Marine Mammal Commission, the MMC submitted comments on the 2015 DEIS and provided written advice in response to two NMFS requests for consultation in 2017. We first requested consultation

with the MMC on May 12, 2017, and shared a preliminary draft of our proposed waiver determination and regulations along with supporting rationale. The MMC replied to our request with a letter dated July 11, 2017, endorsing our plan to issue a waiver determination and recommending several issues for further consideration. After further evaluation and review, and based on comments from the MMC and others on the DEIS related to managing impacts to PCFG whales, we modified our proposal to adopt a non-PBR framework for the PCFG and presented it to the MMC for continued consultation on December 19, 2017. On March 13, 2018, the MMC replied with a second letter expressing support for our modified regulations and encouraging flexibility in hunt management so as to give due regard to the Tribe's identified subsistence and cultural needs. The following summarizes the MMC's advice contained in those consultation letters.

MMC Consultation Letter Dated July 11, 2017:

1. The MMC believed that the draft documents lay out a *prima facie* case that the requirements for granting a waiver under the MMPA have been met and recommended that NMFS proceed with issuing a proposed rule and scheduling an administrative hearing in accordance with the requirements of section 103 of the MMPA and sections 554, 556, and 557 of the Administrative Procedure Act.

2. The MMC noted that its primary concern has been the need to avoid, to the maximum extent practicable, the accidental taking of gray whales from the endangered WNP stock, and secondarily, to avoid taking that could disadvantage the PCFG regardless of whether it is considered a stock. The MMC acknowledged that the design of an odd year/even year hunting pattern is key to both controlling the harvest of PCFG whales and minimizing any take of WNP gray whales.

3. The MMC recommended that NMFS clarify what the implications would be if the PCFG were recognized as a separate stock, especially whether hunting would be allowed to continue under this rule or if new rulemaking would be necessary to consider the status of PCFG whales relative to OSP before the taking of PCFG whales could be authorized.

4. The MMC recommended that the ability to distinguish between WNP and ENP gray whales be addressed in the rulemaking, either by including mechanisms to ensure that current survey and cataloging efforts are

maintained or by making hunting during the specified season contingent on having available and reliable means of distinguishing WNP or PCFG whales (as relevant) from other whales.

5. The MMC recommended that NMFS review the proposed numbers of takes that would be authorized for approaches and attempted strikes, and suggested that NMFS consider separate authorizations for attempted strikes and approaches depending on whether they occur during hunting or training exercises. The MMC further noted that it would be unfortunate, and perhaps counterproductive to achieving an effective and efficient hunt, to limit the level of training because of the specified caps.

6. The MMC recommended that NMFS revise the provisions of the draft rule to allow training activities to be conducted throughout the year, subject to appropriate limitations, despite one of the take limits for hunting activities (*e.g.*, strikes or landings) having been reached.

7. The MMC recommended that NMFS discuss with the Makah Tribe provisions related to how whale meat and non-edible products can be used and distributed by Tribal members to determine whether there are any proposed restrictions on the use and distribution of whale products to which the Tribe objects and, if there are, request that the Tribe suggest alternatives for consideration as part of the rulemaking.

8. The MMC recommended that NMFS consider building some flexibility into the regulations to allow a small increase in the numbers of whales that can be struck and landed in odd-year hunts should it become necessary to close the even-year hunt.

9. The MMC recommended that NMFS address whether there are circumstances (*e.g.*, a die-off of gray whales) that would prompt it to revisit or revise the regulations before the end of their anticipated lifetime.

MMC Consultation Letter Dated March 13, 2018

1. The MMC reiterated its earlier primary concerns regarding the need to avoid, to the maximum extent practicable, the accidental taking of gray whales from the endangered WNP stock, and secondarily, to avoid taking that could disadvantage PCFG whales regardless of whether they are considered a separate stock. The MMC noted that our modified proposal (compared to our initial request for consultation) is not expected to have any negative effect on the possibility that WNP gray whales will be taken and,

as such, the MMC stands by its earlier comment that the risk of killing or seriously injuring a WNP gray whale appears to be sufficiently low that it should not present an insurmountable obstacle to NMFS moving forward with a proposed rule to authorize the Makah Tribe to take whales from the ENP stock.

2. The MMC agreed that, given the availability of reliable information on the abundance, trends, and rates of recruitment for the PCFG, there is no reason to manage removals under a PBR framework. Further, the MMC believed that setting the allowable strike limit at 16 PCFG whales over a 10-year period should provide reasonable certainty that the proposed level of hunting PCFG whales will not have adverse impacts on this group of animals.

3. The MMC noted that proposed harvest levels (no more than one whale landed per year during odd-year hunts and up to three whales landed per year during even-year hunts) falls well short of the Makah Tribe's identified subsistence need and the Tribe's initial waiver request, and encouraged NMFS to assess the relationship between the adopted harvests levels and the Tribe's subsistence and cultural needs as part of the final environmental impact statement on this action.

4. The MMC concurred—from a biological standpoint—with NMFS' proposal to limit strikes on female PCFG whales, but noted that the strike limit may cause additional shortfalls in meeting the Tribe's subsistence needs. Therefore, the MMC recommended that NMFS and other appropriate experts work with the Tribe to develop hunting methods that minimize the chances that the female strike limit will be reached early in any 10-year period.

5. The MMC agreed that setting such minimum abundance thresholds for the PCFG is appropriate and that the values proposed are good starting points for examination in the course of the rulemaking. However, the MMC also noted that this approach was akin to an on-off switch and suggested that NMFS explore whether strikes might be reduced more gradually using intermediate abundance thresholds.

## VI. Classification

### *National Environmental Policy Act*

NMFS has prepared a DEIS under the requirements of NEPA and published a notice of availability on March 20, 2015 (80 FR 14912). NMFS believes that a waiver of the MMPA take moratorium along with federally approved hunt regulations for gray whales constitutes a major federal action subject to the requirements of NEPA. Therefore, these

proposed regulations will not be finalized until a final Environmental Impact Statement has been issued and a Record of Decision is made.

### *Endangered Species Act*

The ESA provides for the conservation of endangered and threatened species of fish, wildlife, and plants. The program is administered jointly by NMFS (for most marine species) and the U.S. Fish and Wildlife Service (for terrestrial and freshwater species). The ESA requires federal agencies to consult with NMFS or the U.S. Fish and Wildlife Service to ensure that activities authorized, funded, or carried out by federal agencies are not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Prior to issuance of final regulations, NMFS will fulfill its obligations under section 7(a)(2) of the Endangered Species Act for the ESA-listed species and designated critical habitat in the project area.

### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice of proposed rulemaking requirements under the Administrative Procedure Act unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA defines small entities, in pertinent part, as small businesses, small organizations and small governmental jurisdictions. This rule only affects a single tribe. Tribes are not considered small entities under the RFA. Accordingly, an attorney acting on behalf of the Chief Counsel for Regulation of the Department of Commerce, in accordance with the RFA, has reviewed this proposed rule and certifies that it will not have a significant economic impact on a substantial number of small entities. Therefore, neither the RFA nor any other law require a regulatory flexibility analysis, and none has been prepared.

### *Paperwork Reduction Act*

This proposed rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act of 1980, because the Paperwork Reduction Act does not apply to record-keeping requirements of a single tribe.

### *Executive Orders 12866—Regulatory Planning and Review, 13771—Reducing Regulation and Controlling Regulatory Costs, and Executive Order 13563—Improving Regulation and Regulatory Review*

Executive Order (E.O.) 12866 provides that significant regulatory actions be submitted for review to the Office of Information and Regulatory Affairs, and OMB. E.O. 13771 provides that it is essential to manage the costs associated with the governmental imposition of private expenditures required to comply with federal regulations. Toward that end, E.O. 13771 directs that for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process. In accordance with 16 U.S.C. 1373(d), the regulations proposed here are subject to 50 CFR 228.3, which provides that this proceeding will be governed by 5 U.S.C. 556 and 557 of the Administrative Procedure Act. Executive Order 12866 per Section 3(d) does not apply to regulations issued in accordance with the formal rulemaking procedures of 5 U.S.C. 556, 557, thus the regulatory action is not considered significant under E.O. 12866. Executive Order 13771 only applies to regulatory actions that are defined as significant under E.O. 12866. Therefore, this proceeding is exempt from review under E.O. 12866 and E.O. 13771.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes that regulations must be based on the best available science and that the rulemaking process must allow for public participation. We have developed this rule in a manner consistent with these requirements.

### *Executive Order 12898—Environmental Justice*

Under E.O. 12898 each federal agency must conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that those programs, policies, and activities do not have the

effect of excluding persons from participation in, denying persons the benefits of, or subjecting persons to discrimination because of their race, color, or national origin. Section 4–4, Subsistence Consumption of Fish and Wildlife, of E.O. 12898, requires federal agencies to ensure protection of populations with differential patterns of subsistence consumption of fish and wildlife and to communicate to the public the human health risks of those consumption patterns. NMFS has evaluated the data available on contaminant loads in ENP gray whales, and has summarized this information in the DEIS and in more recent analyses (Ylitalo *et al.*, 2018) and communicated those findings to the Makah Indian tribe.

#### *Executive Order 13132—Federalism*

Executive Order 13132 sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications, that is, regulations that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies must examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action. This rule does not have substantial direct effects on the States and therefore does not have the type of federalism implications contemplated by the Executive Order. We do not foresee that the rule would affect significantly the distribution of power and responsibilities among the various levels of government or limit the policymaking discretion of the States.

#### *Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175, the American Indian and Alaska Native Policy of the U.S. Department of Commerce (March 30, 1995), and the Tribal Consultation and Coordination Policy of the U.S. Department of Commerce (May 21, 2013) outline the responsibilities of NMFS in matters affecting tribal interests. These directives require that NMFS have an accountable process to ensure meaningful and timely input by tribal officials in developing policies that have tribal implications. Executive Order 13175 requires that NMFS: (1) Have regular and meaningful consultation and collaboration with

Indian tribal governments in the development of federal regulations that significantly or uniquely affect their communities; (2) reduce the imposition of unfunded mandates on Indian tribal governments; and (3) streamline the applications process for and increase the availability of waivers to Indian tribal governments.

We developed these proposed regulations in response to the Makah Indian Tribe's request on February 14, 2005 for a waiver of the MMPA's take moratorium. Consistent with the Executive Order directives we consulted with the Makah Indian Tribe in developing the proposed regulations. The Makah Indian Tribe and members of other tribes submitted comments in response to the DEIS; we will provide responses to those comments at the hearing for this matter.

#### *Consultation With State and Local Government Agencies*

In keeping with the intent of the Administration and Congress to provide continuing and meaningful dialogue on issues of mutual state and federal interest, NMFS shared the release of the DEIS with 26 state and local government agencies and various elected officials and governmental committees.

#### References Cited

A complete list of all references cited in this rulemaking is available on our website and upon request from the NMFS office in Portland, Oregon (see ADDRESSES).

#### List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Exports, Fish, Imports, Indians, Labeling, Marine mammals.

Dated: March 27, 2019.

**Barry A. Thom,**

*Regional Administrator, West Coast Region,  
National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 216 is proposed to be amended as follows:

#### **PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS**

■ 1. The authority citation for part 216 continues to read as follows:

**Authority:** 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

■ 2. Subpart J is added to read as follows:

#### **Subpart J—Taking of Eastern North Pacific (ENP) Gray Whales (*Eschrichtius robustus*) by the Makah Indian Tribe off the Coast of Washington State**

Sec.

216.110 Purpose.

216.111 Scope.

216.112 Definitions.

216.113 Take authorizations.

216.114 Accounting and identification of gray whales.

216.115 Prohibited acts.

216.116 Applications for hunt permits.

216.117 Requirements for monitoring, reporting, and recordkeeping.

216.118 Expiration and amendment.

#### **§ 216.110 Purpose.**

The purpose of this subpart is to establish regulations governing the take of whales from the eastern North Pacific (ENP) gray whale (*Eschrichtius robustus*) stock by the Makah Indian Tribe and its enrolled members in accordance with the Secretary's determination to issue a waiver of the MMPA take moratorium pursuant to 16 U.S.C. 1371(a)(3).

#### **§ 216.111 Scope.**

This subpart authorizes only the taking of ENP gray whales and only by enrolled members of the Makah Indian Tribe.

#### **§ 216.112 Definitions.**

In addition to the definitions provided in the MMPA, for purposes of this subpart, the following definitions apply:

*Barter* means the exchange of parts from gray whales taken under these regulations for other wildlife or fish or their parts or for other food or for nonedible items other than money if the exchange is of a noncommercial nature.

*Bonilla-Tatoosh Line* means the line running from the western end of Cape Flattery (48°22'53" N lat., 124°43'54" W long.) to Tatoosh Island Lighthouse (48°23'30" N lat., 124°44'12" W long.) to the buoy adjacent to Duntze Rock (48°28'00" N lat., 124°45'00" W long.), then in a straight line to Bonilla Point (48°35'30" N lat., 124°43'00" W long.) on Vancouver Island, British Columbia.

*Calf* means any gray whale less than 1 year old.

*Enrolled member* or *member* of the Makah Indian Tribe means a person whose name appears on the membership roll maintained by the Makah Tribal Council.

*ENP gray whale* means a member of the eastern North Pacific stock of gray whales (*Eschrichtius robustus*).

*Even-year hunt* means a hunting season spanning six consecutive months

from December 1 in an odd-numbered year to May 31 in the following even-numbered year.

*Gray whale* means a member of the species *Eschrichtius robustus*.

*Harpooner* means a member of the Makah Indian Tribe who has been certified by the Tribe as having demonstrated the qualifications commensurate with the duties and responsibilities of harpooning a gray whale.

*Hunt* and *hunting* mean to pursue, strike, harpoon, shoot, or land a gray whale under a hunt permit issued under § 216.113(a), or to attempt any such act, but does not include hunting approaches, training approaches, or training harpoon throws. A “hunt” means any act of hunting.

*Hunt permit* means a permit issued by NMFS in accordance with 16 U.S.C. 1374 and this subpart.

*Hunting approach* means to cause, in any manner, a vessel to be within 100 yards of a gray whale during a hunt.

*Land* and *landing* mean bringing a gray whale or any products thereof onto the land in the course of hunting.

*Makah Indian handicrafts* means articles made by a member of the Makah Indian Tribe that contain any nonedible products of an ENP gray whale that was obtained pursuant to a permit issued under this subpart; and are significantly altered from their natural form and which are produced, decorated, or fashioned in the exercise of traditional Makah Indian handicrafts without the use of pantographs, multiple carvers, or similar mass copying devices. Makah Indian handicrafts include, but are not limited to, articles that are carved, beaded, drawn, or painted.

*Makah Indian Tribe* or *Tribe* means the Makah Indian Tribe of the Makah Indian Reservation as described in the list of federally recognized Indian tribes maintained by the U.S. Department of the Interior.

*Minimum population estimate* for PCFG gray whales is the lower 20th percentile of the PCFG population estimate;

*NMFS hunt observer* means a person designated by NMFS to accompany and observe a hunt.

*Odd-year hunt* means a hunting season spanning four consecutive months from July 1 to October 31 in an odd-numbered year.

*Pacific Coast Feeding Group (PCFG) gray whale* or *PCFG whale* means an ENP gray whale photo-identified during two or more years between June 1 and November 30 within the region between northern California and northern Vancouver Island (from 41° N. lat. to 52° N. lat.) and entered into a photo-

identification catalog(s) recognized by the Regional Administrator.

*PCFG population estimate* means an abundance estimate based on data derived from photo-identification surveys and catalog(s) recognized by the Regional Administrator. Such data will also be the basis for projecting PCFG population estimates in future hunting seasons.

*Recordkeeping* and *reporting* mean the collection and delivery of photographs, biological data, harvest data, and other information regarding activities conducted under the authority of this subpart.

*Regional Administrator* means the Regional Administrator of NMFS for the West Coast Region.

*Rifleman* means a member of the Makah Indian Tribe who has been certified by the Tribe as having demonstrated the qualifications commensurate with the duties and responsibilities of shooting a gray whale.

*Safety officer* means a member of the Makah Indian Tribe who has been certified by the Tribe as having demonstrated the qualifications commensurate with the duties and responsibilities of evaluating hunt conditions including but not limited to visibility, target range and bearing, and sea condition.

*Strike* or *struck* means to cause a harpoon or other device to penetrate a gray whale's skin or an instance in which a gray whale's skin is penetrated by a harpoon or other device while hunting.

*Struck and lost* refers to a gray whale that is struck but not landed.

*Training approach* means to cause, in any manner, a training vessel to be within 100 yards of a gray whale.

*Training harpoon throw* means an attempt to contact a gray whale with a blunted spear-like device that is incapable of penetrating the skin of a gray whale.

*Training vessel* means a canoe or other watercraft used to train for a hunt that does not carry weapons ordinarily used by a harpooner or rifleman to strike a gray whale.

*Tribal hunt observer* means a tribal member or representative designated by the Tribe who has been certified by the Tribe as having demonstrated the qualifications commensurate with the duties and responsibilities of monitoring and reporting on a hunt.

*U&A* or *Makah Indian Tribe's U&A* means the Tribe's usual and accustomed fishing grounds, which area consists of the United States waters in the western Strait of Juan de Fuca west of 123°42'17" W long. and waters of the Pacific Ocean

off the mainland shoreline of the Washington coast north of 48°02'15" N lat. (Norwegian Memorial) and east of 125°44'00" W long.

*Unsuccessful strike attempt* means any attempt to strike a gray whale while hunting that does not result in a strike.

*WNP gray whale* means a member of the western North Pacific stock of gray whales (*Eschrichtius robustus*).

*Whaling captain* means a member of the Makah Indian Tribe who has been certified by the Tribe as having demonstrated the qualifications commensurate with the duties and responsibilities of leading a hunt and is authorized by the Makah Indian Tribe to be in control of the whaling crew.

*Whaling crew* means those members of the Makah Indian Tribe taking part in a hunt under the control of a whaling captain, not including the tribal hunt observer.

#### § 216.113 Take authorizations.

(a) The Regional Administrator may issue hunt permits to the Makah Indian Tribe authorizing hunting of ENP gray whales, as well as hunting approaches, training approaches, and training harpoon throws by enrolled members in accordance with 16 U.S.C. 1374 and the requirements of this subpart.

(1) Hunt permit duration. The duration of the initial hunt permit may not exceed three years from its effective date, and thereafter the duration of a hunt permit may not exceed five years.

(2) Hunting seasons. Even-year hunts and hunting approaches will only be authorized from December 1 of an odd-numbered year through May 31 of the following even-numbered year. Odd-year hunts and hunting approaches will only be authorized from July 1 through October 31 in an odd-numbered year.

(3) Training period. Hunt permits may authorize training approaches in any month and training harpoon throws in any month, except as provided in § 216.113(a)(4)(ii).

(4) Limits on the number of gray whales approached, subjected to unsuccessful strike attempts, struck, struck and lost, and landed.

(i) Approaches. A hunt permit may authorize no more than 353 approaches, including both hunting and training approaches, each calendar year of which no more than 142 of such approaches may be on PCFG whales.

(ii) Unsuccessful strike attempts and training harpoon throws. A hunt permit may authorize no more than 18 unsuccessful strike attempts during even-year hunts and no more than 12 unsuccessful strike attempts during odd-year hunts. Training harpoon throws may occur at any time during

even-numbered years and between July 1 and October 31 in odd-numbered years. Each training harpoon throw will count against the unsuccessful strike attempt limit in effect during the calendar year that the throw is made.

(iii) Strikes. A hunt permit may authorize no more than three strikes in an even-year hunt and no more than two strikes in an odd-year hunt. In an even-year hunt, no more than one strike may be authorized within the 24-hour period commencing at the time of strike. The Regional Administrator may authorize the full number of strikes in the initial hunt permit and will adjust strikes downward in subsequent permits if necessary to ensure that strikes on PCFG whales do not exceed 16 over the waiver period, of which no more than 8 strikes may be on PCFG females.

(iv) Struck and lost. A hunt permit may authorize no more than three gray whales to be struck and lost in any calendar year.

(v) Landings. A hunt permit may authorize no more than three gray whales to be landed in an even-year hunt and no more than one gray whale to be landed in an odd-year hunt; the number of gray whales that the hunt permit may authorize to be landed in any calendar year will not exceed the number agreed between the United States and the Russian Federation as the U.S. share of the catch limit established by the International Whaling Commission.

(vi) PCFG whales. Notwithstanding the limits specified in this section, no hunting will be authorized for an upcoming season if the Regional Administrator determines, and notifies the Makah Indian Tribe pursuant to § 216.114(a)(1) of this subpart, that either of the following conditions applies:

(A) The most recent PCFG population estimate, based on photo-identification surveys, is less than 192 whales or the associated minimum population estimate is less than 171 whales; or

(B) The PCFG population estimate for the upcoming hunting season is projected to be less than 192 whales or the associated minimum population estimate is projected to be less than 171 whales.

(vii) WNP gray whales. The hunt permit will provide that in the event the Regional Administrator determines a WNP gray whale was struck during a hunt, the Regional Administrator will notify the Makah Indian Tribe in writing, and require that the Tribe cease hunting for the duration of the permit, unless and until the Regional Administrator determines that measures have been taken to ensure no additional

WNP gray whales are struck during the duration of the permit. No further hunt permits will be issued unless and until the Regional Administrator determines that measures have been taken to prevent additional WNP gray whale strikes during the remainder of the waiver period.

(5) Images and samples. NMFS hunt observers, tribal hunt observers, and members of the Makah Indian Tribe may collect still or motion pictures as needed to document hunting and training approaches, strikes (successful and unsuccessful attempts), and landings. Persons designated by NMFS and by the Makah Indian Tribe may also collect, store, transfer, and analyze specimen samples from struck gray whales.

(6) Hunt permit terms and conditions. Each hunt permit will specify:

(i) Those terms required by 16 U.S.C. 1374(b);

(ii) The limits established under paragraph (a)(4) of this section;

(iii) The area where hunts, hunting approaches, training approaches, and training harpoon throws are allowed, which will be limited to the waters of the Makah Indian Tribe's U&A west of the Bonilla-Tatoosh Line except as provided in § 216.115(a)(7), and any site and time restrictions to protect Olympic Coast National Marine Sanctuary resources pursuant to consultation under 16 U.S.C. 1434(d) of the National Marine Sanctuary Act;

(iv) The type and timing of notice that the Makah Indian Tribe must provide to NMFS before issuing a tribal whaling permit authorizing a hunt, hunting or training approaches, or training harpoon throws;

(v) Measures to be taken by the hunt permit holder to provide for the safety of the whaling crew, the public, and others during a hunt;

(vi) That the hunt permit authorizes only the take of ENP gray whales and not the take of any other marine mammals; and

(vii) Such other provisions as the Regional Administrator deems necessary.

(7) Required determinations. Before issuing a hunt permit the Regional Administrator must make the following determinations:

(i) The authorized manner of hunting is humane;

(ii) The Makah Indian Tribe has enacted a tribal ordinance governing hunting that is consistent with these regulations;

(iii) The Makah Indian Tribe has in place certification procedures for whaling captains, riflemen, harpooners, tribal hunt observers, and safety officers

and a process to ensure compliance with those procedures;

(iv) There are adequate photo-identification catalogs and processes available to allow for the identification of WNP gray whales and PCFG whales as described in § 216.114(b);

(v) The most recent PCFG population estimate is at least 192 whales and the associated minimum population estimate is at least 171 whales;

(vi) The PCFG population estimate for the first hunting season covered by the permit is projected to be at least 192 whales and the associated minimum population estimate is projected to be at least 171 whales; and

(vii) The Makah Indian Tribe has obtained any relevant incidental take authorization for other marine mammals.

(viii) Except for the initial hunt permit, before issuing a hunt permit the Regional Administrator must determine that the Makah Indian Tribe has complied with the requirements of these regulations and all prior permit terms and conditions, or if the Makah Indian Tribe has not fully complied, that it has adopted measures to ensure compliance.

(b) Gray whales landed under a hunt permit may be utilized as follows:

(1) *Edible products of ENP gray whales*—(i) Enrolled members of the Makah Indian Tribe may possess, consume, and transport edible whale products, and may share and barter such products with other enrolled members, both within and outside the Makah Indian Tribe's reservation boundaries. Within the Tribe's reservation boundaries, enrolled members of the Makah Indian Tribe may share edible ENP gray whale products with any person. Outside the Makah Indian Tribe's reservation boundaries, enrolled members of the Makah Indian Tribe may share edible ENP gray whale products with any person attending a tribal or intertribal gathering sanctioned by the Makah Tribal Council, so long as there is not more than two pounds of such edible product per person attending the gathering.

(ii) Any person who is not an enrolled member of the Makah Indian Tribe may possess, consume, and transport edible ENP gray whale products within the Makah Indian Tribe's reservation boundaries so long as the products are shared by an enrolled member of the Makah Indian Tribe. Outside the Tribe's reservation boundaries, any person who is not an enrolled member of the Makah Indian Tribe may possess and consume edible gray whale products at a tribal or intertribal gathering sanctioned by the Makah Tribal Council if such products are shared by an enrolled member of the

Makah Indian Tribe and the person consumes the products at the gathering.

(2) *Nonedible products of ENP gray whales*—(i) Enrolled members of the Makah Indian Tribe may possess nonedible whale products that have not been fashioned into Makah Indian handicrafts, and Makah Indian handicrafts that have not been marked and certificated per § 216.113(b)(2)(iii), may transport such products, and may share and barter such products with other enrolled members, both within and outside the Makah Indian Tribe's reservation boundaries.

(ii) Enrolled members of the Makah Indian Tribe may share or barter Makah Indian handicrafts that have not been marked and certificated per § 216.113(b)(2)(iii) with any person within the Tribe's reservation boundaries.

(iii) Any person may possess, transport, share, barter, offer for sale, sell, or purchase a Makah Indian handicraft in the United States, provided the handicraft is permanently marked with a distinctive marking approved by the Makah Tribal Council, and is accompanied by a certificate of authenticity issued by the Makah Tribal Council or its designee and entered in the Tribe's official record of Makah Indian handicrafts. Such handicrafts may be delivered, carried, transported, or shipped in interstate commerce.

(iv) Within the Makah Indian Tribe's reservation boundaries, any person who is not an enrolled member of the Makah Indian Tribe may possess and transport Makah Indian handicrafts that have not been marked and certificated per § 216.113(b)(2)(iii), provided the handicraft was shared by or bartered from an enrolled member. Within the Makah Indian Tribe's reservation boundaries, persons not enrolled as a member of the Makah Indian Tribe may share or barter such handicrafts only with enrolled members.

(c) The Makah Indian Tribe is responsible for managing all activities of any Makah Indian tribal member carried out under this section.

**§ 216.114 Accounting and identification of gray whales.**

(a) Notifications—(1) Thirty days prior to the beginning of a hunting season specified in § 216.113(a)(2), the Regional Administrator will notify the Makah Indian Tribe in writing of the maximum number of PCFG whales, including females, that may be struck during the upcoming hunting season. The limit will take into account the abundance of PCFG whales relative to

the conditions specified under § 216.113(a)(4)(vi) and the number of strikes made on PCFG whales as described under § 216.113(a)(4)(iii).

(2) By November 1 of each year, the Regional Administrator will notify the Makah Indian Tribe in writing of the proportion of gray whales in the hunt area that will be presumed to be PCFG whales and the proportion of PCFG whales that will be presumed to be females for each month of the upcoming calendar year. The presumed proportion of PCFG whales will be based on the best available evidence for the months of December and January through May, and will be 100 percent for the months of June through November. The presumed proportion of female PCFG whales will be based on the best available information for each month. These proportions will be used for purposes of accounting for PCFG whales that are not otherwise identified or accounted for as provided under subsection § 216.114(b).

(3) The Regional Administrator will notify the Makah Indian Tribe in writing when the Tribe has reached the limit of PCFG whales that may be struck in any hunting season.

(b) Identification and accounting of gray whales—(1) Even-year hunts. Based on the best available evidence, the Regional Administrator will determine in writing whether a gray whale that is struck in an even-year hunt is a WNP gray whale or a PCFG whale or neither, or cannot be identified due to a lack of photographs or genetic data useful for making identifications. A whale affirmatively identified as a PCFG whale will be counted accordingly. A whale that cannot be identified will be presumed to be a PCFG whale in accordance with the proportions specified in § 216.114(a)(2) and will be counted accordingly. If the sex of a whale that is counted, in whole or in part, as a PCFG whale cannot be identified, the proportions specified in § 216.114(a)(2) will be applied.

(2) Odd-year hunts. Based on available evidence, the Regional Administrator will determine in writing whether a gray whale that is struck in an odd-year hunt is a WNP gray whale or cannot be identified due to a lack of photographs or genetic data useful for making identifications. A gray whale that cannot be identified as a WNP gray whale will be counted as a PCFG whale. If the sex of a whale that is counted as a PCFG whale cannot be identified, the proportions specified in § 216.114(a)(2) will be applied.

(3) Hunting and training approaches. Gray whales subjected to hunting or training approaches are presumed to be PCFG whales in accordance with the proportions specified in § 216.114(a)(2).

(4) Unauthorized strikes. If a tribal member strikes an ENP gray whale without authorization under this subpart, the strike will be counted against the total number of strikes allowed under these regulations and will be counted against the U.S. share of any applicable catch limit established by the International Whaling Commission.

**§ 216.115 Prohibited acts.**

(a) It is unlawful for the Makah Indian Tribe or any enrolled Makah Indian tribal member to:

(1) Take any gray whale except as authorized by a hunt permit issued under § 216.113(a) or by any other provision of part 216.

(2) Participate in a hunt while failing to carry onboard the vessel at all times a hunt permit issued by NMFS and a tribal whaling permit issued by the Makah Indian Tribe, or an electronic copy or photocopy of these permits.

(3) Make a training approach or a training harpoon throw while failing to carry onboard the training vessel at all times an electronic copy or photocopy of the hunt permit issued by NMFS and a training logbook approved by the Makah Indian Tribe for recording training approaches and training harpoon throws.

(4) Participate in a hunt as a whaling captain, rifleman, harpooner, tribal hunt observer, or safety officer, unless the individual's name is included in a tribal certification report issued under § 216.117(a)(6)(i).

(5) Violate any provision of any hunt permit issued under § 216.113(a).

(6) Hunt or make a training harpoon throw on a calf or an adult gray whale accompanying a calf.

(7) Hunt outside the geographic area identified in § 216.113(a)(6)(iii), unless in pursuit of a gray whale that has already been struck within that area.

(8) Hunt, make a hunting or training approach, or make a training harpoon throw after reaching the limits specified in the hunt permit per § 216.113(a)(4)(i) through (v).

(9) Hunt if the limit on PCFG whales or PCFG females that may be struck is less than one as a result of accounting per § 216.114(b)(1) through (3).

(10) Hunt after the Makah Indian Tribe has been notified in writing by the Regional Administrator under § 216.114(a)(3) that the limit of PCFG whales that may be struck has been reached or that the PCFG abundance is below the limits specified in § 216.113(a)(4)(vi).

(11) Hunt after a gray whale has been landed and before the Makah Indian Tribe has received notification from the Regional Administrator in accordance with § 216.114(b).

(12) Sell, offer for sale, purchase, or export any gray whale products, except Makah Indian handicrafts that have been marked and certificated per § 216.113(b)(2)(iii).

(13) Barter edible gray whale products with any person not enrolled as a member of the Makah Indian Tribe.

(14) Share edible gray whale products outside the Makah Indian Tribe's reservation boundaries with any person not enrolled as a member of the Makah Indian Tribe, except with persons attending a tribal or intertribal gathering sanctioned by the Makah Tribal Council, so long as there is not more than two pounds of edible product per person attending the gathering per § 216.113(b)(1)(i).

(15) Share or barter nonedible gray whale products:

(i) Outside the Makah Indian Tribe's reservation boundaries with any person not enrolled as a Makah Indian tribal member, except Makah Indian handicrafts that are permanently marked and certificated per § 216.113(b)(2)(iii).

(ii) Within the Makah Indian Tribe's reservation boundaries with any person not enrolled as a Makah Indian tribal member except a product that has been fashioned into a Makah Indian handicraft.

(16) Make a false statement in an application for a hunt permit or in a report required under this subpart.

(17) Transfer or assign a hunt permit issued under this subpart.

(18) Fail to submit reports required by this subpart.

(19) Deny persons designated by NMFS access to landed gray whales for the purpose of collecting specimen samples.

(20) Fail to provide required permits and reports for inspection upon request by persons designated by NMFS.

(21) Allow anyone other than enrolled Makah Indian tribal members to be part of a whaling crew or to allow anyone other than such members or tribal hunt observers to be in a training vessel engaged in hunt training.

(b) It is unlawful for any person who is not an enrolled member of the Makah Indian Tribe to:

(1) Gift, barter, purchase, sell, export, or offer to gift, barter, purchase, sell, or export edible gray whale products.

(2) Possess or transport edible gray whale products except products shared by an enrolled Makah Indian tribal member and possessed or transported within the Makah Indian Tribe's reservation boundaries, or possessed outside the Makah Indian Tribe's reservation boundaries as part of a tribal or intertribal gathering sanctioned by the Makah Tribal Council.

(3) Purchase, sell, export, or offer to purchase, sell, or export nonedible gray whale products except Makah Indian handicrafts that are marked and certificated per § 216.113(b)(2)(iii).

(4) Outside the Makah Indian Tribe's reservation boundaries, possess, transport, gift, or barter nonedible gray whale products except Makah Indian handicrafts that are marked and certificated per § 216.113(b)(2)(iii).

(5) Within the Makah Indian Tribe's reservation boundaries, possess, transport, gift, or barter any nonedible gray whale product other than a Makah Indian handicraft that is marked and certificated per § 216.113(b)(2)(iii), unless the product has been fashioned into a Makah Indian handicraft and was shared by or with, or bartered from or to, an enrolled member of the Makah Indian Tribe.

**§ 216.116 Applications for hunt permits.**

(a) To obtain an initial hunt permit, the Makah Indian Tribe must submit an application to the Regional Administrator, signed by an official of the Makah Tribal Council, that contains the following information and statements:

(1) The maximum number of gray whales to be subjected to hunting or training approaches, struck, landed, and subjected to unsuccessful strike attempts;

(2) A demonstration that the proposed method of taking is humane;

(3) A demonstration that the proposed taking is consistent with these regulations;

(4) A copy of the currently enacted Makah Indian tribal ordinance governing whaling by Makah Indian tribal members; and

(5) A description of the certification process for whaling captains, riflemen, harpooners, tribal hunt observers, and safety officers, including any guidelines or manuals used by the Tribe to certify such persons.

(b) To obtain subsequent hunt permits, the Makah Indian Tribe must

submit an application to the Regional Administrator, signed by an official of the Makah Tribal Council, that contains the information required in § 216.116(a) and the following information and statements:

(1) A description of how the Makah Indian Tribe has complied with the requirements of these regulations and previously issued hunt permits;

(2) A description of circumstances associated with gray whale(s) struck and lost under the most recently issued hunt permit, a description of the measures taken to retrieve such whale(s), and a description of measures taken by the Makah Indian Tribe to minimize future incidents of struck and lost gray whales; and

(3) A description of products obtained from gray whales landed under the most recently issued hunt permit, including a description of the disposition of any gray whale products deemed unsuitable for use by Makah Indian tribal members.

(c) The Regional Administrator will notify the Makah Indian Tribe of receipt of the application and will review the application for completeness. Incomplete applications will be returned with explanation. If the Makah Indian Tribe fails to resubmit a complete application within 60 days, the application will be deemed withdrawn.

(d) After receipt of a complete application, and the preparation of any NEPA documentation that the Regional Administrator has determined to be necessary, the Regional Administrator will publish a notice of receipt in the **Federal Register** and review the application as required by 16 U.S.C. 1374.

**§ 216.117 Requirements for monitoring, reporting, and recordkeeping.**

(a) In addition to the reporting provisions described in 50 CFR 230.8, the Makah Indian Tribe will:

(1) Ensure a certified tribal hunt observer accompanies each hunt. The tribal hunt observer will record in a hunting logbook the time, date, and location (latitude and longitude, accurate to at least the nearest second) of each hunting approach of a gray whale, each attempt to strike a gray whale, and each gray whale struck. For each gray whale struck, the tribal hunt observer will record whether the whale was landed. If not landed, the tribal hunt observer will describe the circumstances associated with the striking of the whale and estimate whether the animal suffered a wound that might be fatal. For every gray whale approached by the whaling crew, the tribal hunt observer will attempt to

collect digital photographs useful for photo-identification purposes.

(2) Ensure that each vessel involved in a training approach has onboard a training logbook for recording the date, location, and number of gray whales approached and the number of training harpoon throws. Each training approach and training harpoon throw must be reported to the tribal hunt observer within 24 hours.

(3) Maintain hunting and training logbooks specified in § 216.117(a)(1) and (2) and allow persons designated by NMFS to inspect them upon request.

(4) Ensure that each whaling captain allows a NMFS hunt observer to accompany and observe any hunt.

(5) Maintain an official record of all articles of Makah Indian handicraft, including the following information for each article certified by the Makah Tribal Council or its designee: The date of the certification; the permanent distinctive mark identifying the article as a Makah Indian handicraft; a brief description of the handicraft, including artist's full name, gray whale product(s) used, and approximate size; and at least one digital photograph of the entire handicraft. A copy of the official record of Makah Indian handicrafts must be provided to NMFS personnel, including NMFS enforcement officers, upon request.

(6) Ensure that the following reports are filed electronically with the NMFS West Coast Region's office in Seattle, Washington, by the indicated date:

(i) Tribal certification report. Thirty days prior to the beginning of a hunting season, the Makah Indian Tribe must provide NMFS with a report that includes the names of all tribal hunt observers and enrolled Makah Indian tribal members who have been certified to participate in a hunt as whaling captains, riflemen, harpooners, and safety officers. The Tribe may provide additional names during the hunting season.

(ii) Incident report. After striking a gray whale, the Makah Indian Tribe must submit an incident report within 48 hours to NMFS. A report may address multiple gray whales so long as the Tribe submits the report within 48 hours of the first gray whale being struck. For any gray whale(s) struck and lost, the report must contain the information in paragraph (a)(1) of this section and for any gray whale(s) struck and landed the report must contain the information in paragraph (a)(2) of this section:

(A) Struck and lost gray whale(s): The whaling captain's name; the tribal hunt observer's name; the date, location (latitude and longitude, accurate to at

least the nearest second), time, and number of strikes and attempted strikes if any; the method(s) of strikes and attempted strikes; an estimate of the whale's total length. The report will describe the circumstances associated with the striking of the whale and estimate whether the animal suffered a wound that might be fatal. The report will include all photographs taken by a tribal hunt observer of gray whales struck and lost by the whaling crew. The report may also contain any other observations by the Makah Indian Tribe concerning the struck and lost whale(s) or circumstances of the hunt.

(B) Struck and landed gray whale(s): The whaling captain's name; the tribal hunt observer's name; the date, location (latitude and longitude, accurate to at least the nearest second), time, and number of strikes and attempted strikes if any; the method(s) of strikes and attempted strikes; the whale's body length as measured from the point of the upper jaw to the notch between the tail flukes; an estimate of the whale's maximum girth; the extreme width of the tail flukes; the whale's sex and, if female, lactation status; the length and sex of any fetus in the landed whale; photographs of the whale(s), including the entire dorsal right side, the entire dorsal left side, the dorsal aspect of the fluke, and the ventral aspect of the fluke. All such photographs must include a ruler to convey scale and a sign specifying the Makah Indian Tribe's name, whaling captain's name, whale species, and date. The report must also describe the time to death (measured from the time of the first strike to the time of death as indicated by relaxation of the lower jaw, no flipper movement, or sinking without active movement) and the disposition of all specimen samples collected and whale products, including any whale products deemed unsuitable for use by Makah Indian tribal members. The report may also contain any other observations by the Makah Indian Tribe concerning the landed whale or circumstances of the hunt.

(iii) Hunt report. Within 30 days after the end of each hunting season the Makah Indian Tribe must submit a report to NMFS that describes the following information for each day of hunting:

(A) Struck and lost gray whale(s): The report must contain the information specified in § 216.117(a)(6)(ii)(A).

(B) Struck and landed gray whale(s): The report must contain the information specified in § 216.117(a)(6)(ii)(B).

(C) Hunting approaches and unsuccessful strike attempt(s): For each gray whale approached or subjected to

an unsuccessful strike attempt(s), the report must contain: The whaling captain's name; the tribal hunt observer's name; the date, location (latitude and longitude, accurate to at least the nearest second), time, and number of approaches and unsuccessful strike attempts; the method of attempted strikes; an estimate of the total length of any whale subjected to an unsuccessful strike attempt; and all photographs taken by a tribal hunt observer of gray whales approached by the whaling crew. The report may also contain any other observations by the Makah Indian Tribe concerning the whale(s) approached or subjected to unsuccessful strike attempts or circumstances of the hunt.

(iv) Annual approach report. By January 15 of each year, the Makah Indian Tribe must submit a report to NMFS containing the dates, location, and number of gray whales subjected to hunting approaches, training approaches, and training harpoon throws during the previous calendar year. The report may also contain any other observations by the Makah Indian Tribe concerning the approached whales or circumstances of the approaches and training harpoon throws.

(v) Annual handicraft report. By April 1 of each year, the Makah Indian Tribe must submit a report to NMFS which describes all Makah Indian handicrafts certified by the Makah Tribal Council or its designee during the previous calendar year. The report must contain the following information for each handicraft certified: The date of the certification; the permanent distinctive mark identifying the article as a Makah Indian handicraft; a brief description of the handicraft, including artist's full name, gray whale product(s) used, and approximate size; and at least one digital photograph of the entire handicraft.

(vi) The hunt report, annual approach report, and annual handicraft report collected pursuant to this section will be maintained and made available for public review in the NMFS West Coast Region's office in Seattle, Washington.

(b) Upon receiving an incident report specified in § 216.117(a)(6)(ii) documenting that 8 gray whales have been struck, the Regional Administrator will evaluate:

(1) The photo-identification and notification requirements described in § 216.113(a)(7)(iv) and § 216.114. The evaluation will address the status of gray whale photo-identification catalogs used to manage gray whale hunts authorized under this subpart, the

survey efforts employed to keep those catalogs updated, the level of certainty associated with identifying cataloged WNP gray whales and PCFG whales, the role of ancillary information such as genetic data during catalog review, and any other elements deemed appropriate by the Regional Administrator. The evaluation will be made available to the public no more than 120 days after receiving the subject incident report.

(2) The humaneness of the authorized manner of hunting as specified in § 216.113(a)(7)(i). To evaluate humaneness, NMFS will convene a team composed of a veterinarian, a

marine mammal biologist, and all tribal hunt observers and NMFS hunt observers who were witness to the strikes described in the incident reports required by this section. The team's evaluation will address the effectiveness of the hunting methods used by the Makah Indian Tribe, the availability and practicability of other such methods, and the time to death of hunted whales, and any other matters deemed appropriate by the Regional Administrator and the team. The team's evaluation will be made available to the public no more than 120 days after receiving the subject incident report.

(c) The NMFS West Coast Region's Seattle office is located at 7600 Sand Point Way NE, Seattle, WA 98115-0070.

**§ 216.118 Expiration and amendment.**

(a) These regulations will expire 10 years after the effective date of the initial hunt permit specified under § 216.113(a)(1), unless extended.

(b) These regulations may be periodically reviewed and modified as provided in 16 U.S.C. 1373(e).

[FR Doc. 2019-06337 Filed 4-4-19; 8:45 am]

**BILLING CODE 3510-22-P**

# Notices

Federal Register

Vol. 84, No. 66

Friday, April 5, 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

### Food and Nutrition Service

#### Agency Information Collection Activities: Proposed Collection; Comment Request—Generic Clearance for the Development of Nutrition Education Messages and Products for the General Public

**AGENCY:** Food, Nutrition and Consumer Services (FNCS), U.S. Department of Agriculture (USDA).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection over a three year period. This collection is a revision of a currently approved three year collection. This notice announces the Center for Nutrition Policy and Promotion's (CNPP) intention to request the Office of Management and Budget's approval of the information collection processes and instruments to be used during consumer research while testing nutrition education messages and products developed for the general public. The purpose of performing consumer research is to identify consumers' understanding of potential nutrition education messages and obtain their reaction to prototypes of nutrition education products, including internet based tools. The information collected will be used to refine messages and improve the usefulness of products as well as aid consumer understanding of *Dietary Guidelines*-grounded messages and related materials.

**DATES:** Written comments must be received on or before June 4, 2019.

**ADDRESSES:** Comments may be sent to: Melissa Ciampo, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1034, Alexandria, VA 22302. Comments may

also be submitted via fax to the attention of Melissa Ciampo at 703-305-3300 or via email to [CNPPsupport@fnsc.usda.gov](mailto:CNPPsupport@fnsc.usda.gov). Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov>, and follow the online instructions for submitting comments electronically.

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

#### FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of this information collection should be directed to Melissa Ciampo at 703-305-7600.

**SUPPLEMENTARY INFORMATION:** Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

*Title:* Generic Clearance for the Development of Nutrition Education Messages and Products for the General Public.

*Form Number:* Not Applicable.

*OMB Number:* 0584-0523.

*Expiration Date:* September 30, 2019.

*Type of Request:* Revision of a currently approved collection.

*Abstract:* The Center for Nutrition Policy and Promotion (CNPP) of the U.S. Department of Agriculture (USDA) conducts consumer research to identify key issues of concern related to the public understanding of the consumer translation of key guidance from the *Dietary Guidelines for Americans* (*Dietary Guidelines* or *Guidelines*) into consumer messages, tools and resources.

As background, the *Dietary Guidelines* is a primary source of dietary health information in the form of technical publication written for use by

professional audiences, not consumers. Users include Federal agencies, health professionals, policy makers, and nutrition educators. Issued jointly by the USDA and Health and Human Services (HHS) every five years, the *Guidelines* serve as the cornerstone of Federal nutrition policy and form the basis for these agencies' development of consumer nutrition education efforts (nutrition messaging and development of consumer materials).

Translation of key guidance from the technically written *Dietary Guidelines* into consumer messages and resources is essential so that the public has resources to help them make healthier eating choices. After the release of the 2010 *Dietary Guidelines* for use by professional audiences, a consumer communication initiative built around USDA's new *MyPlate* icon, including the resources at [www.MyPlate.gov](http://www.MyPlate.gov), was launched. *MyPlate* is a visual cue supported by messages and resources to help consumers make better food choices; these consumer materials are consistent with the *Dietary Guidelines*. It illustrates the five food groups and uses a familiar mealtime visual, a place setting, to prompt Americans to eat more healthfully. Information collected from consumer research will be used in further development of consumer nutrition messages and related resources to be communicated through *MyPlate*.

These may include:

1. Messages and resources that help consumers make healthier food choices, grounded in the latest *Dietary Guidelines*;
2. Additions and enhancements to the [www.MyPlate.gov](http://www.MyPlate.gov) website;
3. Materials relaying consumer messages supporting *MyPlate*, grounded in the latest *Dietary Guidelines*, for special population groups; and
4. New policy, messages, resources, and tools that might be developed as a result of the most current *Dietary Guidelines*, as well as the most currently available technologies.

CNPP works to improve the health and well-being of Americans by developing and promoting dietary guidance that links scientific research to the nutrition needs of consumers across the lifespan.

CNPP has among its major functions the development and coordination of nutrition guidance within USDA and is involved in the investigation of

techniques for effective nutrition communication. Under Subtitle D of the National Agriculture Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3171–3175), the Secretary of Agriculture is required to develop and implement a national food and human nutrition research and extension program, including the development of techniques to assist consumers in selecting food that supplies a nutritionally adequate diet. Pursuant to 7 CFR 2.19(a)(3), the Secretary of Agriculture has delegated authority to CNPP for, among other things, developing materials to aid the public in selecting food for good nutrition; coordinating nutrition education promotion and professional education projects within the Department; and consulting with the Federal and State agencies, the Congress, universities, and other public and private organizations and the general public regarding food consumption and dietary adequacy.

Under Section 301 of Public Law 101–445 (7 U.S.C. 5341, the National Nutrition Monitoring and Related Research Act of 1990, Title III) the Secretaries of USDA and HHS are directed to publish the *Dietary Guidelines for Americans* jointly at least

every five years. The law instructs that this publication shall contain nutritional and dietary information and guidelines for the general public, shall be based on the preponderance of scientific and medical knowledge current at the time of publication, and shall be promoted by each Federal agency in carrying out any Federal food, nutrition, or health program. Recent editions of the *Dietary Guidelines* provide dietary advice for Americans ages 2 years and older. The Agricultural Act of 2014 mandates the addition of dietary guidance for women who are pregnant and infants and toddlers from birth to 24 months of age beginning with the 2020 edition. By translating the *Dietary Guidelines* into consumer-friendly nutrition education communication materials, CNPP and partnering agencies are able to help Americans make better or healthier food and beverage choices that can help improve health. One of the primary ways CNPP helps Americans apply the nutrition guidance in their daily lives is by developing and maintaining interactive, digital tools. CNPP’s digital resources and tools provide hands-on learning opportunities that empower Americans to think critically about their food and health choices. Maintaining

and enhancing CNPP’s digital resources and tools are key in reversing the trend of childhood obesity and building a healthier next generation.

USDA’s *MyPlate* icon is supported by a robust consumer nutrition education program to assist Americans in selecting foods for a dietary pattern that is consistent with the *Dietary Guidelines*. Ensuring that *MyPlate* resources and related tools are useful to intended audiences is critical to CNPP’s work and is a major activity included in its 5-year strategic plan in fulfillment of the Government Performance and Results Act of 1993 (31 U.S.C. 9701).

*Affected Public:* Individuals/ households.

*Estimated Number of Respondents:* 57,700.

*Estimated Number of Responses per Respondent:* 1.006932 (One for focus group screeners, interview screeners, focus groups, journaling, interviews, web-based collections and consent forms. Three for consumer panels.)

*Estimated Total Annual Responses:* 58,100.

*Estimated Time per Response:* 12.759 minutes (0.21265 hours).

*Estimated Total Annual Burden on Respondents:* 12,354.96 rounded up to 12,355 hours.

Testing instrument	Estimated number of individual respondents	Number of responses per respondent	Estimated total annual responses per respondent	Estimated time per response in hours	Estimated total annual burden in hours
Focus Group Screeners .....	7,500	1	7,500	.25	1,875
Interview Screeners .....	7,500	1	7,500	.25	1,875
Focus Groups .....	500	1	500	.2	1,000
Journaling .....	500	1	500	.25	125
Interviews .....	500	1	500	.1	500
Consumer Panels .....	200	3	600	.50	300
Web-based Collections .....	20,000	1	20,000	.25	5,000
Consent Form .....	21,000	1	21,000	.08	1,680
<b>Total .....</b>	<b>57,700</b>	<b>.....</b>	<b>58,100</b>	<b>0.21265</b>	<b>12,355</b>

The total estimated annual burden is 12,355 hours and 58,100 responses. Thus, we are requesting 37,065 three year burden estimates and 174,300 total responses for three year approval period. Current estimates are based on both historical numbers of respondents from past projects as well as estimates for projects to be conducted in the next three years.

Dated: March 28, 2019.

**Brandon Lipps,**  
Administrator, Food and Nutrition Service.

[FR Doc. 2019-06698 Filed 4-4-19; 8:45 am]

**BILLING CODE 3410-30-P**

**COMMISSION ON CIVIL RIGHTS**

**Agenda and Notice of Public Meeting of the North Dakota 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 planning meeting of the North Dakota Advisory Committee to the Commission will by teleconference at 11:00 a.m. (CDT) on Thursday, April 18, 2019. The purpose of the meeting is

for planning on the alternative credentialing for special education teachers project.

**DATES:** Thursday, April 18, 2019, at 11:00 a.m. CDT.

*Public Call-In Information:* Conference call-in number: 1-877-260-1479 and conference call 3982619.

**FOR FURTHER INFORMATION CONTACT:** Evelyn Bohor, at [ebohor@usccr.gov](mailto:ebohor@usccr.gov) or by phone at 303-866-1040.

**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 call 3982619. 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 1-800-877-8339 and providing the operator with the toll-free conference call-in number: 1-877-260-1479 and conference call 3982619.

Members of the public are invited to make statements during the open comment period of the meeting 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 Rocky Mountain Regional Office, U.S. Commission on Civil Rights, 1961 Stout Street, Suite 13-201, Denver, CO 80294, faxed to (303) 866-1040, or emailed to Evelyn Bohor at [ebohor@usccr.gov](mailto:ebohor@usccr.gov). Persons who desire additional information may contact the Rocky Mountain Regional Office at (303) 866-1040.

Records and documents discussed during the meeting will be available for public viewing as they become available at <https://gsageo.force.com/FACA/apex/FACAPublicCommittee?id=a10t0000001gzl9AAA>; click the "Meeting Details" and "Documents" links. Records generated from this meeting may also be inspected and reproduced at the Rocky Mountain Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's website, [www.usccr.gov](http://www.usccr.gov), or to contact the Rocky Mountain Regional Office at the above phone numbers, email or street address.

**Agenda:** Thursday, April 18, 2019, 11:00 a.m. (CDT)

- Roll call
- Consideration of Hate Crimes Web Conference
- Project Planning—Alternative Credentialing for Special Education Teachers
- Open Comment
- Adjourn

**Exceptional Circumstance:** Pursuant to 41 CFR 102-3.150, the notice for this meeting is given less than 15 calendar

days prior to the meeting because of the exceptional circumstances of the federal government shutdown.

Dated: April 2, 2019.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2019-06694 Filed 4-4-19; 8:45 am]

**BILLING CODE 6335-01-P**

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the Colorado Advisory Committee

**AGENCY:** Commission on Civil Rights.

**ACTION:** Announcement of planning meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that a meeting of the Colorado Advisory Committee to the Commission will convene by conference call at 2:00 p.m. (MDT) on Friday, April 12, 2019. The purpose of the meeting is to review the draft outline of the report on the naturalization backlog and decide next steps for report drafting.

**DATES:** Friday, April 12, 2019, at 2:00 p.m. (MDT).

*Public Call-In Information:*

Conference call number: 1-855-719-5012 and conference call ID: 5686311.

**FOR FURTHER INFORMATION CONTACT:**

Evelyn Bohor, [ebohor@usccr.gov](mailto:ebohor@usccr.gov) or by phone at 303-866-1040.

**SUPPLEMENTARY INFORMATION:** Interested members of the public may listen to the discussion by calling the following toll-free conference call number: 1-855-719-5012 and conference call ID: 5686311.

Please be advised that, before being placed 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 telephone number provided.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1-800-877-8339 and providing the operator with the toll-free conference call number: 1-855-719-5012 and conference call 5686311.

Members of the public are invited to make statements during the open comment period of the meeting 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 Rocky Mountain Regional Office, U.S. Commission on Civil Rights, 1961 Stout Street, Suite 13-201, Denver, CO 80294, faxed to (303) 866-1040, or emailed to Evelyn Bohor at [ebohor@usccr.gov](mailto:ebohor@usccr.gov). Persons who desire additional information may contact the Rocky Mountain Regional Office at (303) 866-1040.

Records and documents discussed during the meeting will be available for public viewing as they become available at <https://gsageo.force.com/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzksAAA>; click the "Meeting Details" and "Documents" links. Records generated from this meeting may also be inspected and reproduced at the Rocky Mountain Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's website, [www.usccr.gov](http://www.usccr.gov), or to contact the Rocky Mountain Regional Office at the above phone number, email or street address.

### Agenda

*Friday, April 12, 2019; 2:00 p.m. (MDT)*

- I. Roll Call
- II. Review Outline
- III. Plans for future report drafting
- IV. Other Business
- V. Open Comment
- VI. Adjournment

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

Dated: April 2, 2019.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

**Exceptional Circumstance:** Pursuant to 41 CFR 102-3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of technical difficulties occurring in the process of having the meeting notice signed and sent to the **Federal Register**.

[FR Doc. 2019-06693 Filed 4-4-19; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF COMMERCE****Census Bureau****Proposed Information Collection; Comment Request; Current Population Survey, School Enrollment Supplement**

**AGENCY:** U.S. Census Bureau, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** To ensure consideration, written comments must be submitted on or before June 4, 2019.

**ADDRESSES:** Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at [PRAComments@doc.gov](mailto:PRAComments@doc.gov)). You may also submit comments, identified by Docket Number USBC-2018-0019, to the Federal e-Rulemaking Portal: <http://www.regulations.gov>. All comments received are part of the public record. No comments will be posted to <http://www.regulations.gov> for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Karen Woods, U.S. Census Bureau, ADDP/CPS HQ-7H140F, Washington, DC 20233-8400, (301) 763-3806 (or via the internet at [dsd.cps@census.gov](mailto:dsd.cps@census.gov)).

**SUPPLEMENTARY INFORMATION:****I. Abstract**

The Census Bureau plans to request clearance from the Office of Management and Budget (OMB) for the collection of data concerning the School Enrollment Supplement to be conducted

in conjunction with the October Current Population Survey (CPS). The Census Bureau and the Bureau of Labor Statistics (BLS) sponsor the basic annual school enrollment questions, which have been collected annually in the CPS for 50 years. The current clearance expired December 31, 2018.

This survey provides information on public/private elementary school, secondary school, and college enrollment, and on characteristics of private school students and their families, which is used for tracking historical trends, policy planning, and support.

This survey is the only source of national data on the age distribution and family characteristics of college students and the only source of demographic data on preprimary school enrollment. As part of the federal government's efforts to collect data and provide timely information to local governments for policymaking decisions, the survey provides national trends in enrollment and progress in school.

**II. Method of Collection**

The school enrollment information will be collected by both personal visit and telephone interviews in conjunction with the regular October CPS interviewing. All interviews are conducted using computer-assisted interviewing.

**III. Data**

*OMB Control Number:* 0607-0464.

*Form Number:* There are no forms.

We conduct all interviewing on computers.

*Type of Review:* Regular submission.

*Affected Public:* Households.

*Frequency:* Annually.

*Estimated Number of Respondents:* 54,000.

*Estimated Time per Response:* 3 minutes.

*Estimated Total Annual Burden Hours:* 2,700.

*Estimated Total Annual Cost to Public:* \$0 (This is not the cost of respondents' time, but the indirect costs respondents may incur for such things as purchases of specialized software or hardware needed to report, or expenditures for accounting or records maintenance services required by the collection.)

*Respondent's Obligation:* Voluntary.

*Legal Authority:* Title 13, United States Code, Sections 141 and 182; and Title 29, United States Code, Sections 1-9.

**IV. Request for Comments**

Comments are invited on: (a) Whether the proposed collection of information

is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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

**Sheleen Dumas,**

*Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2019-06653 Filed 4-4-19; 8:45 am]

**BILLING CODE 3510-07-P**

**DEPARTMENT OF COMMERCE****Census Bureau****Submission for OMB Review; Comment Request**

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

*Agency:* U.S. Census Bureau, Commerce.

*Title:* 2020 Census Post-Enumeration Survey Independent Listing Operation.

*OMB Control Number:* 0607-XXXX.

*Form Number(s):* D-31(PES-IL), D-31(PES-IL)PR, D-26(E/S).

*Type of Request:* Regular submission.

*Number of Respondents:* 565,000 Housing Units for Independent Listing and 85,000 housing units for Independent Listing Quality Control.

*Average Hours per Response:* 5 minutes.

*Burden Hours:* 54,167 hours.

*Needs and Uses:* The Post-Enumeration Survey for the 2020 Census will be conducted to provide estimates of census net coverage error and components of census coverage (such as correct enumerations, omissions, and erroneous enumerations, including duplicates) for housing units and people living in housing units to improve future censuses. The primary sampling unit is the Basic Collection Unit, which is the smallest unit of

collection geography for 2020 Census listing operations. As in the past, including in the 2010 Census Coverage Measurement program, the Post-Enumeration Survey operations and activities must be conducted separate from and independent of the other 2020 Census operations.

The Independent Listing operation is the first field operation in the Post-Enumeration Survey process. It will be conducted to obtain a complete inventory of all housing unit addresses within the Post-Enumeration Survey sample of basic collection units in the United States (excluding remote Alaska) and in Puerto Rico before the 2020 Census enumeration commences. Group quarters will be excluded. Remote Alaska is out of scope for the PES because the seasonal nature of addresses and the population throughout the year make it infeasible to accurately conduct the matching and follow-up operations necessary for dual-system estimation. For this reason, the Census Bureau's past post-enumeration surveys have never included remote Alaska.

Field staff, referred to as "listers," will canvass every street, road, or other place where people might live in their assigned basic collection units and construct a list of housing units using an automated data collection instrument on a laptop. Listers will attempt to contact a member of each housing unit they encounter on their route to ensure all units at a given address are identified. If someone answers, the lister will provide a Confidentiality Notice and ask about the address in order to collect the address information, as appropriate. If the lister does not find anyone at home after several attempts, he or she will try to collect the information from a proxy or add any found addresses to the address list by observation as a last resort. Proxies are respondents who are not members of the household. Listers will also identify the location of each housing unit by collecting map spots (i.e., Global Positioning System (GPS) coordinates). The lister will also collect information on the status of each

housing unit, such as occupied, vacant, under construction, empty trailer park, etc.

Completed Independent Listing basic collection units will be automatically reviewed for unusual characteristics (such as GPS information indicating that the lister was far from the units they were listing). Basic collection units with unusual characteristics may be subject to a quality control wherein quality control listers return to the field to check a portion of units to ensure that the work performed meets Census Bureau quality standards.

As previously discussed within the presubmission **Federal Register** Notice for Post-Enumeration Survey Independent Listing and Quality Control (FR Vol. 83, Number 207, October 25, 2018, Pages 53849–53850), the 2020 Census Evaluations and Experiments program will also be receiving the data collected in this operation for a 2020 Census evaluation of the 2020 Census Address Canvassing operation. This evaluation will take full advantage of the fact that it uses the same listing procedures as the Post-Enumeration Survey Independent Listing. The sample size for the Post-Enumeration Survey Independent Listing is sufficient for the Address Canvassing evaluation needs. Using the collected data for both purposes minimizes respondent burden. Specific details of the Address Canvassing evaluation will be described in a subsequent Nonsubstantive Change to the Post-Enumeration Survey Independent Listing data collection. Other components of the 2020 Census Experiments and Evaluations program are described in either the Generic Clearance for Census Bureau Field Tests and Evaluations (covered under OMB approval #0607–0971), or will be described as the third component of the 2020 Census data collection (covered under OMB approval #0607–1006, Evaluations and Experiments component, to appear).

**Affected Public:** Individuals or Households.

**Frequency:** One Time.

**Respondent's Obligation:** Mandatory.  
**Legal Authority:** Title 13, U.S. Code, Sections 141 and 193.

*This information collection request may be viewed at [www.reginfo.gov](http://www.reginfo.gov).* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [OIRA\\_Submission@omb.eop.gov](mailto: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. 2019–06652 Filed 4–4–19; 8:45 am]

**BILLING CODE 3510–07–P**

**DEPARTMENT OF COMMERCE**

**Census Bureau**

**Submission for OMB Review; Comment Request**

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

**Agency:** U.S. Census Bureau.

**Title:** American Community Survey.

**OMB Control Number:** 0607–0810.

**Form Number(s):** ACS–1, ACS–1(SP), ACS–1(PR), ACS–1(PR)SP, ACS–1(GQ), ACS–1(PR)(GQ), GQFQ, ACS CAPI (HU), ACS RI (HU), and AGQ QI, AGQ RI.

**Type of Request:** Regular Submission.

**Number of Respondents:** 3,760,000 for the initial interview and 45,200 for reinterview.

**Average Hours per Response:** 40 minutes for the average household questionnaire.

**Burden Hours:** The estimate is an annual average of 2,455,868 burden hours. The table below provides the calculation for this estimate.

Data collection operation	Forms or instrument used in data collection	Annual estimated number of respondents	Estimated minutes per respondent by data collection activity	Annual estimated burden hours
I. ACS Household Questionnaire—Paper Mailout/Mailback.	ACS–1, ACS–1(SP), ACS–1PR, ACS–1PR(SP).	3,540,000 .....	40	2,360,000.
ACS Household CAPI—Personal Visit Non-response Follow-up.	CAPI HU .....	[698,000 included in I.] .....	[40]	[466,000 included in I.]
ACS Household internet .....	Internet HU .....	[712,000 included in I.] .....	[40]	[475,000 included in I.]

Data collection operation	Forms or instrument used in data collection	Annual estimated number of respondents	Estimated minutes per respondent by data collection activity	Annual estimated burden hours
II. ACS GQ Facility Questionnaire CAPI—Telephone and Personal Visit.	CAPI GQFQ .....	20,000 .....	15	5,000.
III. ACS GQ CAPI Personal Interview or Telephone, and—Paper Self-response.	CAPI, ACS–1(GQ), ACS–1(GQ)(PR).	200,000 .....	25	83,333.
IV. ACS Household Reinterview—CATI/CAPI.	ACS HU–RI .....	43,200 .....	10	7,200.
V. ACS GQ GQ-level Reinterview—CATI/CAPI.	ACS GQ–RI .....	2,000 .....	10	335.
Totals .....	.....	3,805,200 .....	N/A	2,455,868.

*Needs and Uses:* The U.S. Census Bureau requests authorization from the OMB for revisions to the American Community Survey (ACS).

The ACS is one of the Department of Commerce’s most valuable data products, used extensively by businesses, nongovernmental organizations (NGOs), local governments, and many federal agencies. In conducting this survey, the Census Bureau’s top priority is respecting the time and privacy of the people providing information while preserving its value to the public.

In 2020, the ACS will adopt the final version of the race and Hispanic origin questions that will be implemented for the 2020 Census. This change will make the ACS consistent with 2020 Census data on this topic. The ACS will also change the instruction for reporting babies’ ages to match the 2020 Census. Ongoing research suggests the instructions for reporting infants creates challenges for some respondents. Cognitive testing demonstrated the wording for the age instruction is unclear and confusing to respondents. Details about all of the questions planned for the 2020 Census and the American Community Survey are available at <https://www.census.gov/library/publications/2018/dec/planned-questions-2020-acs.html>.

The ACS self-response rates in 2010, a decennial census year, were higher than usual in the first few months of the year but were lower than usual in the spring and summer months, when the 2010 Census was underway. The increased self-response rates early in the year were attributed to decennial census communications, while the decreased rates later in the year were attributed to respondent confusion, as respondents had already filled out their decennial census form and did not understand that the ACS was a separate data

collection. Prior research suggests that during a decennial census year, ACS mail materials such as envelopes and letters should be revised to distinguish the ACS from the census. For the 2020 ACS data collection year, the Census Bureau plans to modify the mail package contents, field representative flyers, scripts for the Interactive Voice Recognition system, and frequently asked questions to better communicate to respondents that the ACS is a separate data collection from the 2020 Census and that respondents selected for the ACS should complete both the ACS and the 2020 Census.

As a result of the 2018 Mail Materials Test, the Census Bureau plans to implement new mail materials designed to better emphasize the benefits of survey participation. Included in the changes are the use of updated logos on the envelopes and letters to identify the mail more clearly as coming from the Census Bureau and the addition of “Open Immediately” on some of the envelopes. Additionally, bold lettering and boxes (callout boxes) are used to highlight elements of the materials to capture the attention of busy respondents who may not read the entire letter. The mandatory nature of the survey is highlighted by using bold text and isolating sentences about being mandatory in the materials. Some materials, such as the Frequently Asked Questions (FAQ) brochure are excluded from the mailings to simplify the materials and focus the attention of the respondent to what they need to do. Content from the FAQ brochure is included on the back of the letters. This information is new since the publication of the 60-day **Federal Register** Notice, Doc. 2018–22443, Volume 83, pages 52189–52190 on October 16, 2018.

To encourage self-response in the ACS, the Census Bureau sends up to five mailings to an address selected to

be in the sample. The first mailing, sent to all mailable addresses in the sample, includes an invitation to participate in the ACS online and states that a paper questionnaire will be sent in a few weeks to those unable to respond online. Subsequent mailings serve as a reminder to respond to the survey, with a paper questionnaire included in the third mailing for those households that prefer to respond by mailing back the questionnaire. The Census Bureau may ask those who begin filling out the survey online to provide an email address, which would be used to send an email reminder to households that did not complete the online form. The reminder asks them to log back in to finish responding to the survey.

Some addresses are deemed unmailable because the address is incomplete or directs mail only to a post office box. The Census Bureau currently collects data for these housing units using Computer-Assisted Personal Interviewing. The Census Bureau plans to make the ACS online survey available to all housing units in the 50 states and the District of Columbia, including those with unmailable addresses. Residents in housing units with unmailable addresses will still be contacted by Census Bureau field representatives, but they will now be given the option to complete the survey online or by personal interview.

*Affected Public:* Individuals or households.

*Frequency:* Response to the ACS is on a one-time basis.

*Respondent’s Obligation:* Mandatory. *Legal Authority:* Title 13, United States Code, Sections 141, 193, and 221.

*This information collection request may be viewed at [www.reginfo.gov](http://www.reginfo.gov).* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed

information collection should be sent within 30 days of publication of this notice to *OIRA\_Submission@omb.eop.gov* or fax to (202) 395-5806.

**Sheleen Dumas,**

*Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2019-06651 Filed 4-4-19; 8:45 am]

**BILLING CODE 3510-07-P**

## DEPARTMENT OF COMMERCE

### Bureau of the Census

#### National Advisory Committee Meeting

**AGENCY:** Bureau of the Census, Department of Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Bureau of the Census (Census Bureau) gives notice of a meeting of the National Advisory Committee on Racial, Ethnic, and Other Populations (NAC). The NAC addresses policy, research, and technical issues relating to Census Bureau programs and activities, including the Decennial Census Program. The NAC is scheduled to meet in a plenary session on May 2-3, 2019. Planned topics of discussion include the following items:

- Update on the 2020 Census
  - Review of proposed 2020 Data Products Plan
  - Update on Integrated Partnership and Communications Program Partnership and Engagement Program Update
  - Update from the Undercount of Young Children Task Force
- Working Group Updates
 

Please visit the Census Advisory Committees website for the most current meeting agenda at: <http://www.census.gov/about/cac.html>. The meeting will be available live via webcast at: <http://www.census.gov/newsroom/census-live.html>.

**DATES:** May 2-3, 2019. On Thursday, May 2, the meeting will begin at 8:30 a.m. and end at 5:00 p.m. On Friday, May 3, the meeting will begin at 8:30 a.m. and end at 2:00 p.m.

**ADDRESSES:** The meeting will be held at the U.S. Census Bureau Auditorium, 4600 Silver Hill Road, Suitland, Maryland 20746.

**FOR FURTHER INFORMATION CONTACT:** Tara Dunlop Jackson, Branch Chief for Census Bureau Advisory Committees, at [tara.dunlop.jackson@census.gov](mailto:tara.dunlop.jackson@census.gov), Department of Commerce, U.S. Census Bureau, Room 8H177, 4600 Silver Hill Road, Washington, DC 20233, telephone 301-763-5222. For TTY callers, please

use the Federal Relay Service 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:** The NAC was established in March 2012 and operates in accordance with the Federal Advisory Committee Act (Title 5, United States Code, Appendix 2, Section 10). NAC members are appointed by the Director of the Census Bureau and provide recommendations to the Director on statistical and data collection issues on topics such as hard-to-reach populations, race and ethnicity, language, aging populations, American Indian and Alaska Native tribal considerations, new immigrant populations, populations affected by natural disasters, highly mobile and migrant populations, complex households, rural populations, and population segments with limited access to technology. The Committee also advises on data privacy and confidentiality, among other issues.

All meetings are open to the public. A brief period will be set aside at the meeting for public comment on Friday, May 3. However, individuals with extensive questions or statements must submit them in writing to: [census.national.advisory.committee@census.gov](mailto:census.national.advisory.committee@census.gov) (subject line "May 2019 NAC Meeting Public Comment") or by letter submission to Tara Dunlop Jackson, Committee Liaison Officer, Department of Commerce, U.S. Census Bureau, Room 8H177, 4600 Silver Hill Road, Washington, DC 20233.

If you plan to attend the meeting, please register by Monday, April 29, 2019. You may access the online registration from the following link: <https://may2019nac.eventbrite.com>.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Committee Liaison Officer as soon as known, and preferably two weeks prior to the meeting.

Due to security protocols and for access to the meeting, please call 301-763-9906 upon arrival at the Census Bureau on the day of the meeting. A photo ID must be presented in order to receive your visitor's badge. Visitors are not allowed beyond the first floor.

Dated: March 29, 2019.

**Steven D. Dillingham,**

*Director, Bureau of the Census.*

[FR Doc. 2019-06700 Filed 4-4-19; 8:45 am]

**BILLING CODE 3510-07-P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[B-20-2019]

#### Foreign-Trade Zone (FTZ) 168—Dallas/Fort Worth, Texas; Notification of Proposed Production Activity; Samsung Electronics America, Inc. (Packaging for Mobiles and Tablets), Coppell, Texas

Metroplex International Trade Development Corporation, grantee of FTZ 168, submitted a notification of proposed production activity to the FTZ Board on behalf of Samsung Electronics America, Inc. (Samsung), located in Coppell, Texas. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on March 29, 2019.

Samsung already has authority for kitting of mobile phones and tablet computers within Subzone 168D. The current request would add a foreign status material/component to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status material/component described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Samsung from customs duty payments on the foreign-status material/component used in export production. On its domestic sales, for the foreign-status material/component noted below, Samsung would be able to choose the duty rate during customs entry procedures that apply to mobile phones and tablet computers (duty-free). Samsung would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The material/component sourced from abroad is retail packaging trays consisting of bamboo and sugar cane pulp (duty-free). The request indicates that the material/component is subject to special duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decision requires subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 15, 2019.

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

For further information, contact Juanita Chen at [juanita.chen@trade.gov](mailto:juanita.chen@trade.gov) or 202-482-1378.

Dated: April 1, 2019.

**Andrew McGilvray**,  
Executive Secretary.

[FR Doc. 2019-06705 Filed 4-4-19; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[B-07-2019]

#### Foreign-Trade Zone (FTZ) 238—Dublin, Virginia; Notification of Proposed Production Activity; EBI, LLC (Mattresses and Sofas), Danville, Virginia

The New River Valley Economic Development Alliance, grantee of FTZ 238, submitted a notification of proposed production activity to the FTZ Board on behalf of EBI, LLC (EBI), located in Danville, Virginia. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on April 1, 2019.

EBI is located within Subzone 238C. The facility is used for production of mattresses and sofas. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt EBI from customs duty payments on the foreign-status components used in export production. On its domestic sales, for the foreign-status materials/components noted below, EBI would be able to choose the duty rates during customs entry procedures that apply to mattresses, complete sofas, incomplete sofa sections, and sofa cushions (duty-free to 6.0%). EBI would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include: Prepared glues and adhesives; polyethylene plastic film; cellular foam cushioning; high resilience polyurethane foam; polyamide/polyethylene sofa cushion bags; medium density fiber boards; non-woven polyester fiber wadding for cushion covers; felt (100% polyester), not impregnated, coated, covered, or laminated; non-woven (100% polypropylene) protective cover used as packing material for shipping; mattress handles (fastener fabric tape), woven, of synthetic fibers; sofa bed box pullout handles of woven polyester; cotton woven mattress covers; synthetic fiber woven mattress covers; non-woven polypropylene dust covers for mattresses; non-woven polypropylene bags; spring mattress cores (inner springs); sofa springs; zinc furniture hinges; zinc furniture clips; zinc furniture fittings; furniture staples of base metal in strips; sofa covers, cut and sewn, used for upholstery (leather; imitation leather; 100% polyester; and, 75% polyester/25% cotton); completed cotton mattress covers; and, upholstered foam seat cushions (duty rate ranges from duty-free to 9.3%). The request indicates that certain materials/components are subject to special duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 15, 2019.

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

For further information, contact Juanita Chen at [juanita.chen@trade.gov](mailto:juanita.chen@trade.gov) or 202-482-1378.

Dated: April 1, 2019.

**Andrew McGilvray**,  
Executive Secretary.

[FR Doc. 2019-06707 Filed 4-4-19; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[B-65-2018]

#### Foreign-Trade Zone (FTZ) 78—Nashville, Tennessee; Authorization of Production Activity; Calsonic Kansei North America (Automotive Parts), Shelbyville and Lewisburg, Tennessee

On October 23, 2018, Calsonic Kansei North America submitted a notification of proposed production activity to the FTZ Board for its facilities within FTZ 78, in Shelbyville and Lewisburg, Tennessee.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (83 FR 54710-54711, October 31, 2018). On April 1, 2019, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: April 1, 2019.

**Andrew McGilvray**,  
Executive Secretary.

[FR Doc. 2019-06708 Filed 4-4-19; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-201-838]

#### Seamless Refined Copper Pipe and Tube From Mexico: Rescission of Antidumping Duty Administrative Review; 2017-2018

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

**SUMMARY:** The Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty order on seamless refined copper pipe and tube from Mexico for the period November 1, 2017, through October 31, 2018.

**DATES:** Applicable April 5, 2019.

**FOR FURTHER INFORMATION CONTACT:** Dennis McClure, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-5973.

**SUPPLEMENTARY INFORMATION:**

## Background

On November 1, 2018, Commerce published a notice of opportunity to request an administrative review of the antidumping duty order on seamless refined copper pipe and tube from Mexico for the period of review (POR) November 1, 2017, through October 31, 2018.<sup>1</sup>

On November 30, 2018, the Mueller Copper Tube Products, Inc. and Mueller Copper Tube Company, Inc., the petitioners in this proceeding, requested an administrative review of the order of seamless refined copper pipe and tube from Mexico with respect to entries of subject merchandise during the POR.<sup>2</sup> On February 6, 2019, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the order on seamless refined copper pipe and tube from Mexico with respect to: (1) Nacional de Cobre, S.A. de C.V.; (2) IUSA, S.A. de C.V.; and (3) GD Affiliates S. de R.L. de C.V.<sup>3</sup> On March 27, 2019, the petitioners withdrew their request for an administrative review of all three companies listed in the *Initiation Notice*.<sup>4</sup> No other party requested an administrative review of this order.

## Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party who requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. In this case, the petitioners timely withdrew their request by the 90-day deadline, and no other party requested an administrative review of the antidumping duty order. Therefore, we are rescinding the administrative review of the antidumping duty order on seamless refined copper pipe and tube from Mexico for the period November 1, 2017, through October 31, 2018, in its entirety, in accordance with 19 CFR 351.213(d)(1).

<sup>1</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review*, 83 FR 54912 (November 1, 2018).

<sup>2</sup> See the petitioner's submission, "Seamless Refined Copper Pipe and Tube from Mexico: Request for Antidumping Duty Administrative Review," dated November 30, 2018.

<sup>3</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 2159 (February 6, 2019) (*Initiation Notice*).

<sup>4</sup> See the petitioner's submission, "Seamless Refined Copper Pipe and Tube from Mexico: Withdrawal of Request for Administrative Review," dated March 27, 2019.

## Assessment

Commerce intends to instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of seamless refined copper pipe and tube from Mexico during the POR at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 41 days after the publication of this notice in the **Federal Register**.

## Notification to Importers

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

## Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to 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 terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: April 2, 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. 2019-06706 Filed 4-4-19; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-912]

### Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Notice of Partial Rescission of the Antidumping Duty Administrative Review; 2017-2018

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

**SUMMARY:** The Department of Commerce (Commerce) is rescinding the administrative review, in part, of the antidumping duty order on certain new pneumatic off-the-road tires (OTR tires) from the People's Republic of China (China) for the period September 1, 2017, through August 31, 2018.

**DATES:** Applicable April 5, 2019.

**FOR FURTHER INFORMATION CONTACT:** Keith Haynes, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-5139.

#### SUPPLEMENTARY INFORMATION:

#### Background

On September 11, 2018, Commerce published a notice of opportunity to request an administrative review of the antidumping duty order on OTR tires from China.<sup>1</sup> From September 27, 2018, through October 1, 2018, Commerce received timely requests to conduct an administrative review of the antidumping duty order on OTR tires from China from the following firms: Qingdao Honghua Tyre Factory (Honghua Tyre); Triangle Tyre Co., Ltd. (Triangle); Lianzhou Xiongying Industry Co., Ltd. (Xiongying); Qingdao Jinhaoyang International Co., Ltd. (Jinhaoyang); Weihai Zhongwei Rubber Co., Ltd. (Zhongwei); and Super Grip Corporation (Super Grip).<sup>2</sup> Based on

<sup>1</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review*, 83 FR 45888 (September 11, 2018).

<sup>2</sup> See Honghua's letter, "Request for Administrative Review: Certain New Pneumatic Off-the-Road Tires from the People's Republic of China," dated September 27, 2018; Triangle Tyre's letter, "Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Request for Antidumping Administrative Review," dated September 28, 2018; Xiongying's letter, "Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Request for Review," dated September 28, 2018; Jinhaoyang's letter, "Jinhaoyang Request for AD Administrative Review: New Pneumatic Off-The-Road Tires People's Republic of China Request for Administrative Review (A-570-912)," dated September 28, 2018;

Continued

these requests, on November 11, 2018, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), Commerce published in the **Federal Register** a notice of initiation of an administrative review covering the period September 1, 2017, through August 31, 2018.<sup>3</sup> On December 17, 2018, Xiongying submitted a timely request to withdraw its request for administrative review.<sup>4</sup> On February 4, 2019, Triangle submitted a timely request to withdraw its request for administrative review.<sup>5</sup> On March 19, 2019, Jinhaoyang submitted a timely request to withdraw its request for administrative review.<sup>6</sup>

Additionally, Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.<sup>7</sup> If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. In this case, the original deadline for parties to withdraw requests for administrative review was February 13, 2019. Therefore, the revised deadline to withdraw a review request was March 25, 2019. The revised deadline for the preliminary results in this review is now Friday, July 12, 2019.

#### Partial Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in part, if a party who requested the review withdraws the request within 90 days of the date of publication of the

Zhongwei's letter, "Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Request for Administrative Review," dated October 1, 2018; and Super Grip's letter, "Certain New Pneumatic Off-The-Road Tires People's Republic of China Request for Administrative Review," dated October 1, 2018 (Super Grip, a U.S. importer, requested a review of Zhongwei).

<sup>3</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 45888 (November 11, 2018).

<sup>4</sup> See Xiongying's letter, "Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Withdrawal of Request for Review," dated December 17, 2018.

<sup>5</sup> See Triangle Tyre's letter, "New Pneumatic Off-The-Road Tires from the People's Republic of China -Withdrawal of Triangle Tyre Request for Administrative Review," dated February 4, 2019.

<sup>6</sup> See Jinhaoyang's letter, "Jinhaoyang's Withdrawal of Request for AD Administrative Review Certain New Pneumatic Off-the-Road Tires from China (A-570-912)," dated March 19, 2019.

<sup>7</sup> See memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

notice of initiation of the requested review. Xiongying, Triangle, and Jinhaoyang timely withdrew their requests for an administrative review, and no other party requested a review of these companies. Accordingly, we are rescinding this review, in part, with respect to these companies, pursuant to 19 CFR 351.213(d)(1). The review will continue with respect to Honghua Tyre, Zhongwei, and Super Grip.

#### Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of OTR tires at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after the publication of this notice in the **Federal Register**, if appropriate.

#### Notification to Importers

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

#### Notification Regarding Administrative Protective Order

This notice 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 an APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the 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.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: April 2, 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. 2019-06702 Filed 4-4-19; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-094]

#### Refillable Stainless Steel Kegs From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Dumping Duty Determination

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

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of refillable stainless steel kegs (kegs) from the People's Republic of China (China) for the period of investigation (POI) January 1, 2017 through December 31, 2017. Interested parties are invited to comment on this preliminary determination.

**DATES:** Applicable April 5, 2019.

**FOR FURTHER INFORMATION CONTACT:** Nicholas Czajkowski or Robert Brown at (202) 482-1395 or (202) 482-3702, respectively, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on October 16, 2018.<sup>1</sup> On December 4, 2018, Commerce postponed the preliminary determination in this investigation to February 19, 2019.<sup>2</sup>

<sup>1</sup> See *Refillable Stainless Steel Kegs from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 83 FR 52192 (October 16, 2018) (*Initiation Notice*).

<sup>2</sup> See *Refillable Stainless Steel Kegs from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 83 FR 62560 (December 4, 2018). In accordance with Commerce's practice, where a deadline falls on a weekend or federal

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.<sup>3</sup> Accordingly, the revised deadline for the preliminary determination is March 29, 2019.

For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.<sup>4</sup> A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <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 Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

**Scope of the Investigation**

The products covered by this investigation are kegs from China. For a full description of the scope of this investigation, see Appendix I to this notice.

**Scope Comments**

In accordance with the preamble to Commerce's regulations,<sup>5</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product

coverage (*i.e.*, scope).<sup>6</sup> Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination and accompanying discussion and analysis of all comments timely received, see the Preliminary Scope Decision Memorandum.<sup>7</sup> Commerce is preliminarily modifying the scope language as it appeared in the initiation notice.<sup>8</sup> See the revised scope in Appendix I to this notice.

**Methodology**

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient, and that the subsidy is specific.<sup>9</sup> In making these findings, Commerce relied, in part, on facts available, and because one or more respondents did not act to the best of their ability to respond to Commerce's requests for information, Commerce drew an adverse inference where appropriate in selecting from among the facts otherwise available.<sup>10</sup> For further information, see "Use of Facts Otherwise Available and Adverse Inferences" in the Preliminary Decision Memorandum.

**Alignment**

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), and based on the petitioner's request,<sup>11</sup> Commerce is aligning the final countervailing duty determination in

this investigation with the final determination in the companion antidumping duty investigation of refillable stainless steel kegs from China.

**All-Others Rate**

Sections 703(d)(1)(A)(i) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. 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 under section 776 of the Act.

In this investigation, Commerce preliminarily assigned rates based entirely on facts available for Penglai Jinfu Stainless Steel Products (Penglai Jinfu) and 18 companies that failed to respond to our quantity and value (Q&V) questionnaire.<sup>12</sup> Commerce calculated an individual estimated countervailable subsidy rate for Ningbo Master International Trade Co., Ltd. (Ningbo Master) and its cross-owned affiliates Tomorrow Industrial Limited (Tomorrow Industrial), Ningbo Major Draft Beer Equipment Co., Ltd. (Ningbo Major), and Zhejiang Major Technology Co., Ltd. (Major Technology). Because the only individually calculated rate is not zero, *de minimis*, or based entirely on facts otherwise available, the rate calculated for Ningbo Master is also assigned to all-other producers and exporters.

**Preliminary Determination**

Company	Net subsidy rate (percent)
Equipmentines (Dalian) E-Commerce Co., Ltd .....	144.30

holiday, the appropriate deadline is the next business day. See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 2930, As Amended*, 70 FR 24533 (May 10, 2005).

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

<sup>4</sup> See "Decision Memorandum for the Preliminary Affirmative Determination: Countervailing Duty Investigation of Refillable Stainless Steel Kegs from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>5</sup> See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>6</sup> See *Initiation Notice*.

<sup>7</sup> See Memorandum, *Refillable Stainless Steel Kegs from the People's Republic of China, Germany, and Mexico: Scope Comments Decision Memorandum for the Preliminary Determinations* (March 29, 2019) (Preliminary Scope Decision Memorandum).

<sup>8</sup> *Id.* at 3-4.

<sup>9</sup> 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.

<sup>10</sup> See sections 776(a) and (b) of the Act.

<sup>11</sup> See Letter, "Refillable Stainless Steel Kegs from the People's Republic of China: Request for Alignment of the Countervailing Duty Final Determination with the Companion Antidumping Duty Final Determination," dated March 19, 2019.

<sup>12</sup> Commerce issued Q&V questionnaires to 20 companies. The 18 companies that did not respond to our Q&V questionnaire are: Equipmentines (Dalian) E-Commerce Co., Ltd.; Jinan HaoLu Machinery Equipment Co., Ltd.; NDL Keg Qingdao Inc.; Ningbo Direct Import & Export Co., Ltd.; Ningbo Hefeng Container Manufacture Co., Ltd.; Ningbo Hefeng Kitchen Utensils Manufacture Co., Ltd.; Ningbo HGM Food Machinery Co., Ltd.; Ningbo Jiangbei Bei Fu Industry and Trade Co., Ltd.; Ningbo Sanfino Import & Export Co., Ltd.; Ningbo Shimaotong International Co., Ltd.; Ningbo Sunburst International Trading Co., Ltd.; Orient Equipment (Taizhou) Co., Ltd.; Qingdao Henka Precision Technology Co., Ltd.; Shandong Tiantai Beer Equipment; Sino Dragon Trading International; Wenzhou Deli Machinery Equipment Co.; Wuxi Taihu Lamps and Lanterns Co., Ltd.; and Yantai Trano New Material Co., Ltd.

Company	Net subsidy rate (percent)
Jinan HaoLu Machinery Equipment Co., Ltd .....	144.30
NDL Keg Qingdao Inc .....	144.30
Ningbo Direct Import & Export Co., Ltd .....	144.30
Ningbo Hefeng Container Manufacture Co., Ltd .....	144.30
Ningbo Hefeng Kitchen Utensils Manufacture Co., Ltd .....	144.30
Ningbo HGM Food Machinery Co., Ltd .....	144.30
Ningbo Jiangbei Bei Fu Industry and Trade Co., Ltd .....	144.30
Ningbo Master International Trade Co., Ltd <sup>13</sup> .....	15.78
Ningbo Sanfino Import & Export Co., Ltd .....	144.30
Ningbo Shimaotong International Co., Ltd .....	144.30
Ningbo Sunburst International Trading Co., Ltd .....	144.30
Orient Equipment (Taizhou) Co., Ltd .....	144.30
Penglai Jinfu Stainless Steel Products .....	144.30
Qingdao Henka Precision Technology Co., Ltd .....	144.30
Shandong Tiantai Beer Equipment .....	144.30
Sino Dragon Trading International .....	144.30
Wenzhou Deli Machinery Equipment Co. ....	144.30
Wuxi Taihu Lamps and Lanterns Co., Ltd .....	144.30
Yantai Trano New Material Co., Ltd .....	144.30
All Others .....	15.78

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

#### Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

#### Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

#### Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

#### Public Comment

Case briefs or other written comments may be submitted to the Assistant

Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.<sup>14</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

#### International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination.

#### Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: March 29, 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 covered by this investigation are kegs, vessels, or containers with bodies that are approximately cylindrical in shape, made from stainless steel (*i.e.*, steel containing at least 10.5 percent chromium by weight and less than 1.2 percent carbon by weight, with or without other elements), and that are compatible with a "D Sankey" extractor (refillable stainless steel kegs) with a nominal liquid volume capacity of 10 liters or more, regardless of the type of finish, gauge, thickness, or grade of stainless steel, and whether or not covered by or encased in other materials. Refillable stainless steel kegs may be imported assembled or unassembled, with or without all components (including spears, couplers or taps, necks, collars, and valves), and be filled or unfilled.

<sup>13</sup> As discussed in the Preliminary Decision Memorandum, Commerce has found Ningbo Major Draft Beer Equipment Co., Ltd., Tomorrow Industrial Limited and Zhejiang Major Technology Co., Ltd. to be cross-owned with Ningbo Master International Trade Co., Ltd.

<sup>14</sup> See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

“Unassembled” or “unfinished” refillable stainless steel kegs include drawn stainless steel cylinders that have been welded to form the body of the keg and attached to an upper (top) chime and/or lower (bottom) chime. Unassembled refillable stainless steel kegs may or may not be welded to a neck, may or may not have a valve assembly attached, and may be otherwise complete except for testing, certification, and/or marking.

Subject merchandise also includes refillable stainless steel kegs that have been further processed in a third country, including but not limited to, attachment of necks, collars, spears or valves, heat treatment, pickling, passivation, painting, testing, certification or any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the in-scope refillable stainless steel keg.

Specifically excluded are the following:

(1) Vessels or containers that are not approximately cylindrical in nature (e.g., box, “hopper” or “cone” shaped vessels);

(2) stainless steel kegs, vessels, or containers that have either a “ball lock” valve system or a “pin lock” valve system (commonly known as “Cornelius,” “corny” or “ball lock” kegs);

(3) necks, spears, couplers or taps, collars, and valves that are not imported with the subject merchandise; and

(4) stainless steel kegs that are filled with beer, wine, or other liquid and that are designated by the Commissioner of Customs as Instruments of International Traffic within the meaning of section 332(a) of the *Tariff Act of 1930*, as amended.

The merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7310.10.0010, 7310.00.0050, 7310.29.0025, and 7310.29.0050.

These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this investigation is dispositive.

## Appendix II

### List of Topics Discussed in the Preliminary Decision Memorandum

#### Summary

#### Background

- A. Initiation and Case History
- B. Postponement of Preliminary Determination
- C. Period of Investigation

#### Scope Comments

- A. Scope of the Investigation
- B. Alignment
- C. Injury Test

#### Application of the CVD Law to Imports From China

#### Diversification of China’s Economy

#### Subsidies Valuation

- A. Allocation Period
- B. Attribution of Subsidies
- C. Denominators

#### Benchmarks and Interest Rates

- A. Short-Term and Long-Term Renminbi (RMB)-Denominated Loans
- B. Long-Term RMB-Dominated Loans
- C. Discount Rates

D. Input Benchmarks  
Use of Facts Otherwise Available and Adverse Inferences

- A. Legal Standard
- B. Application of AFA: Non-Responsive Q&V Questionnaire Recipients
- C. Application of AFA: Penglai Jinfu
- D. Application of AFA: Provision of Electricity for LTAR
- E. Application of AFA: Provision of Stainless Steel Coil for LTAR
- F. Application of AFA: Export Assistance Grants and Special Funds for International Market Expansion

#### Analysis of Programs

- A. Programs Preliminarily Determined to be Countervailable
- B. Programs Preliminarily Determined Not to Confer a Measurable Benefit
- C. Programs Preliminarily Determined to Be Not Used by Ningbo Master

Calculation of the All-Others Rate

ITC Notification

Disclosure and Public Comment

Verification

Recommendation

Appendix

[FR Doc. 2019–06703 Filed 4–4–19; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

#### Proposed Information Collection; Comment Request; Malcolm Baldrige National Quality Award Application (MBNQA)

**AGENCY:** National Institute of Standards and Technology, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before June 4, 2019.

**ADDRESSES:** Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 1401 Constitution Avenue NW, Washington, DC 20230 (or via the internet at [docpra@doc.gov](mailto:docpra@doc.gov)).

#### FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instrument and instructions should be directed to Dawn Bailey, Baldrige Performance Excellence Program, 100 Bureau Drive, Stop 1020, Gaithersburg, MD 20899, 301–975–3074, [dawn.bailey@nist.gov](mailto:dawn.bailey@nist.gov).

## SUPPLEMENTARY INFORMATION:

### I. Abstract

The Department of Commerce is responsible for the Baldrige Performance Excellence Program (BPEP) and the Malcolm Baldrige National Quality Award (MBNQA), the nation’s highest award for organizational performance excellence. Directly associated with this award is the Board of Examiners, an integral volunteer workforce for BPEP. NIST manages BPEP. An applicant organization for the MBNQA is required to perform two steps: (1) The applicant organization self-certifies that it meets eligibility requirements with an eligibility form; and (2) the applicant organization prepares and completes an application package. BPEP will assist with or offer advice on any questions or issues that the applicant may have concerning the eligibility or application processes; this includes BPEP staff manning a hotline during the week and on weekends for organizations to call or email. With the help of the Board of Examiners, BPEP will use the eligibility forms and application package to assess and provide feedback on the applicant’s performance excellence practices. These practices could lead to a MBNQA awarded by the President of the United States or his delegate.

Per Public Law 100–107 (Malcolm Baldrige National Quality Improvement Act of 1987), the MBNQA helps to stimulate American companies to improve quality and productivity for the pride of recognition while obtaining a competitive edge through increased profits; recognizes the achievements of those companies that improve the quality of their goods and services and provide an example to others; establishes guidelines and criteria that can be used by business, industrial, governmental, and other organizations in evaluating their own quality improvement efforts; and provides specific guidance for other American organizations that wish to learn how to manage for high quality by making available detailed information on how winning organizations were able to change their cultures and achieve eminence.

The application to be a member of the Board of Examiners is a one-step, secure, online process. Each year, BPEP recruits highly skilled experts in the fields of manufacturing, service, small business, health care, education, and nonprofit, the six Award eligibility categories, to evaluate the applications that BPEP receives. Examiners serve for a one-year term; participation on the board is entirely voluntary. Examiners

receive three- to four-days of free on-site training (depending on experience level); this training has been nationally recognized for six consecutive years by Leadership 500 Awards, sponsored by *HR.com*.

BPEP's mission to improve the competitiveness and performance of U.S. organizations for the benefit of all U.S. residents.

## II. Method of Collection

MBNQA applicant organizations must comply in writing according to the Eligibility Certification Form and Baldrige Award Application Form available at [http://www.nist.gov/baldrige/enter/how\\_to\\_apply.cfm](http://www.nist.gov/baldrige/enter/how_to_apply.cfm). Information on the application for the Board of Examiners can be found at <http://www.nist.gov/baldrige/examiners/index.cfm>. BPEP will electronically send a unique user ID and password (separate emails) on how applicants to the Board of Examiners can apply to the secure system.

## III. Data

*OMB Control Number:* 0693-0006.  
*Form Number(s):* None.

*Type of Review:* Extension of a current information collection.

*Affected Public:* Business, health care, education, or other for-profit organizations; health care, education, and other nonprofit organizations; and individuals or households.

*Estimated Number of Respondents:* 580 (30 Applications for MBNQA and 550 Applicants for the Board of Examiners).

*Estimated Time per Response:* 30 minutes.

*Estimated Total Annual Burden Hours:* 290 (MBNQA = 15 hours, Board of Examiners = 275 hours).

*Estimated Total Annual Cost to Public:* MBNQA = \$1,610-\$79,610 (application and site visit fees vary depending on profit nature of organization and its sector [e.g., smallest fee is for a nonprofit K-12 school, largest fee is for a global manufacturer]; additionally, only 25% of applications pay site visit fees that again vary depending on number of sites and sector of the organization and Board of Examiners: \$0).

## IV. Request for Comments

NIST invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of

information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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

**Sheleen Dumas,**

*Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2019-06649 Filed 4-4-19; 8:45 am]

**BILLING CODE 3510-13-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:* North Atlantic Recreational Fishing Survey.

*OMB Control Number:* 0648-.

*Form Number(s):* None.

*Type of Request:* Regular (Request for a new collection).

*Number of Respondents:* 1,295.

*Average Hours per Response:*

Telephone pre-screening survey with an eligible angler, 3 minutes; telephone pre-screening survey with an ineligible angler, 1 minute; completion of mail/email survey by an eligible angler, 20 minutes; completion of mail/email survey by an ineligible angler, 10 minutes.

*Burden Hours:* 226.66.

*Needs and Uses:* The Northeast Fisheries Science Center (NEFSC) is conducting an economics research project to assess how changes in recreational Atlantic cod and haddock fishing regulations affect angler effort, angler welfare, fishing mortality, and future stock levels. The statistical model needed to meet this research objective requires fishing-related and socioeconomic data on users of these fisheries. To collect this essential information, the NEFSC seeks to

implement the North Atlantic Recreational Fishing Survey (NARFS), a questionnaire directed toward recreational anglers who fish for Atlantic cod or haddock off the coast of Maine, New Hampshire, and Massachusetts. Data collected by the NARFS will be used as input into a bioeconomic model that is currently used to determine recreational fishing regulations for North Atlantic cod and haddock (83 FR 18972).

*Affected Public:* Individuals or households.

*Frequency:* On occasion.

*Respondent's Obligation:* Voluntary.

This information collection request may be viewed at [reginfo.gov](http://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](mailto: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. 2019-06648 Filed 4-4-19; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XD953**

#### Marine Mammals; File No. 19108

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

**ACTION:** Notice; receipt of application for permit amendment.

**SUMMARY:** Notice is hereby given that Daniel P. Costa, Ph.D., University of California at Santa Cruz, Long Marine Laboratory, 100 Shaffer Road, Santa Cruz, CA 95064, has applied for an amendment to Scientific Research Permit No. 19108-03.

**DATES:** Written, telefaxed, or email comments must be received on or before May 6, 2019.

**ADDRESSES:** The application and related documents are available for review by selecting "Records Open for Public Comment" from the "Features" box on the Applications and Permits for Protected Species home page, <https://apps.nmfs.noaa.gov>, and then selecting "File No. 19108" from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427-8401; fax (301) 713-0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713-0376, or by email to [NMFS.Pr1Comments@noaa.gov](mailto:NMFS.Pr1Comments@noaa.gov). Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

**FOR FURTHER INFORMATION CONTACT:** Sara Young or Shasta McClenahan, (301) 427-8401.

**SUPPLEMENTARY INFORMATION:** The subject amendment to Permit No. 19108-03 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 19108, issued on June 30, 2015 (80 FR 39750), authorizes the permit holder to conduct research on northern elephant seal population status, reproduction, diving and fasting, physiology, and metabolism. Research methods include behavioral observations, marking, capture and sampling, instrumentation, translocation, short-term captive holding, physiology studies, and acoustic studies. Research is permitted from California to Washington, but occurs primarily at Año Nuevo. Incidental harassment and mortalities of northern elephant seals, and incidental harassment of California sea lions (*Zalophus californianus*), northern fur seals (*Callorhinus ursinus*), and Steller sea lions (*Eumetopias jubatus*) of the Eastern Distinct Population Segment is authorized.

The permit holder is requesting the permit be amended to include authorization for an increase in annual take from 10 to 20 animals for elephant seals that can be instrumented and translocated and receive thermistor placement annually. This annual increase would allow all of the translocations in this category to be conducted during the spring molt, which further ensures that animals are able to be recaptured for instrument

removal. The applicant also requests permission to use an intravascular electrocardiogram within existing catheter placement (20 animals annually). The applicant is authorized to experimentally alter the buoyancy of seals during translocations, including use of a neutral buoyancy control that alters the drag surface of the animal. The applicant requests to explicitly modify drag outside of the context of a buoyancy modification experiments and to add additional drag surface to subjects on one of the two translocations allowed per individual elephant seal to assess the impact of increased swimming effort on blood oxygen utilization (20 animals annually). The applicant also requests to add a head-mounted instrument for electroencephalography on translocated animals to give insight into the potential use of bihemispheric or unihemispheric sleep and the level of brain oxygenation during diving. The instrument uses near-infrared spectroscopy sensors or up to six electrodes (20 animals annually).

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: April 1, 2019.

**Amy Sloan,**

*Deputy Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2019-06628 Filed 4-4-19; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[Docket No. 181019964-9283-01]

RIN 0648-XG584

### Announcement of Hearing Regarding Proposed Waiver and Regulations Governing the Taking of Marine Mammals

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

**ACTION:** Notice of hearing.

**SUMMARY:** This notice announces an agency hearing to be convened by the National Marine Fisheries Service before an administrative law judge (ALJ) and the process by which interested persons can participate in the hearing. The hearing involves a proposed waiver under the Marine Mammal Protection Act (MMPA) and proposed regulations governing the hunting of eastern North Pacific (ENP) gray whales by the Makah Indian Tribe in northwest Washington State. A proposed rule relating to the proposed waiver and regulations is published elsewhere in today's issue of the **Federal Register**.

**DATES:** NMFS has scheduled a hearing before Administrative Law Judge George J. Jordan to consider the proposed MMPA waiver and the proposed regulations. It will begin on August 12, 2019 at 9:30 a.m. PDT in the Henry M. Jackson Federal Building, 915 Second Ave., 4th Floor Auditorium, Seattle, WA 98174. A pre-hearing conference is scheduled on June 17, 2019, at 10:00 a.m. PDT in the Henry M. Jackson Federal Building, 915 Second Ave., Seattle, WA 98174 (room location to be set by the ALJ). Persons interested in participating as a party in the hearing should consult regulations at 50 CFR part 228 and this notice and notify NMFS by the filing deadline below.

**Filing deadlines:** Any person desiring to participate as a party at the hearing must notify the NMFS West Coast Region Regional Administrator, by certified mail, postmarked on or before May 6, 2019. Any person desiring to participate as a party must submit initial written direct testimony by May 20, 2019, as specified below. All notices, testimony, and other filings must include the following Hearing Docket Number assigned to this matter: 19-NMFS-0001. Interested persons should consult the remainder of this notice and the procedural regulations at 50 CFR part 228 for additional deadlines, hearing procedures, and other opportunities for participation in the process.

**ADDRESSES:** Any person desiring to participate as a party in the hearing must notify NMFS, by certified mail, at the following address: Mr. Barry Thom, Regional Administrator, NMFS, West Coast Region, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232.

Any person desiring to participate as a party in the hearing should also send an electronic copy to [aljseattle@uscg.mil](mailto:aljseattle@uscg.mil).

All documents pertaining to the hearing, including initial direct testimony, shall be filed with the ALJ. All documents should, to the extent

possible, be formatted in a way that makes them accessible to individuals with disabilities or otherwise compliant with the Section 508 Amendment of the Rehabilitation Act of 1973, 29 U.S.C. 794d. More information on creating accessible documents may be found at <https://www.section508.gov/create>. Parties are encouraged to submit direct testimony and other documents via email to the ALJ at [aljseattle@uscg.mil](mailto:aljseattle@uscg.mil) (noting the Hearing Docket Number assigned to this matter: 19–NMFS–0001). If the size of the attachment exceeds email capacity, parties are then encouraged to mail a CD–ROM with the document included to the ALJ (at the address listed below). If a party is unable to file electronic documents, parties shall file paper hardcopies of the documents with the ALJ (at the address listed below). Only a single copy of any filing is required, whether filed electronically or hardcopy. The mailing address for any CD–ROM or paper hardcopy is: ALJ Docketing Center, U.S. Custom House, Attn: Hearing Docket Clerk, 40 S Gay Street, Room 412, Baltimore, MD 21202.

All filings associated with the hearing become part of the record, which will be available for public viewing and inspection at the ALJ's hearing website: <https://www.uscg.mil/Resources/Administrative-Law-Judges/Decisions/ALJ-Decisions-2016/NOAA-Formal-Rulemaking-Makah-Tribe/>. These filings will include the initial direct testimony of NMFS in support of the proposed regulations and waiver and, upon issuance, the ALJ's preliminary determination of the issues of fact that may be addressed at the hearing. Information pertaining to this hearing is also available at the NMFS West Coast Region website: <https://www.fisheries.noaa.gov/action/formal-rulemaking-proposed-mmpa-waiver-and-hunt-regulations-governing-gray-whale-hunts-makah>.

NMFS prepared a draft environmental impact statement (DEIS) (80 FR 13373; March 13, 2015) for the proposed waiver and regulations. The DEIS and comments thereon may be accessed at the Federal eRulemaking Portal <http://www.regulations.gov> via the following Docket Identification: NOAA–NMFS–2012–0104. The DEIS and comments, along with any communications falling under 50 CFR 228.10(b) (ex parte communications), also are available for viewing at the address for the Regional Administrator listed above.

**FOR FURTHER INFORMATION CONTACT:** Michael Milstein, NMFS West Coast Region, 1201 NE Lloyd Blvd., Suite

1100, Portland, OR 97232–1274; 503–231–6268.

**SUPPLEMENTARY INFORMATION:** On February 14, 2005, NMFS received a request from the Makah Indian Tribe for a waiver of the MMPA moratorium on the take of marine mammals to allow for take of ENP gray whales (*Eschrichtius robustus*). The Tribe requested that NMFS authorize a tribal hunt for ENP gray whales in the coastal portion of the Tribe's usual and accustomed fishing area for ceremonial and subsistence purposes and the making and sale of handicrafts. The MMPA imposes a general moratorium on the taking of marine mammals but authorizes the Secretary of Commerce to waive the moratorium and issue regulations governing the take if certain statutory criteria are met. After full evaluation of the Tribe's request, NMFS is proposing to authorize a limited tribal hunt for ENP gray whales and the making and sale of handicrafts. Additional information regarding the Tribe's request and NMFS' proposed waiver and regulations is provided in the associated proposed rule published elsewhere in today's issue of the **Federal Register**.

Under the MMPA, a decision to waive the take moratorium and issue regulations governing the take must be made on the record after an opportunity for an agency hearing on the proposed waiver and regulations (16 U.S.C. 1373(d)). The hearing is governed by agency regulations at 50 CFR part 228, which call for the appointment of a presiding officer and prescribe other procedures. At the conclusion of the hearing process, the presiding officer will make a recommended decision based on the hearing record and transmit the decision and record to the NOAA Assistant Administrator for Fisheries.

Pursuant to the regulations, this notice of hearing shall include the following information:

1. The nature of the hearing. The subject of the hearing is NMFS' proposal to issue a waiver and regulations under the MMPA (16 U.S.C. 1371(a)(3)(A) and 1373) regarding the take of ENP gray whales and the making and sale of handicrafts by the Makah Indian Tribe. NMFS' proposed waiver and regulations are published elsewhere in today's **Federal Register**. The hearing is governed by the requirements of the Administrative Procedure Act (5 U.S.C. 553, 555–557) and agency regulations at 50 CFR part 228. In particular, interested persons should be aware of the restrictions on communications that apply to the hearing process set forth in

5 U.S.C. 557(d)(1) and 50 CFR 228.10. These and additional restrictions on communications are described in a NOAA memorandum entitled "Restrictions on Communications Pertaining to Makah Indian Tribe's Request for Waiver of Moratorium on Take of Eastern North Pacific Gray Whales," available on the NMFS West Coast Region website (see **ADDRESSES**).

2. The place and date of the hearing. See **DATES** above.

3. The legal authority under which the hearing is to be held. 16 U.S.C. 1371(a)(3)(A) and 1373; 50 CFR part 228.

4. The proposed regulations and waiver and a summary of the statements required by 16 U.S.C. 1373(d). This information is provided in the proposed rule, published elsewhere in today's issue of the **Federal Register**.

5. Issues of fact that may be involved in the hearing. See below.

6. The date of publication of a draft environmental impact statement associated with the proposed waiver and regulations and the place where the draft and comments thereon may be viewed and copied (see **ADDRESSES**).

7. Any written advice received from the Marine Mammal Commission. A summary of the recommendations provided by the Marine Mammal Commission on the proposed waiver and regulations is provided in the proposed rule published elsewhere in today's **Federal Register**. Complete copies of the Commission's written advice are available on the NMFS West Coast Region website (see **ADDRESSES**).

8. The place where records and submitted direct testimony will be kept for public inspection. All filings and submitted direct testimony forming the record for this hearing will be available at ALJ's hearing website (see **ADDRESSES**). Documents pertaining to this hearing are available for public inspection at the address for the Regional Administrator (see **ADDRESSES**). Persons interested in reviewing these documents may contact the Regional Administrator (see **ADDRESSES**) to schedule a time to inspect them.

9. The final date for filing notice of intent to participate in the hearing. See filing deadlines under the **DATES** section above.

10. The final date for submission of direct testimony on the proposed regulations and waiver and the number of copies required. Direct testimony should be submitted as specified under **ADDRESSES** by the date specified under filing deadlines (see **DATES**).

11. The docket number assigned to the case. 19–NMFS–0001.

12. The date and place of the pre-hearing conference. See **DATES** above.

### Issues of Fact That May Be Involved in the Hearing

Based on the best available scientific evidence related to the applicable MMPA criteria, NMFS has determined that the following facts support issuance of the proposed waiver and regulations, described in the proposed rule published elsewhere in today's issue of the **Federal Register**.

#### I. Waiver

A. NMFS gave due regard to the potential effects of the proposed waiver on the distribution, abundance, breeding habits, and times and lines of migratory movements of the ENP gray whale stock.

1. The proposed waiver will not have a meaningful effect on the distribution, abundance, breeding habits, or migratory movements of the ENP gray whale stock.

2. NMFS recognizes two stocks of gray whales under the MMPA, the western North Pacific (WNP) stock and the eastern North Pacific (ENP) stock.

3. Under the MMPA, NMFS defines the Pacific Coast Feeding Group (PCFG) as gray whales observed between June 1 and November 30 within the region between northern California and northern Vancouver Island (from 41° N lat. to 52° N lat.) and photo-identified within this area during two or more years. The PCFG is part of the ENP stock.

4. The ENP stock ranges from the winter/spring breeding grounds in northern Mexico and southern California to the summer/fall feeding grounds in the Bering, Beaufort, and Chukchi seas. The ENP stock migrates between the breeding and feeding grounds between December and May. The PCFG spends the summer and fall feeding season off the Pacific coast of North America from northern California to northern Vancouver Island.

5. The best available abundance estimate for the ENP stock is 26,960.

6. The best available abundance estimate for the PCFG is 243.

7. The proposed waiver, at a maximum, would result in the deaths of 25 whales over 10 years, or an average of 2.5 per year. The proposed waiver, at a maximum, would reduce the ENP gray whale stock by 0.09 percent over 10 years, or an average of 0.009 percent per year.

8. Reducing the ENP stock by 0.009 percent per year or 0.09 percent over 10 years would not have a discernable effect on the ENP stock's abundance.

9. The United States is a signatory to the International Convention for the Regulation of Whaling (ICRW). The ICRW establishes the International Whaling Commission (IWC), which, among other things, establishes catch limits for aboriginal subsistence whaling by member states.

10. Since 1997, the IWC has routinely approved an aboriginal subsistence catch limit for ENP gray whales for joint use by the United States and the Russian Federation. The United States and the Russian Federation have been routinely, and currently are, parties to a bilateral agreement that allocates the IWC catch limit between the two countries and allows either country to transfer to the other any unused allocation.

11. The United States has routinely transferred its unused share of the IWC catch limit to the Russian Federation for use by Chukotkan hunters.

12. Based on long-standing practice and the current United States-Russian Federation bilateral agreement, the United States would likely continue to transfer any unused IWC catch limit to the Russian Federation for use by Chukotkan natives, so that the net effect of the hunt on ENP gray whale abundance would be the same with or without the proposed waiver.

13. The proposed waiver, at a maximum, would result in a total of 150 unsuccessful strike attempts and training harpoon throws, combined, over 10 years, or an average of 15 per year.

14. The proposed waiver, at a maximum, would result in a total of 353 approaches (causing a hunt or training vessel to be within 100 yards of a gray whale) per year, with a sub-limit of 142 approaches of PCFG whales.

15. The ENP stock has demonstrated resiliency to decades of active hunting by Chukotkan natives and other human activities. Gray whales were classified as an endangered species under U.S. law in 1970 (the original listing included both ENP and WNP gray whales). Subsequently, the ENP stock recovered and was de-listed in 1994. The ENP stock grew from 12,771 animals to approximately 27,000 animals between 1970 and 2016.

16. Despite over a hundred gray whales being pursued and killed in aboriginal subsistence hunts off Chukotka each year, many of which are killed during the summer feeding months, there has not been a discernible change in the availability or location of gray whales in the Chukotkan hunt area.

17. Unsuccessful strike attempts and training harpoon throws are expected to result in temporary disturbance but not

to have a lasting effect on the affected whale's health or behaviors.

18. Approaches are not expected to have a lasting effect on the affected whale's health or behaviors.

19. Photo-identification is a reliable, feasible method of identifying PCFG and WNP whales.

20. The proposed waiver, at a maximum, would result in 16 strikes of PCFG whales over the 10-year duration of the waiver period (average of 1.6 per year), of which only 8 strikes would be of PCFG females (average of 0.8 per year).

21. Under the proposed waiver, NMFS would manage impacts of the proposed waiver to PCFG whales through photo-identification and specified assumptions.

22. The proposed waiver would require that hunting cease if PCFG abundance were to fall below set levels. The levels, referred to as low-abundance triggers, are 192 whales, or a minimum abundance estimate of 171 whales.

23. NMFS would use a forecasting model to provide up-to-date PCFG abundance estimates during the waiver period.

24. PCFG abundance has been stable or increasing since around 2002, with an average annual increase in abundance of 3.5 animals between 2002 and 2015.

25. The combination of strike limits and low-abundance triggers will ensure that the proposed waiver will not cause PCFG abundance to decline below recent stable levels.

26. Because the proposed waiver will not cause PCFG abundance to decline below recent stable levels, the proposed waiver is not expected to affect the range-wide distribution of the ENP stock, including the stock's distribution within the PCFG range.

27. Under the proposed waiver, hunting or hunt training is most likely to overlap with gray whale breeding in December–January. NMFS expects that few if any hunt activities would occur in December–January due to inclement weather and unfavorable ocean conditions, but it is possible that hunt activities could occur in December–January and could encounter mating whales.

28. The proposed waiver would not adversely affect ENP gray whale breeding, because the proportion of the migration corridor where hunt activities could occur is small, the level of hunt activity likely to occur in December–January is low, the number of whales that could be struck is extremely small, and any whales that were disturbed would likely have repeated

opportunities to mate throughout the remainder of the southward migration.

29. Migrating ENP gray whales are only expected to be encountered during even-year hunts. Migrating whales are steady swimmers that would transit the hunt area within several hours. The hunt area is a very small portion of the ENP gray whale stock's migration corridor.

30. During even-year hunts, adverse weather and ocean conditions coupled with shorter periods of daylight would keep most hunts and training exercises close to shore and of short duration.

31. A very small number of migrating ENP gray whales would be subjected to hunt or training activities. Any gray whale subject to such activities (but not struck) would likely experience the encounter as a temporary and localized near-shore event that would not result in a lasting effect on the whale's migratory movements.

B. NMFS properly concluded that the proposed waiver is in accord with the MMPA's purposes and policies because it will not affect the health, stability, or functioning of the marine ecosystem or the ENP stock's abundance relative to its optimum sustainable population (OSP) levels.

1. The proposed waiver is not expected to have a meaningful effect on the health, stability, or functioning of the marine ecosystem or on the ENP stock's abundance relative to OSP.

2. The level of hunting that could occur under the proposed waiver would affect only a small fraction of the ENP stock and the stock's ecosystems. Most effects of the hunt would be temporary and localized.

3. The ENP stock functions within many large ecosystems shaped by a variety of processes. The smallest recognized ecosystem that encompasses the hunt area is the northern California Current ecosystem.

4. The northern California Current ecosystem is shaped by dynamic, highly energetic, large-scale processes, including currents, upwelling, freshwater runoff, seasonal wind/storm patterns, and variable climate patterns such as El Niño. The role of ENP gray whales in structuring this ecosystem is limited.

5. The number of removals of gray whales that could occur under the proposed waiver is too small to have a discernable effect on the northern California Current ecosystem.

6. Even at the smallest biologically relevant scale, the northern Washington coastal environment, the level of hunting that could occur under the proposed waiver would not have a perceptible effect on the health or

stability of the marine ecosystem or the functioning of the ENP stock within the ecosystem.

7. The ENP stock has been within OSP levels since at least 1995. In 2012, NMFS concluded that the ENP stock was at 85 percent of carrying capacity with an 88 percent likelihood that the stock was above its maximum net productivity level. NMFS's current stock assessment report for the ENP stock continues to adopt this conclusion.

8. The removal of up to 25 whales from the ENP stock over 10 years, or 2.5 whales average per year, is not expected to affect the ENP stock's abundance relative to its OSP levels.

## II. Regulations

A. The proposed regulations are necessary and appropriate to ensure that a tribal hunt will not disadvantage the ENP gray whale stock, because the proposed regulations will have no discernable effect on the ENP gray whale stock's abundance relative to OSP. *See* Issues of Fact I.A.7–8, I.B.7–8.

B. The proposed regulations are necessary and appropriate to ensure that a tribal hunt will be consistent with the purposes and policies of the MMPA. *See* Issues of Fact I.B.1–8.

C. NMFS gave full consideration to all relevant factors in prescribing the proposed regulations, including existing and future levels of marine mammals stocks, existing international treaty and agreement obligations of the United States, the marine ecosystem and related environmental considerations, the conservation, development, and utilization of fishery resources, the economic and technological feasibility of implementation, and potential effects to the WNP stock.

1. NMFS fully considered the effects of the proposed regulations on the existing and future levels of the ENP gray whale stock. *See* Issues of Fact I.A.7–8, I.B.7–8.

2. NMFS fully considered the effects of the proposed regulations on existing international treaty and agreement obligations of the United States.

3. Under the ICRW and through the bilateral agreement between the United States and the Russian Federation, the Makah Tribe can harvest up to five ENP gray whales per year.

4. The proposed regulations would not authorize the Tribe to harvest more ENP gray whales than available under the ICRW and the U.S.-Russian Federation bilateral agreement.

5. The IWC Scientific Committee's Standing Work Group on Aboriginal Subsistence Whaling Management

Procedures evaluated a Makah tribal hunt as would be carried out under the proposed regulations and determined that the hunt would meet the IWC conservation objectives for ENP, WNP, and PCFG whales.

6. NMFS fully considered the effects of the proposed regulations on the marine ecosystem. *See* Issues of Fact II.A.2.a–f. *See* Issues of Fact I.B.1–6.

7. NMFS fully considered the effects of the proposed regulations on environmental considerations related to the marine ecosystem, including potential effects to water quality, pelagic and benthic habitats, other species of fish and wildlife, and marine noise levels.

8. The proposed regulations would have no effect on the conservation, development, or utilization of fishery resources.

9. NMFS fully considered the economic and technological feasibility of implementation of the proposed regulations.

10. NMFS's costs associated with the proposed regulations would primarily involve the continuation of longstanding gray whale surveys and photo-identification work, with additional funding of approximately \$2,000 per day of hunting needed to support NMFS monitoring and enforcement personnel. The annual NMFS budget for marine mammal management in the West Coast Region is over \$700,000.

11. The costs to NMFS associated with regulating a hunt under the proposed regulations are feasible.

12. The Tribe's 1999 gray whale hunt successfully demonstrated the economic and technological feasibility of the Tribe prosecuting a gray whale hunt. The Tribe has enacted a detailed Tribal Whaling Ordinance, which demonstrates the feasibility of tribal hunt management.

13. The proposed regulations include provisions for matching photographs of struck whales to those of known whales, a procedure which is technologically feasible.

14. The proposed regulations include provisions for marking and tracking handicrafts made from non-edible whale products, which is technologically feasible.

15. NMFS determined that potential risks to WNP gray whales from implementation of the proposed regulations is an additional relevant factor in prescribing the regulations and fully considered such risks.

16. The proposed regulations contain a number of restrictions to limit the risk of death, injury, or other harm to WNP whales. These include alternating hunt

seasons, a limit of three strikes during even-year hunts, a ban on hunting during November and June, seasonal restriction on training harpoon throws in odd-numbered years, restriction on multiple strikes within 24 hours during even-year hunts, and the requirement that if a WNP is confirmed to be struck, the hunt will cease until steps are taken to ensure such an event will not recur.

17. NMFS's scientists undertook a risk analysis to quantify risk to WNP whales based on the best scientific evidence available and using conservative assumptions.

18. NMFS's risk analysis concludes that there is a 5.8 percent probability of hunters striking one WNP gray whale over the 10 years of the regulations, meaning over the course of seventeen 10-year hunt periods, one WNP gray whale would be expected to be struck (*i.e.*, in one year out of 170), if the Tribe made the maximum number of strikes attempts allowed in even-year hunts and if ENP and WNP population sizes and migration patterns remained constant.

19. NMFS's risk analysis concludes that there is about a 30 percent probability that one WNP whale would be subjected to an unsuccessful strike attempt or training harpoon throw over the 10 years of the regulations, or one such encounter every 33 years, if the Tribe made the maximum number of strike attempts allowed in even-year hunts and if ENP and WNP population sizes and migration patterns remained constant.

20. Unsuccessful strike attempts and training harpoon throws are expected to result in temporary disturbance but not to have a lasting effect on the affected whale's health or behaviors.

21. NMFS's risk analysis concludes that a maximum of 14 WNP gray whales could be approached within 100 yards over the ten years of the waiver period, or an average of 1.4 per year, if ENP and WNP population sizes and migration patterns remain constant. This analysis assumes that all allowed approaches (3,530 over 10 years) are made and all occur between December 1 and May 31, meaning that no hunting would occur during odd-year hunts.

22. Approximately twice as many suitable days for hunting and training occur during the months of odd-year hunt seasons than during the months of even-year hunt seasons, considering weather conditions and whale availability.

23. If the Tribe made the full number of approaches allowed under the proposed regulations each year of the waiver period, and those approaches were divided evenly between odd-year

and even-year hunts, then approximately 0.7 WNP whales would be subjected to an approach annually.

24. Approaches are not expected to have a lasting effect on the whale's health or behaviors.

**Authority:** 16 U.S.C. 1371(a)(3)(A) and 1373; 50 CFR part 228.

Dated: March 27, 2019.

**Barry A. Thom,**

*Regional Administrator, West Coast Region,  
National Marine Fisheries Service.*

[FR Doc. 2019-06336 Filed 4-4-19; 8:45 am]

**BILLING CODE 3510-22-P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Proposed Additions and Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed additions to and deletions from the Procurement List.

**SUMMARY:** The Committee is proposing to add services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes product and services previously furnished by such agencies.

**DATES:** *Comments must be received on or before:* May 5, 2019.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202-4149.

**FOR FURTHER INFORMATION CONTACT:** For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 603-2117, Fax: (703) 603-0655, or email [CMTEFedReg@AbilityOne.gov](mailto:CMTEFedReg@AbilityOne.gov).

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

### Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following services are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

### Services

**Service Type:** Grounds Maintenance

**Mandatory for:** Federal Aviation

Administration, Norfolk Air Traffic Control Tower, Virginia Beach, VA and Patrick Henry Field Air Traffic Control Tower, Newport News, VA

**Mandatory Source of Supply:** Portco, Inc., Portsmouth

**Mandatory for:** Federal Aviation

Administration, Patrick Henry Field (PHF) Air Traffic Control Tower, Newport News, VA

**Mandatory Source of Supply:** VersAbility Resources, Inc., Hampton, VA

**Contracting Activity:** Federal Aviation Administration, FAA, Regional Acquisitions Services

### Deletions

The following product and services are proposed for deletion from the Procurement List:

#### Product

**NSNs—Product Names:** 3740-01-096-1632—Trap, Roach, Monitor

**Mandatory Source of Supply:** The Arc of Alachua County, Inc., Gainesville, FL

**Contracting Activity:** DLA Aviation, Richmond, VA

#### Services

**Service Type:** Administrative Services

**Mandatory for:** GSA, Northeast Distribution Center: Federal Supply Service (3FS), Burlington, NJ

**Mandatory Source of Supply:** Occupational Training Center of Burlington County, Burlington, NJ

**Contracting Activity:** Federal Acquisition Service, GSA/FAS Tools Acquisition Division II

**Service Type:** Janitorial/Elevator Operator  
**Mandatory for:** Southeast Federal Center: Buildings 159, 159E & 160, 2nd & M Streets SE, Washington, DC

**Mandatory Source of Supply:** Davis Memorial Goodwill Industries, Washington, DC  
**Contracting Activity:** Dept of the Navy, U.S. Fleet Forces Command

**Service Type:** Janitorial/Custodial  
**Mandatory for:** Internal Revenue Service: 120 Church Street, New York, NY

**Mandatory Source of Supply:** Fedcap Rehabilitation Services, Inc., New York, NY

**Contracting Activity:** Treasury, Department of the, Dept of Treas/

**Service Type:** Janitorial/Custodial

**Mandatory for:** U.S. Army Reserve Center: Elkins, Beverly, WV

**Mandatory Source of Supply:** Buckhannon-Upshur Work Adjustment Center, Inc., Buckhannon, WV

**Contracting Activity:** Dept of the Army, W40M RHCO-Atlantic USAHCA

**Patricia Briscoe,**

*Deputy Director, Business Operations (Pricing and Information Management).*

[FR Doc. 2019-06661 Filed 4-4-19; 8:45 am]

**BILLING CODE 6353-01-P**

**DEPARTMENT OF EDUCATION****[Docket No.: ED–2019–ICCD–0008]****Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Mathematics and Science Partnerships Program: Annual Performance Report****AGENCY:** Office of Elementary and Secondary Education (OESE), Department of Education (ED).**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing a reinstatement of a previously approved information collection.

**DATES:** Interested persons are invited to submit comments on or before May 6, 2019.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2019–ICCD–0008. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the [regulations.gov](http://www.regulations.gov) site is not available to the public for any reason, ED will temporarily accept comments at [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov). Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9089, Washington, DC 20202–0023.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Charm Smith, 202–205–5724.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information

collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Mathematics and Science Partnerships Program: Annual Performance Report.

*OMB Control Number:* 1810–0669.

*Type of Review:* A reinstatement of a previously approved information collection.

*Respondents/Affected Public:* State, Local, and Tribal Governments.

*Total Estimated Number of Annual Responses:* 450.

*Total Estimated Number of Annual Burden Hours:* 4,500.

*Abstract:* Implemented under the No Child Left Behind Act of 2001, Title II, Part B, the Mathematics and Science Partnerships (MSP) program is a formula grant program strategically designed to improve the content knowledge of teachers and the academic performance of students in mathematics and science. By funding collaborative partnerships between science, technology, engineering, and mathematics (STEM) departments at institutions of higher education (IHEs), and high-need school districts, the MSP program enables the delivery of intensive, content-rich professional development intended to improve classroom instruction and, ultimately, to raise student achievement in math and science. Because MSP is a formula grant program, the size of individual state awards is based on student population and poverty rates, with no state receiving less than one half of one percent of the total appropriation. Each state is then responsible for administering a competitive grant making process to determine the distribution of funds across proposed MSP projects. The program office is

seeking to renew this collection to allow it to continue to collect Annual Performance Reports from those grantees that will need to seek a no cost extension.

Dated: April 2, 2019.

**Stephanie Valentine,**

*PRA Clearance Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.*

[FR Doc. 2019–06747 Filed 4–4–19; 8:45 am]

**BILLING CODE 4000–01–P**

**DEPARTMENT OF EDUCATION****[Docket No.: ED–2019–ICCD–0048]****Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Fast Response Survey System (FRSS) 110: Use of Educational Technology for Instruction in Public Schools—Preliminary Activities****AGENCY:** National Center for Education Statistics (NCES), Department of Education (ED).**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new generic information collection.

**DATES:** Interested persons are invited to submit comments on or before May 6, 2019.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2019–ICCD–0048. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the [regulations.gov](http://www.regulations.gov) site is not available to the public for any reason, ED will temporarily accept comments at [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov). Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education,

550 12th Street SW, PCP, Room 9089, Washington, DC 20202-0023.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Kashka Kubzdela, 202-245-7377 or email [NCES.Information.Collections@ed.gov](mailto:NCES.Information.Collections@ed.gov).

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Fast Response Survey System (FRSS) 110: Use of Educational Technology for Instruction in Public Schools—Preliminary Activities.

*OMB Control Number:* 1850-0733.

*Type of Review:* A new generic information collection.

*Respondents/Affected Public:* State, Local and Tribal Governments.

*Total Estimated Number of Annual Responses:* 1,400.

*Total Estimated Number of Annual Burden Hours:* 1,600.

*Abstract:* This request is to conduct preliminary activities for the Fast Response Survey System (FRSS) survey #110 on use of educational technology for instruction in public schools. The Office of Educational Technology (OET) requested that NCES conduct this FRSS survey. The expanding use of technology affects the lives of students both inside and outside the classroom. For this reason, the role of technology

in education is an increasingly important area of research. While access to technology can provide valuable learning opportunities to students, technology by itself does not guarantee successful outcomes. Schools and teachers play an important role in successfully integrating technology into teaching and learning. The purpose of this FRSS 110 survey is to collect nationally representative data from public schools about their use of educational technology for instruction. This request for FRSS 110 preliminary activities involves securing research approval from special contact school districts beginning in June 2019. The request to conduct the full-scale survey will be submitted in winter 2019. Preliminary activities will begin in June 2019, and the main survey data collection from schools will begin in January 2020 and is scheduled to end in June 2020.

Dated: April 2, 2019.

**Stephanie Valentine**

*PRA Clearance Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.*

[FR Doc. 2019-06749 Filed 4-4-19; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF EDUCATION

[Docket No. ED-2019-ICCD-0002]

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Health Education Assistance Loan (HEAL)

**AGENCY:** Federal Student Aid (FSA), Department of Education (ED),

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before May 6, 2019.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2019-ICCD-0002. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the [regulations.gov](http://www.regulations.gov) site is not

available to the public for any reason, ED will temporarily accept comments at [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov). Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202-0023.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Beth Grebeldinger, 202-377-4018.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Health Education Assistance Loan (HEAL).

*OMB Control Number:* 1845-0126.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* Private Sector.

*Total Estimated Number of Annual Responses:* 5,491.

*Total Estimated Number of Annual Burden Hours:* 2,758.

*Abstract:* This is a request for an extension of the information collection for forms HEAL 502-1 and 502-2, HEAL repayment schedules and form HEAL 512, Holder's Report on HEAL program loans. The forms 502-1 and 502-2 provide the borrowers with any updated repayment schedule including the cost of the loan, number and amount of payments with Truth-in-Lending disclosures. The form 512 is prepared quarterly and provides information on the status of outstanding loans such as the number of borrowers by stage of loan life-cycle, repayment status and the corresponding dollars.

Dated: April 2, 2019.

**Kate Mullan,**

*PRA Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.*

[FR Doc. 2019-06691 Filed 4-4-19; 8:45 am]

**BILLING CODE 4000-01-P**

## ELECTION ASSISTANCE COMMISSION

### Sunshine Act Meetings

**ACTION:** Notice of Public Hearing on Voluntary Voting System Guidelines 2.0 Principles and Guidelines.

**DATES & TIMES:** The meeting will be held on Wednesday, April 10, 2019, from 1:00 p.m. until 4:00 p.m., Central Time

**PLACE:** The Peabody Memphis, Continental Ballroom, 149 Union Avenue, Memphis, TN 38103, Phone 901-529-4000. The meeting will also be streamed on [www.eac.gov](http://www.eac.gov)

**STATUS:** This Hearing will be open to the public.

**HEARING AGENDA:** The Commission will conduct a public hearing to receive testimony and public comments on the proposed Voluntary Voting System Guidelines 2.0 Principles and Guidelines (VVSG 2.0). The full hearing agenda will be posted in advance at <http://www.eac.gov>. Members of the public who wish to speak at the hearing regarding the VVSG 2.0 Principles and Guidelines may send a request to participate to the EAC via email at [votingsystemguidelines@eac.gov](mailto:votingsystemguidelines@eac.gov) by 5:00PM EDT Monday, April 8, 2019. Members of the public may also sign up at the public meeting as long as they do so before the public hearing begins. Due to time constraints, the EAC can select no more than ten participants amongst the volunteers who request to participate. The selected volunteers will be allotted five-minutes each to share their viewpoint. Participants will be

selected on a first-come, first-served basis. However, to maximize diversity of input, only one participant per organization or entity will be chosen if necessary. Participants may also submit written testimony to be included in the record. All requests must include a description of what will be said, contact information that will be used to notify the requestor with status of request (phone number on which a message may be left or email), and include the subject/attention line (or on the envelope if by mail): Testimony on proposed VVSG 2.0 Principles and Guidelines. Please note that these testimonies will be made available to the public at [www.eac.gov](http://www.eac.gov). Written testimony from members of the public regarding the proposed VVSG 2.0 Principles and Guidelines will also be accepted. Testimony will be included as part of the written record of the hearing, and it will be available on our website. Written testimony must be submitted before the end of the public hearing and, if by mail, received by 5:00 p.m. EDT on April 8, 2019. Written testimony should be submitted via email at [votingsystemguidelines@eac.gov](mailto:votingsystemguidelines@eac.gov) or via mail addressed to the U.S. Election Assistance Commission, 1335 East-West Highway, Suite 4300, Silver Spring, Maryland 20910, or by fax at 301-734-3108. All correspondence that contains written testimony must have in the subject/attention line (or on the envelope if by mail): Written testimony on proposed VVSG 2.0 Principles and Guidelines.

\* \* \* \* \*

**Clifford Tatum,**

*General Counsel, U.S. Election Assistance Commission.*

[FR Doc. 2019-06839 Filed 4-3-19; 4:15 pm]

**BILLING CODE 6820-KF-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG19-89-000.  
*Applicants:* Griffin Trail Wind, LLC.  
*Description:* Self-Certification of EWG Status of Griffin Trail Wind, LLC.  
*Filed Date:* 4/1/19.  
*Accession Number:* 20190401-5190.  
*Comments Due:* 5 p.m. ET 4/22/19.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER12-1260-013; ER13-1793-012.

*Applicants:* Stephentown Spindle, LLC, Hazle Spindle, LLC.

*Description:* Errata to May 30, 2018 Notice of Non-Material Change in Status of Stephentown Spindle, LLC, et al.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5465.

*Comments Due:* 5 p.m. ET 4/19/19.

*Docket Numbers:* ER16-2717-003.

*Applicants:* NextEra Energy Transmission Midwest, LLC.

*Description:* Compliance filing: NextEra Energy Transmission Midwest, LLC Revised Compliance Filing to be effective 11/30/2016.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5369.

*Comments Due:* 5 p.m. ET 4/19/19.

*Docket Numbers:* ER16-2720-004.

*Applicants:* NextEra Energy Transmission Southwest, LLC.

*Description:* Compliance filing: NextEra Energy Transmission Southwest, LLC Revised Compliance Filing to be effective 11/30/2016.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5375.

*Comments Due:* 5 p.m. ET 4/19/19.

*Docket Numbers:* ER18-1775-001.

*Applicants:* 64KT 8me LLC.

*Description:* Supplement to November 7, 2018 64KT tariff filing (Notice of Non-Material Change).

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5464.

*Comments Due:* 5 p.m. ET 4/19/19.

*Docket Numbers:* ER19-318-001.

*Applicants:* Cleco Power LLC.

*Description:* Compliance filing: compliance to 2019 to be effective 4/1/2017.

*Filed Date:* 4/1/19.

*Accession Number:* 20190401-5318.

*Comments Due:* 5 p.m. ET 4/22/19.

*Docket Numbers:* ER19-714-002.

*Applicants:* Tucson Electric Power Company.

*Description:* Tariff Amendment: Amended and Restated Transmission Service Agreement No. 411 to be effective 1/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5427.

*Comments Due:* 5 p.m. ET 4/19/19.

*Docket Numbers:* ER19-750-001.

*Applicants:* The Empire District Electric Company.

*Description:* Compliance filing: Compliance Filing ER19-750 to be effective 1/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5454.

*Comments Due:* 5 p.m. ET 4/19/19.

*Docket Numbers:* ER19-1490-000.

*Applicants:* Tenaska Frontier Partners, Ltd.

*Description:* § 205(d) Rate Filing: Reactive Power Rate Schedule Filing to be effective 6/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329–5453.

*Comments Due:* 5 p.m. ET 4/19/19.

*Docket Numbers:* ER19–1491–000.

*Applicants:* Cleco Power LLC.

*Description:* § 205(d) Rate Filing: RS 43 Normal to be effective 4/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329–5455.

*Comments Due:* 5 p.m. ET 4/19/19.

*Docket Numbers:* ER19–1492–000.

*Applicants:* Wisconsin Electric Power Company.

*Description:* § 205(d) Rate Filing: Section 205 Filing for PIPP Retirement to be effective 4/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329–5456.

*Comments Due:* 5 p.m. ET 4/19/19.

*Docket Numbers:* ER19–1493–000.

*Applicants:* Public Service Company of Colorado.

*Description:* 2018 Post-Retirement Benefits Other than Pensions of Public Service Company of Colorado.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329–5462.

*Comments Due:* 5 p.m. ET 4/19/19.

*Docket Numbers:* ER19–1494–000.

*Applicants:* Public Service Company of New Mexico.

*Description:* § 205(d) Rate Filing: Annual Real Power Loss Factor Filing for 2019 to be effective 6/1/2019.

*Filed Date:* 4/1/19.

*Accession Number:* 20190401–5295.

*Comments Due:* 5 p.m. ET 4/22/19.

*Docket Numbers:* ER19–1495–000.

*Applicants:* Virginia Electric and Power Company.

*Description:* § 205(d) Rate Filing: Initial Rate Schedule No. 135 to be effective 4/2/2019.

*Filed Date:* 4/1/19.

*Accession Number:* 20190401–5300.

*Comments Due:* 5 p.m. ET 4/22/19.

*Docket Numbers:* ER19–1496–000.

*Applicants:* AEP Appalachian Transmission Company, Inc., AEP Indiana Michigan Transmission Company, Inc., AEP Kentucky Transmission Company, Inc., AEP Ohio Transmission Company, Inc., AEP West Virginia Transmission Company, Inc., PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: AEP submits revisions to OATT, Att. H–20B Part II re: Depreciation Rate to be effective 1/1/2018.

*Filed Date:* 4/1/19.

*Accession Number:* 20190401–5301.

*Comments Due:* 5 p.m. ET 4/22/19.

*Docket Numbers:* ER19–1497–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: SPS Formula Rate Revisions to Incorporate Changes Accepted in ER18–2319 to be effective 1/1/2019.

*Filed Date:* 4/1/19.

*Accession Number:* 20190401–5313.

*Comments Due:* 5 p.m. ET 4/22/19.

*Docket Numbers:* ER19–1498–000.

*Applicants:* AEP Texas Inc.

*Description:* § 205(d) Rate Filing: AEPTX-Pedernales Electric Cooperative IA First Amend & Restated to be effective 3/13/2019.

*Filed Date:* 4/1/19.

*Accession Number:* 20190401–5397.

*Comments Due:* 5 p.m. ET 4/22/19.

*Docket Numbers:* ER19–1499–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Amendment to ISA, SA No. 3903; Queue No. AC1–021 (amend) to be effective 5/7/2018.

*Filed Date:* 4/1/19.

*Accession Number:* 20190401–5475.

*Comments Due:* 5 p.m. ET 4/22/19.

*Docket Numbers:* ER19–1500–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: First Revised ISA, SA No. 3478; Queue No. A12/X1–108/AD1–037 to be effective 2/28/2019.

*Filed Date:* 4/1/19.

*Accession Number:* 20190401–5504.

*Comments Due:* 5 p.m. ET 4/22/19.

*Docket Numbers:* ER19–1501–000.

*Applicants:* PECO Energy Company, PJM Interconnection, L.L.C.

*Description:* Compliance filing: PJM TOs' submit revisions to OATT, Sch. 12 re: Feb 28 Order in EL15–95 to be effective 4/22/2016.

*Filed Date:* 4/1/19.

*Accession Number:* 20190401–5527.

*Comments Due:* 5 p.m. ET 4/22/19.

Take notice that the Commission received the following qualifying facility filings:

*Docket Numbers:* QF19–1015–000.

*Applicants:* PowerSecure, Inc.

*Description:* Form 556 of PowerSecure, Inc. [Ardagh Peak-shaving].

*Filed Date:* 3/29/19.

*Accession Number:* 20190329–5511.

*Comments Due:* None-Applicable.

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: April 1, 2019.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2019–06721 Filed 4–4–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER19–1474–000]

#### **AES Huntington Beach Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization**

This is a supplemental notice in the above-referenced proceeding of AES Huntington Beach Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 22, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the

eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: April 1, 2019.

**Nathaniel J. Davis, Sr.,**  
*Deputy Secretary.*

[FR Doc. 2019-06724 Filed 4-4-19; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. CP17-495-000; CP17-494-000]

#### **Jordan Cove Energy Project LP, Pacific Connector Gas Pipeline L.P.; Notice of Availability of the Draft Environmental Impact Statement for the Proposed Jordan Cove Energy Project**

The staff of the Federal Energy Regulatory Commission (FERC or Commission) with the participation of the cooperating agencies listed below, has prepared a draft environmental impact statement (EIS) for the Jordan Cove Liquefied Natural Gas Project proposed by Jordan Cove Energy Project LP (Jordan Cove) and the Pacific Connector Gas Pipeline Project proposed by Pacific Connector Gas Pipeline L.P. (Pacific Connector) (collectively referred to as the Jordan Cove Energy Project or Project). Under Section 3 of the Natural Gas Act (NGA), Jordan Cove requests authorization to liquefy at a terminal in Coos Bay, Oregon up to 1.04 billion cubic feet of natural gas per day for export for to overseas markets. Pacific Connector seeks a Certificate of Public Convenience and Necessity under

Section 7 of the NGA to construct and operate an interstate natural gas transmission pipeline providing about 1.2 billion cubic feet per day of natural gas from the Malin hub to the Jordan Cove terminal, crossing portions of Klamath, Jackson, Douglas, and Coos Counties, Oregon.

The draft EIS assesses the potential environmental effects of the construction and operation of the Project in accordance with the requirements of the National Environmental Policy Act (NEPA). As described in the draft EIS, the FERC staff concludes that approval of the Project would result in a number of significant environmental impacts; however, the majority of impacts would be less than significant because of the impact avoidance, minimization, and mitigation measures proposed by Jordan Cove and Pacific Connector and those recommended by staff in the draft EIS.

The United States Department of the Interior Bureau of Land Management (BLM); U.S. Department of Agriculture Forest Service (Forest Service); Bureau of Reclamation (Reclamation); U.S. Department of Energy; U.S. Army Corps of Engineers; U.S. Environmental Protection Agency; U.S. Department of the Interior Fish and Wildlife Service; U.S. Department of Commerce National Oceanic and Atmospheric Administration's National Marine Fisheries Service; U.S. Department of Homeland Security Coast Guard; the Coquille Indian Tribe; and the Pipeline and Hazardous Materials Safety Administration within the U.S. Department of Transportation participated as cooperating agencies in preparation of this EIS. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis. The cooperating agencies provided input into the conclusions and recommendations presented in the draft EIS. Following issuance of the final EIS, the cooperating agencies will issue subsequent decisions, determinations, permits or authorizations for the Project in accordance with each individual agency's regulatory requirements.

The BLM, with the concurrence of the Forest Service and Reclamation, would adopt and use the EIS to consider issuing a right-of-way grant for the portion of the Project on federal lands. Other cooperating agencies would use this EIS in their regulatory process, and to satisfy compliance with NEPA and other related federal environmental laws (e.g., the National Historic Preservation Act).

The BLM and the Forest Service would also use this EIS to evaluate proposed amendments to their District or National Forest land management plans that would make provision for the Pacific Connector pipeline. In order to consider the Pacific Connector right-of-way grant, the BLM must amend the affected Resource Management Plans (RMPs). The BLM therefore proposes to amend the RMPs to re-allocate all lands within the proposed temporary use area and right-of-way to a District-Designated Reserve, with management direction to manage the lands for the purposes of the Pacific Connector right-of-way. Approximately 885 acres would be re-allocated. District-Designated Reserve allocations establish specific management for a specific use or to protect specific values and resources. In accordance with Code of Federal Regulations (CFR) part 36 CFR 219.16, the Forest Service gives notice of its intent to consider amendments of Land and Resource Management Plans (LRMP) for the Umpqua, Rogue River and Winema National Forests. Proposed amendments of LRMPs include reallocation of matrix lands to Late Successional Reserves and site-specific exemptions from standards and guidelines and other LRMP requirements to allow construction of the Pacific Connector pipeline. Exemptions from standards and guidelines include requirements to protect known sites of Survey and Manage species, changes in visual quality objectives at specific locations, limitations on detrimental soil conditions, removal of effective shade at perennial stream crossings and the construction of utility corridors in riparian areas. Further information on Forest Service LRMP amendments is included below.

The Commission mailed a copy of the Notice of Availability of the draft EIS to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Indian Tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the Project area. The draft EIS is only available in electronic format. It may be viewed and downloaded from the FERC's website ([www.ferc.gov](http://www.ferc.gov)), on the Environmental Documents page (<https://www.ferc.gov/industries/gas/enviro/eis.asp>). In addition, the draft EIS may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (<https://www.ferc.gov/docs-filing/elibrary.asp>), click on General Search, and enter the docket

number in the “Docket Number” field, excluding the last three digits (*i.e.*, CP17–494 or CP17–495). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov) or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any person wishing to comment on the draft EIS may do so. Your comments should focus on the draft EIS’s disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. To ensure consideration of your comments on the proposal in the final EIS, it is important that the Commission receive your comments on or before 5:00 p.m. Eastern Time on July 5, 2019.

For your convenience, there are four methods you can use to submit your comments to the Commission.<sup>1</sup> The Commission will provide equal consideration to all comments received, whether filed in written form or provided verbally. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov). Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission’s website ([www.ferc.gov](http://www.ferc.gov)) under the link to *Documents and Filings*. This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission’s website ([www.ferc.gov](http://www.ferc.gov)) under the link to *Documents and Filings*. With *eFiling*, you can provide comments in a variety of formats by attaching them as a file with your submission. New *eFiling* users must first create an account by clicking on “*eRegister*.” If you are filing a comment on a particular project, please select “*Comment on a Filing*” as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the Project docket numbers (CP17–494–000 and CP17–495–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory

Commission, 888 First Street NE, Room 1A, Washington, DC 20426

(4) In lieu of sending written or electronic comments, the Commission invites you to attend a public comment session that will be held in the Project area to receive comments on the draft EIS. The dates, locations, and times of these sessions will be provided in a supplemental notice.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission’s Rules of Practice and Procedures (18 CFR 385.214). Motions to intervene are more fully described at <http://www.ferc.gov/resources/guides/how-to/intervene.asp>. Only intervenors have the right to seek rehearing or judicial review of the Commission’s decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered. Subsequent decisions, determination, permits, and authorization by the cooperating agencies are subject to the administrative procedures of each respective agency.

#### Questions?

Additional information about the Project is available from the Commission’s Office of External Affairs, at (866) 208–FERC, or on the FERC website ([www.ferc.gov](http://www.ferc.gov)) using the *eLibrary* link. The *eLibrary* link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called *eSubscription* that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to [www.ferc.gov/docs-filing/esubscription.asp](http://www.ferc.gov/docs-filing/esubscription.asp).

Dated: March 29, 2019.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2019–06715 Filed 4–4–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP19–112–000]

#### Tennessee Gas Pipeline Company, L.L.C.; Notice of Request Under Blanket Authorization

Take notice that on March 20, 2019, Tennessee Gas Pipeline Company, L.L.C. (Tennessee Gas), 1001 Louisiana Street, Houston, Texas 77002, filed in Docket No. CP19–112–000 a prior notice request pursuant to sections 157.203, 157.205, and 157.216 of the Commission’s regulations under the Natural Gas Act for authorization to abandon one inactive supply lateral designated as Line No. 520A–100 (Supply Lateral) and associated meter, platforms, and appurtenances located in Terrebonne Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at <http://www.ferc.gov> using the “*eLibrary*” link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Ben J. Carranza, Director, Regulatory, Tennessee Gas Pipeline Company, L.L.C., 1001 Louisiana Street, Houston, Texas 77002, at (713) 420–5535 or at [Ben\\_Carranza@kindermorgan.com](mailto:Ben_Carranza@kindermorgan.com).

Specifically, Tennessee Gas proposes to abandon Line No. 520A–100, a 10.77-mile-long Supply Lateral in Terrebonne Parish, which is located approximately 3.3 miles southeast of Amelia, Louisiana. Also, a non-company owned meter designated as Meter NO, 01–2843, two associated platforms, and appurtenances are proposed to be abandoned, all located in Terrebonne Parish, Louisiana.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission’s Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission’s staff may, pursuant to section 157.205 of the Commission’s Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the

<sup>1</sup> The contents of your comment including your address, phone number, email address, or other personal identifying information may be made available to the public. While you may request that your personal identifying information be withheld from public view, we cannot guarantee that we will be able to do so.

time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenter will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's website ([www.ferc.gov](http://www.ferc.gov)) under the "e-Filing" link. 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.

Dated: April 1, 2019.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2019-06717 Filed 4-4-19; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EL19-58-000]

#### PJM Interconnection, L.L.C.; Notice of Filing

Take notice that on March 29, 2019, PJM Interconnection, L.L.C. (PJM), pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, filed proposed revisions to the Amended and Restated Operating Agreement of PJM (Operating Agreement) to effectuate enhanced price formation in PJM's reserve markets.

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 online 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](mailto: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 May 15, 2019.

Dated: April 1, 2019.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2019-06716 Filed 4-4-19; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

#### Filings Instituting Proceedings

*Docket Number:* PR19-52-000.

*Applicants:* SCOOP Express, LLC.

*Description:* Tariff filing per 284.123(b),(e)+(g): SCOOP Express revised SOC 3-18-19 to be effective 2/28/2019.

*Filed Date:* 3/26/19.

*Accession Number:* 201903265177.

*Comments Due:* 5 p.m. ET 4/16/19.

284.123(g) Protests Due: 5 p.m. ET 5/28/19.

*Docket Numbers:* RP18-1113-001.

*Applicants:* MoGas Pipeline LLC.

*Description:* Compliance filing MoGas RP18-1113 Compliance Filing to Provide Corrected Tariff Record to be effective 12/1/2018.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328-5218.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19-934-000.

*Applicants:* NEXUS Gas

Transmission, LLC.

*Description:* § 4(d) Rate Filing: Negotiated Rate—EAP 860161 to DTE 960203 eff 4-1-19 to be effective 4/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328-5048.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19-935-000.

*Applicants:* Florida Gas Transmission Company, LLC.

*Description:* Compliance filing NAESB Version 3.1 Compliance to be effective 8/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328-5054.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19-936-000.

*Applicants:* Panhandle Eastern Pipe Line Company, LP.

*Description:* Compliance filing NAESB Version 3.1 Compliance to be effective 8/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328-5055.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19-937-000.

*Applicants:* Trunkline Gas Company, LLC.

*Description:* Compliance filing NAESB Version 3.1 Compliance to be effective 8/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5056.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–938–000.

*Applicants:* Southwest Gas Storage Company.

*Description:* Compliance filing NAESB Version 3.1 Compliance to be effective 8/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5057.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–939–000.

*Applicants:* Texas Eastern Transmission, LP.

*Description:* § 4(d) Rate Filing: Negotiated Rate—MC Global 911524 to Tenaska 8956869 eff 4–1–19 to be effective 4/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5063.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–940–000.

*Applicants:* Golden Triangle Storage, Inc.

*Description:* Compliance filing Proposed Revisions to FERC Gas Tariff to Comply With Order No. 587–Y to be effective 8/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5073.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–941–000.

*Applicants:* Gas Transmission Northwest LLC.

*Description:* Compliance filing Compliance to Docket No. RM96–1–041 to be effective 8/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5085.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–942–000.

*Applicants:* El Paso Natural Gas Company, L.L.C.

*Description:* § 4(d) Rate Filing: Nonconforming Letter Agreement Filing to be effective 5/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5092.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–943–000.

*Applicants:* Stagecoach Pipeline & Storage Company LLC.

*Description:* Compliance filing Stagecoach Pipeline & Storage Company LLC—Order No. 587–Y Compliance Filing to be effective 8/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5093.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–944–000.

*Applicants:* Tres Palacios Gas Storage LLC.

*Description:* Compliance filing Tres Palacios Gas Storage LLC—Order No. 587–Y Compliance Filing to be effective 8/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5096.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–945–000.

*Applicants:* Pine Needle LNG Company, LLC.

*Description:* § 4(d) Rate Filing: 2019 Annual Fuel and Electric Power Tracker Filing to be effective 5/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5098.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–946–000.

*Applicants:* Arlington Storage Company, LLC.

*Description:* Compliance filing Arlington Storage Company, LLC—Order No. 587–Y Compliance Filing to be effective 8/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5099.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–947–000.

*Applicants:* Natural Gas Pipeline Company of America.

*Description:* § 4(d) Rate Filing: Amendment to Negotiated Rate Agreement—Spire Marketing to be effective 4/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5101.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–948–000.

*Applicants:* Natural Gas Pipeline Company of America.

*Description:* § 4(d) Rate Filing: Amendment to Negotiated Rate Agreement—Macquarie to be effective 4/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5102.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–949–000.

*Applicants:* Algonquin Gas Transmission, LLC.

*Description:* § 4(d) Rate Filing: Negotiated Rate—Boston 510798 to BBPC 798914 eff 4–1–19 to be effective 4/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5111.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–950–000.

*Applicants:* Great Lakes Gas Transmission Limited Partnership.

*Description:* Compliance filing Compliance to Docket No. RM96–1–041 to be effective 8/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5155.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–951–000.

*Applicants:* Northwest Pipeline LLC.

*Description:* Compliance filing NAESB 3.1 Compliance Filing to be effective 8/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5159.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–952–000.

*Applicants:* LA Storage, LLC.

*Description:* Compliance filing LA Storage, LLC Compliance Filing per FERC Order 587–Y NAESB 3.1 to be effective 8/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5160.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–953–000.

*Applicants:* NEXUS Gas Transmission, LLC.

*Description:* § 4(d) Rate Filing: Negotiated Rates—Columbia 860005 Releases eff 4–1–2019 to be effective 4/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5175.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–954–000.

*Applicants:* Cameron Interstate Pipeline, LLC.

*Description:* Compliance filing Cameron Interstate Pipeline, LLC Compliance Filing—FERC Order 587–Y NAESB 3.1 to be effective 8/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5178.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–955–000.

*Applicants:* Texas Eastern Transmission, LP.

*Description:* § 4(d) Rate Filing: Negotiated Rate—Gulfport 911377 to Eco-Energy 8956870 eff 4–1–19 to be effective 4/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5180.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–956–000.

*Applicants:* North Baja Pipeline, LLC.

*Description:* Compliance filing Compliance to Docket No. RM96–1–041 to be effective 8/1/2019.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5181.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–957–000.

*Applicants:* MoGas Pipeline LLC.

*Description:* § 4(d) Rate Filing: MoGas RP18–1113 Compliance Filing to Provide Corrected Tariff Record to be effective 12/1/2018.

*Filed Date:* 3/28/19.

*Accession Number:* 20190328–5182.

*Comments Due:* 5 p.m. ET 4/9/19.

*Docket Numbers:* RP19–958–000.

*Applicants:* Tuscarora Gas Transmission Company.

*Description:* Compliance filing Compliance to Docket No. RM96–1–041 to be effective 8/1/2019.

*Filed Date:* 3/28/19.  
*Accession Number:* 20190328–5188.  
*Comments Due:* 5 p.m. ET 4/9/19.  
*Docket Numbers:* RP19–959–000.  
*Applicants:* Portland Natural Gas Transmission System.  
*Description:* Compliance filing Compliance to Docket No. RM96–1–041 to be effective 8/1/2019.  
*Filed Date:* 3/28/19.  
*Accession Number:* 20190328–5252.  
*Comments Due:* 5 p.m. ET 4/9/19.  
*Docket Numbers:* RP19–960–000.  
*Applicants:* Algonquin Gas Transmission, LLC.  
*Description:* § 4(d) Rate Filing: Negotiated Rates—Brooklyn 797626 releases eff 4–1–19 to be effective 4/1/2019.  
*Filed Date:* 3/28/19.  
*Accession Number:* 20190328–5278.  
*Comments Due:* 5 p.m. ET 4/9/19.  
*Docket Numbers:* RP19–961–000.  
*Applicants:* Transcontinental Gas Pipe Line Company, LLC.  
*Description:* § 4(d) Rate Filing: Non-Conforming—Turnback—Con Ed, GRID to be effective 5/1/2019.  
*Filed Date:* 3/28/19.  
*Accession Number:* 20190328–5279.  
*Comments Due:* 5 p.m. ET 4/9/19.  
*Docket Numbers:* RP19–962–000.  
*Applicants:* Hardy Storage Company, LLC.  
*Description:* Compliance filing Compliance to Docket No. RM96–1–041 to be effective 8/1/2019.  
*Filed Date:* 3/28/19.  
*Accession Number:* 20190328–5280.  
*Comments Due:* 5 p.m. ET 4/9/19.  
*Docket Numbers:* RP19–963–000.  
*Applicants:* Sabine Pipe Line LLC.  
*Description:* Compliance filing Request for Continuation of Extension to be effective 8/1/2019.  
*Filed Date:* 3/28/19.  
*Accession Number:* 20190328–5281.  
*Comments Due:* 5 p.m. ET 4/9/19.  
*Docket Numbers:* RP19–964–000.  
*Applicants:* Chandeleur Pipe Line, LLC.  
*Description:* Compliance filing Request for Continuation of Extension to be effective 8/1/2019.  
*Filed Date:* 3/28/19.  
*Accession Number:* 20190328–5283.  
*Comments Due:* 5 p.m. ET 4/9/19.  
*Docket Numbers:* RP19–965–000.  
*Applicants:* Equitrans, L.P.  
*Description:* § 4(d) Rate Filing: Negotiated Rate Service Agreements—04012019 LPS to be effective 4/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5005.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–966–000.  
*Applicants:* Iroquois Gas Transmission System, L.P.

*Description:* § 4(d) Rate Filing: 032919 Negotiated Rates—Wells Fargo Commodities, LLC R–7810–15 to be effective 4/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5023.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–967–000.  
*Applicants:* Midwestern Gas Transmission Company.  
*Description:* Compliance filing NAESB 3.1 Compliance Filing to be effective 8/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5031.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–968–000.  
*Applicants:* Equitrans, L.P.  
*Description:* § 4(d) Rate Filing: Negotiated Retainage Agreements to be effective 4/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5036.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–969–000.  
*Applicants:* Dominion Energy Carolina Gas Transmission.  
*Description:* Compliance filing DECG—NAESB Version 3.1 Compliance to be effective 8/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5037.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–970–000.  
*Applicants:* Iroquois Gas Transmission System, L.P.  
*Description:* § 4(d) Rate Filing: 032919 Negotiated Rates—Wells Fargo Commodities, LLC R–7810–14 to be effective 4/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5039.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–971–000.  
*Applicants:* Dauphin Island Gathering Partners.  
*Description:* § 4(d) Rate Filing: Negotiated Rate Filing 3–29–2019 to be effective 4/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5042.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–972–000.  
*Applicants:* Iroquois Gas Transmission System, L.P.  
*Description:* § 4(d) Rate Filing: 032919 Negotiated Rates—Twin Eagle Resource Management, LLC R–7300–11 to be effective 4/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5045.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–973–000.  
*Applicants:* Iroquois Gas Transmission System, L.P.  
*Description:* § 4(d) Rate Filing: 032919 Negotiated Rates—Twin Eagle Resource

Management, LLC R–7300–12 to be effective 4/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5055.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–974–000.  
*Applicants:* Iroquois Gas Transmission System, L.P.  
*Description:* § 4(d) Rate Filing: 032919 Negotiated Rates—Twin Eagle Resource Management, LLC R–7300–13 to be effective 4/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5065.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–975–000.  
*Applicants:* Equitrans, L.P.  
*Description:* § 4(d) Rate Filing: Update Initial Retainage Rate 4–1–2019 to be effective 4/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5067.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–976–000.  
*Applicants:* Tennessee Gas Pipeline Company, L.L.C.  
*Description:* Compliance filing NAESB Version 3.1 Compliance Filing Pursuant to Order No. 587–Y to be effective 8/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5084.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–977–000.  
*Applicants:* OkTex Pipeline Company, L.L.C.  
*Description:* Compliance filing NAESB 3.1 Compliance Filing to be effective 8/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5085.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–978–000.  
*Applicants:* Viking Gas Transmission Company.  
*Description:* Compliance filing NAESB 3.1 Compliance Filing to be effective 8/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5086.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–979–000.  
*Applicants:* Horizon Pipeline Company, L.L.C.  
*Description:* Compliance filing Compliance Filing Pursuant to Order No. 587–Y to be effective 8/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5088.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–980–000.  
*Applicants:* Natural Gas Pipeline Company of America.  
*Description:* Compliance filing Compliance Filing Pursuant to Order No 587–Y to be effective 8/1/2019.  
*Filed Date:* 3/29/19.

- Accession Number:* 20190329–5089.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–981–000.  
*Applicants:* Millennium Pipeline Company, LLC.  
*Description:* § 4(d) Rate Filing; New Recurrence Interval Filing to be effective 4/29/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5090.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–982–000.  
*Applicants:* Central Kentucky Transmission Company.  
*Description:* Compliance filing Compliance to Docket No. RM96–1–041 to be effective 8/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5095.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–983–000.  
*Applicants:* Transcontinental Gas Pipe Line Company, LLC.  
*Description:* § 4(d) Rate Filing; Negotiated Rates—Cherokee AGL—Replacement Shippers—Apr 2019 to be effective 4/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5100.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–984–000.  
*Applicants:* Colorado Interstate Gas Company, L.L.C.  
*Description:* Compliance filing Order No. 587–Y Compliance Filing to be effective 8/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5124.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–985–000.  
*Applicants:* Wyoming Interstate Company, L.L.C..  
*Description:* Compliance filing Order No. 587–Y Compliance Filing to be effective 8/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5125.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–986–000.  
*Applicants:* Gulf South Pipeline Company, LP.  
*Description:* § 4(d) Rate Filing; Amendment to Neg Rate Agmt & Cap Rel Neg Rate Agmts (FPL 41618 and 41619) to be effective 4/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5127.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–987–000.  
*Applicants:* East Tennessee Natural Gas, LLC.  
*Description:* East Tennessee Natural Gas, LLC submits the 2017–2018 Cashout Report under RP19–987.  
*Filed Date:* 3/28/19.  
*Accession Number:* 20190328–5316.  
*Comments Due:* 5 p.m. ET 4/9/19.
- Docket Numbers:* RP19–988–000.  
*Applicants:* Gulf South Pipeline Company, LP.  
*Description:* § 4(d) Rate Filing; Cap Rel Neg Rate Agmt (Atmos 45527 to Trans LA 50890) to be effective 4/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5128.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–989–000.  
*Applicants:* DTE Midstream Appalachia, LLC.  
*Description:* Annual Fuel Lost and Unaccounted Adjustment Report of DTE Midstream Appalachia, LLC under RP19–989.  
*Filed Date:* 3/28/19.  
*Accession Number:* 20190328–5317.  
*Comments Due:* 5 p.m. ET 4/9/19.  
*Docket Numbers:* RP19–990–000.  
*Applicants:* Cheyenne Plains Gas Pipeline Company, L.L.C.  
*Description:* Compliance filing Order No. 587–Y Compliance Filing to be effective 8/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5129.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–991–000.  
*Applicants:* Gulf South Pipeline Company, LP.  
*Description:* § 4(d) Rate Filing; Cap Rel Neg Rate Agmts (Atlanta Gas 8438 to various eff 4–1–2019) to be effective 4/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5130.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–992–000.  
*Applicants:* Texas Gas Transmission, LLC.  
*Description:* § 4(d) Rate Filing; Non-conforming Neg Rate Agmts (CCI 35829 and Castleton 37650) to be effective 4/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5131.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–993–000.  
*Applicants:* Texas Gas Transmission, LLC.  
*Description:* § 4(d) Rate Filing; Cap Rel Neg Rate Agmt (JERA 37702 to EDF 37859) to be effective 4/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5132.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–994–000.  
*Applicants:* Young Gas Storage Company, Ltd.  
*Description:* Compliance filing Order No. 587–Y Compliance Filing to be effective 8/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5133.  
*Comments Due:* 5 p.m. ET 4/10/19.
- Docket Numbers:* RP19–995–000.  
*Applicants:* Texas Gas Transmission, LLC.  
*Description:* § 4(d) Rate Filing; Cap Rel Neg Rate Agmt (EM Energy OH 35451 to CIMA 37863) to be effective 4/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5138.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–996–000.  
*Applicants:* Apache Corporation, Red Wolf Acquisitions, LLC.  
*Description:* Joint Petition for Temporary Waiver of Commission Policies, et al. of Apache Corporation, et al. under RP19–996..  
*Filed Date:* 3/28/19.  
*Accession Number:* 20190328–5320.  
*Comments Due:* 5 p.m. ET 4/5/19.  
*Docket Numbers:* RP19–997–000.  
*Applicants:* MoGas Pipeline LLC.  
*Description:* Compliance filing MoGas NAESB Compliance Filing with Order No. 587–Y to be effective 8/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5188.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–998–000.  
*Applicants:* Rover Pipeline LLC.  
*Description:* § 4(d) Rate Filing; Summary of Negotiated Rate Capacity Release Agreements on 3–29–19 to be effective 4/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5191.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–999–000.  
*Applicants:* Rockies Express Pipeline LLC.  
*Description:* § 4(d) Rate Filing; Neg Rate 2019–03–29 BHS (4) to be effective 4/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5192.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–1000–000.  
*Applicants:* Trailblazer Pipeline Company LLC.  
*Description:* § 4(d) Rate Filing; Neg Rate 2019–03–29 Koch, Morgan Stanley, Northwestern and CIMA to be effective 4/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5193.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–1001–000.  
*Applicants:* East Tennessee Natural Gas, LLC.  
*Description:* § 4(d) Rate Filing; ETNG—Wacker 410453 Release to Infinite Energy 661906 to be effective 4/1/2019.  
*Filed Date:* 3/29/19.  
*Accession Number:* 20190329–5194.  
*Comments Due:* 5 p.m. ET 4/10/19.  
*Docket Numbers:* RP19–1002–000.

*Applicants:* Crossroads Pipeline Company.

*Description:* Compliance filing Compliance to Docket No. RM96-1-041 to be effective 8/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5195.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1003-000.

*Applicants:* Rockies Express Pipeline LLC.

*Description:* § 4(d) Rate Filing; Neg Rate 2019-03-29 CP to be effective 4/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5196.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1004-000.

*Applicants:* Dominion Energy Transmission, Inc.

*Description:* Compliance filing DETI—NAESB Version 3.1 Compliance to be effective 8/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5197.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1005-000.

*Applicants:* Guardian Pipeline, L.L.C..

*Description:* Compliance filing NAESB 3.1 Compliance Filing to be effective 8/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5199.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1006-000.

*Applicants:* Dominion Energy Cove Point LNG, LP.

*Description:* Compliance filing DECP—2019 NAESB Version 3.1 Compliance to be effective 8/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5201.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1007-000.

*Applicants:* Tallgrass Interstate Gas Transmission, LLC.

*Description:* § 4(d) Rate Filing; Neg Rate 2019-03-29 CMC-2 (2) to be effective 4/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5210.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1008-000.

*Applicants:* ANR Storage Company.

*Description:* § 4(d) Rate Filing; Seller's Use—Fuel Filing 2019 to be effective 5/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5246.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1009-000.

*Applicants:* Algonquin Gas Transmission, LLC.

*Description:* § 4(d) Rate Filing; Negotiated Rates—ConEd 510371 releases eff 4-1-19 to be effective 4/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5259.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1010-000.

*Applicants:* Northern Natural Gas Company.

*Description:* § 4(d) Rate Filing; 20190329 Negotiated Rate Filing to be effective 4/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5264.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1011-000.

*Applicants:* Paiute Pipeline Company.

*Description:* Compliance filing Compliance Filing to Docket No. RM96-1-041 to be effective 8/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5270.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1012-000.

*Applicants:* Algonquin Gas Transmission, LLC.

*Description:* § 4(d) Rate Filing; Negotiated Rates—Keyspan 510369 releases eff 4-01-19 to be effective 4/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5274.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1013-000.

*Applicants:* Texas Eastern Transmission, LP.

*Description:* § 4(d) Rate Filing; Gulf Markets NCF Agreement—Mitsui Contract 911329 to be effective 4/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5295.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1014-000.

*Applicants:* Southern Star Central Gas Pipeline, Inc.

*Description:* Compliance filing NAESB 3.1 to be effective 8/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5301.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1015-000.

*Applicants:* Columbia Gas Transmission, LLC.

*Description:* Compliance filing Compliance to Docket No. RM96-1-041 to be effective 8/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5307.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1016-000.

*Applicants:* Kinder Morgan Louisiana Pipeline LLC.

*Description:* Compliance filing NAESB Compliance Filing to be effective 8/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5387.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1017-000.

*Applicants:* Kinder Morgan Illinois Pipeline LLC.

*Description:* Compliance filing Order No. 587-Y Compliance Filing to be effective 8/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5390.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1018-000.

*Applicants:* Columbia Gulf Transmission, LLC.

*Description:* Compliance filing Compliance to Docket No. RM96-1-041 to be effective 8/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5406.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1019-000.

*Applicants:* Texas Eastern Transmission, LP.

*Description:* § 4(d) Rate Filing; NJNY Perm Releases to ConEd—NCF and NegRates to be effective 4/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5408.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1020-000.

*Applicants:* Rockies Express Pipeline LLC.

*Description:* § 4(d) Rate Filing; Neg Rate 2019-03-29 E2W (9) to be effective 4/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5412.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1021-000.

*Applicants:* Tennessee Gas Pipeline Company, L.L.C.

*Description:* § 4(d) Rate Filing; Volume No.2—Neg Rate Agmt—Merc. SP343265, Spotl. SP344150 and Macq. SP345949 to be effective 4/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5417.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1022-000.

*Applicants:* Tennessee Gas Pipeline Company, L.L.C.

*Description:* § 4(d) Rate Filing; Volume No.2—Neg Rate Agmt—ConEd SP345982 and Direct Energy SP346759 to be effective 4/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5438.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1024-000.

*Applicants:* Alliance Canada Marketing L.P., CPV Three Rivers, LLC.

*Description:* Joint Petition for Limited Waivers of Capacity Release Regulations and Tariff Provisions of Canada Marketing L.P., et al. under RP19-1024.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329-5457.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19-1025-000.

*Applicants:* Natural Gas Pipeline Company of America.

*Description:* Penalty Revenue Crediting Report of Natural Gas Pipeline Company of America LLC under RP19–1025.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329–5458.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19–1026–000.

*Applicants:* Horizon Pipeline Company, L.L.C.

*Description:* Penalty Revenue Crediting Report of Horizon Pipeline Company, L.L.C. under RP19–1026.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329–5459.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19–1027–000.

*Applicants:* Iroquois Gas Transmission System, L.P.

*Description:* Annual Fuel and Losses Retention Calculations of Iroquois Gas Transmission System, L.P. under RP19–1027.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329–5460.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19–1028–000.

*Applicants:* Kern River Gas Transmission Company.

*Description:* Annual Gas Compressor Fuel Report of Kern River Gas Transmission Company under RP19–1028.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329–5461.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19–581–001.

*Applicants:* Rager Mountain Storage Company LLC.

*Description:* Compliance filing Compliance Filing—Order No. 587–Y to be effective 8/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329–5007.

*Comments Due:* 5 p.m. ET 4/10/19.

*Docket Numbers:* RP19–582–001.

*Applicants:* Equitrans, L.P.

*Description:* Compliance filing Compliance Filing—Order No. 587–Y to be effective 8/1/2019.

*Filed Date:* 3/29/19.

*Accession Number:* 20190329–5006.

*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 date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 1, 2019.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2019–06722 Filed 4–4–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER19–1473–000]

#### **AES Alamos Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization**

This is a supplemental notice in the above-referenced proceeding of AES Alamos Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 22, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies

of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov). or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 1, 2019.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2019–06723 Filed 4–4–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 14957–000]

#### **Oceanus Power & Water, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications**

On December 27, 2018, Oceanus Power & Water, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Integrated Pumped Hydroelectric Reverse Osmosis Clean Energy System at the Marine Corps Base Camp Pendleton (IPHROCES at Camp Pendleton Project or project) to be located on coast of the Pacific Ocean, near Marine Corp Base Camp Pendleton, San Clemente, San Diego County, California. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A rock-fill dam (dimensions and position to be determined based energy and water storage volume requirements under the permit term, if issued); (2) a upper

reservoir having a total storage capacity of 9,990 acre-feet at a normal maximum operating elevation of 1,230 feet mean sea level (msl); (3) four 9,000-foot-long, 11-foot-diameter penstocks running above ground between the upper reservoir and the powerhouse; (4) an underground powerhouse with approximate footprint of 0.8-acre and containing four variable speed reversible Francis reversible pump/turbine-motor/generator units rated for 75 megawatts each at 1,230 feet of gross head; (5) a 50-foot-high seawater reverse osmosis desalination facility with an approximate footprint of 30-acres located approximately 325-feet from the powerhouse; (6) four 11-foot-diameter tailrace pipelines, each with six 65-foot-long, 11-foot-diameter Johnson screens, extending from the powerhouse to the intake/outlet structure; (7) a seawater intake/outlet structure located in the Pacific Ocean; (8) a brine concentrate storage lagoon to store brine concentrate during times when the project is inoperable or in pumping mode; (9) a 2.5-mile-long, transmission line extending from the project to the existing San Onofre substation (the point of interconnection), the number of circuits, voltage, and configuration to be determined during the term of the permit, if issued; and (10) appurtenant facilities. The lower reservoir for the proposed project would be the Pacific Ocean. The estimated annual generation of the IPHROCES at Camp Pendleton Project would be 830 gigawatt-hours.

*Applicant Contact:* Mr. Neal Aronson, Director, President/CEO, Oceanus Power & Water, LLC, 900 High Street, Palo Alto, California 94301; phone: (650) 380-3323.

*FERC Contact:* Kelly Wolcott; phone: (202) 502-6480.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866)

208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P-14957-000.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's website at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-14957) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: March 29, 2019.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2019-06719 Filed 4-4-19; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP18-548-000]

#### Notice of Availability of the Environmental Assessment for the Proposed Del-Mar Energy Pathway Project: Eastern Shore Natural Gas Company

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Del-Mar Energy Pathway Project, proposed by Eastern Shore Natural Gas Company (Eastern Shore) in the above-referenced docket. Eastern Shore requests authorization to construct and operate new natural gas pipelines and meter and delivery (M&R) stations in Kent and Sussex Counties, Delaware, and Wicomico and Somerset Counties, Maryland.

The EA assesses the potential environmental effects of the construction and operation of the Del-Mar Energy Pathway Project in accordance with the requirements of the National Environmental Policy Act. The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The proposed Del-Mar Energy Pathway Project includes the following new facilities:

#### Woodside Loop:<sup>1</sup> Kent County, Delaware

- 4.9 miles of 16-inch-diameter pipeline looping its existing pipeline.

#### East Sussex Extension: Sussex County, Delaware

- 7.39 miles of 8-inch-diameter mainline extension to the Eastern Shore's existing Milford Line;
  - one aboveground pig launcher and one receiver,<sup>2</sup> and aboveground mainline valve; and
  - one delivery M&R station at the East Sussex Extension terminus.

#### Millsboro Pressure Control Station Upgrade: Millsboro, Sussex County, Delaware

- 0.35 mile of 10-inch-diameter pipeline extension between the existing Millsboro Pressure Control Station and the existing Milford Line; and
  - a dual run pressure control addition to the existing Millsboro Pressure Control Station with modifications to the existing piping, valves, and associated electronic transmitters.

#### Somerset Extension: Wicomico and Somerset Counties, Maryland

- 6.83 miles of 10-inch-diameter pipeline extension to the Eastern Shore's existing Parkesburg Line;
  - one aboveground pig launcher and one receiver, and aboveground mainline valve; and
  - one delivery M&R station at the Somerset Extension terminus.

The Commission mailed a copy of the *Notice of Availability* to federal, state, and local government representatives and agencies; elected officials; Native American tribes; potentially affected landowners and other interested individuals and groups, including commenters; and newspapers and libraries in the project area. The EA is only available in electronic format. It may be viewed and downloaded from FERC's website ([www.ferc.gov](http://www.ferc.gov)), on the Environmental Documents page (<https://www.ferc.gov/industries/gas/enviro/eis.asp>). In addition, the EA may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (<https://www.ferc.gov/docs-filing/elibrary.asp>), click on General Search, and enter the docket number in the "Docket Number" field, excluding the last three digits (*i.e.* CP18-548). Be sure you have selected an appropriate date range. For

<sup>1</sup> A pipeline loop is a segment of pipe constructed parallel to an existing pipeline to increase capacity.

<sup>2</sup>A "pig" is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

assistance, please contact FERC Online Support at [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov) or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659.

Any person wishing to comment on the EA may do so. Your comments should focus on the EA's disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before 5:00 p.m. Eastern Time on May 1, 2019.

For your convenience, there are three methods you can use to file your comments with the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208-3676 or [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov). Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature located on the Commission's website ([www.ferc.gov](http://www.ferc.gov)) under the link to *Documents and Filings*. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the *eFiling* feature on the Commission's website ([www.ferc.gov](http://www.ferc.gov)) under the link to *Documents and Filings*. With *eFiling*, you can provide comments in a variety of formats by attaching them as a file with your submission. New *eFiling* users must first create an account by clicking on "*eRegister*." You must select the type of filing you are making. If you are filing a comment on a particular project, please select "Comment on a Filing"; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP18-548-000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 Code of Federal Regulations [CFR] 385.214). Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. The Commission may grant affected

landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208-FERC, or on the FERC website ([www.ferc.gov](http://www.ferc.gov)) using the eLibrary link. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called *eSubscription* which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to [www.ferc.gov/docs-filing/esubscription.asp](http://www.ferc.gov/docs-filing/esubscription.asp).

Dated: April 1, 2019.

**Kimberly D. Bose,**  
*Secretary.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9991-81-OW]

### Notice of Funding Availability (NOFA) for Applications for Credit Assistance Under the Water Infrastructure Finance and Innovation Act (WIFIA) Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of funding availability.

**SUMMARY:** In the Consolidated Appropriations Act, 2019, signed by the President on February 15, 2019, Congress provided \$60 million in budget authority for the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA) program to cover the subsidy required to provide a much larger amount of credit assistance. The Environmental Protection Agency (EPA or the Agency) estimates that this budget authority may provide approximately \$6 billion in credit assistance and may finance approximately \$12 billion in water infrastructure investment, while covering increased costs associated with

implementing a larger program. The purpose of this notice of funding availability (NOFA) is to solicit letters of interest (LOIs) from prospective borrowers seeking credit assistance from the EPA.

The EPA will evaluate and select proposed projects described in the LOIs using the selection criteria established in statute and regulation, and further described in this NOFA as well as the WIFIA program handbook. This NOFA establishes relative weights that will be used in the current LOI submittal period for the selection criteria and outlines the process that prospective borrowers should follow to be considered for WIFIA credit assistance.

In addition, the EPA reserves the right to make additional awards under this announcement, consistent with Agency policy and guidance, if additional funding is available after the original selections are made.

**DATES:** The LOI submittal period will begin on April 5, 2019 and end at 11:59 p.m. EDT on July 5, 2019.

**ADDRESSES:** Prospective borrowers should submit all LOIs electronically via email at: [wifia@epa.gov](mailto:wifia@epa.gov) or via EPA's SharePoint site. To be granted access to the SharePoint site, prospective borrowers should contact [wifia@epa.gov](mailto:wifia@epa.gov) and request a link to the SharePoint site, where they can securely upload their LOIs. Requests to upload documents should be made no later than 5:00 p.m. EDT on July 1, 2019.

The EPA will notify prospective borrowers that their LOI has been received via a confirmation email.

Prospective borrowers can access additional information, including the WIFIA program handbook and application materials, on the WIFIA website: <https://www.epa.gov/wifia/>.

**SUPPLEMENTARY INFORMATION:** For a project to be considered during a selection round, the EPA must receive a LOI, via email or SharePoint, before the corresponding deadline listed above. The EPA is only able to accept emails of 25 MB or smaller with unzipped attachments (the EPA cannot accept zipped files). If necessary due to size restrictions, prospective borrowers may submit attachments separately, as long as they are received by the deadline.

When writing a LOI, prospective borrowers are encouraged to fill out the WIFIA LOI form and follow the guidelines contained on the WIFIA program website: <https://www.epa.gov/wifia/how-apply-wifia-assistance-0#materials>. Prospective borrowers should provide the LOI and any attachments as Microsoft Word documents or searchable PDF files,

whenever possible, to facilitate the EPA's review. Additionally, prospective borrowers should ensure that financial information, including the pro forma financial statement, is in a formula-based Microsoft Excel document. Section V of this NOFA provides additional details on the LOI's content.

The EPA will invite each prospective borrower whose project proposal is selected for continuation in the process to submit a final application. Final applications should be received by the EPA within 365 days of the invitation to apply.

The EPA will host a series of in-person sessions and webinars to provide further information about submitting a LOI. The in-person sessions and webinar schedule and registration directions can be found on the WIFIA program website: [www.epa.gov/wifia](http://www.epa.gov/wifia).

Prospective borrowers with questions about the program or interest in meeting with the WIFIA program staff may send a request to [wifia@epa.gov](mailto:wifia@epa.gov). The EPA will meet with all prospective borrowers interested in discussing the program, but only prior to submission of a LOI.

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### I. Background

Congress enacted WIFIA as part of the Water Resources Reform and Development Act of 2014 (WRRDA). Codified at 33 U.S.C. 3901–3914, WIFIA authorizes a federal credit program for water infrastructure projects to be administered by the EPA. WIFIA authorizes the EPA to provide federal credit assistance in the form of secured (direct) loans or loan guarantees for eligible water infrastructure projects.

The WIFIA program's mission is to accelerate investment in our nation's water and wastewater infrastructure by providing long-term, low-cost, supplemental credit assistance under customized terms to creditworthy drinking water and wastewater infrastructure projects of national and regional significance.

### II. Program Funding

Congress appropriated \$60 million in funding to cover the subsidy cost of providing WIFIA credit assistance. The subsidy cost covers the Federal government's risk that the loan may not be paid back. The EPA anticipates that the average subsidy cost for WIFIA-funded projects will be relatively low;

therefore, this funding can be leveraged into a much larger amount of credit assistance. The EPA estimates that this appropriation will allow the Agency to provide approximately \$6 billion<sup>1</sup> in long-term, low-cost financing to water and wastewater projects and accelerate approximately \$12 billion in infrastructure investment around the country.

Recognizing the need that exists in both small and large communities to invest in infrastructure, Congress stipulated in statute that the EPA set aside 15 percent of the budget authority appropriated each year for small communities, defined as systems that serve a population of less than 25,000. Of the funds set aside, any amount not obligated by June 1 of the fiscal year for which budget authority is set aside may be used for any size community. Regardless of whether the EPA obligates these funds by June 1 of the fiscal year for which budget authority is set aside, the EPA will endeavor to use 15 percent of its budget authority for small communities.

In addition to assisting both large and small projects and communities, WIFIA may be an attractive borrowing mechanism for a variety of different borrower and credit types. The EPA anticipates that municipalities, private entities, project financings, State Revolving Fund programs, and tribes will benefit from the low cost and debt structuring flexibilities that the WIFIA loans can offer.

### III. Eligibility Requirements

The WIFIA statute and implementing rules set forth eligibility requirements for prospective borrowers, projects, and project costs. The requirements outlined below are described in greater detail in the WIFIA program handbook.

#### A. Eligible Applicants

Prospective borrowers must be one of the following in order to be eligible for WIFIA credit assistance:

- (i) A corporation;
- (ii) A partnership;
- (iii) A joint venture;
- (iv) A trust;
- (v) A federal, state, or local governmental entity, agency, or instrumentality;
- (vi) A tribal government or a consortium of tribal governments; or

<sup>1</sup> This estimated loan volume is provided for reference only. Consistent with the Federal Credit Reform Act of 1990 and the requirements of the Office of Management and Budget, the actual subsidy cost of providing credit assistance is based on individual project characteristics and calculated on a project-by-project basis. Thus, actual lending capacity may vary.

(vii) A state infrastructure financing authority.

#### B. Eligible Projects

The WIFIA statute authorizes the EPA to provide credit assistance for a wide variety of projects. Projects must be one of the following in order to be eligible for WIFIA credit assistance:

(i) One or more activities that are eligible for assistance under section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)), notwithstanding the public ownership requirement under paragraph (1) of that subsection;

(ii) One or more activities described in section 1452(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(2));

(iii) A project for enhanced energy efficiency in the operation of a public water system or a publicly owned treatment works;

(iv) A project for repair, rehabilitation, or replacement of a treatment works, community water system, or aging water distribution or waste collection facility (including a facility that serves a population or community of an Indian reservation);

(v) A brackish or sea water desalination project, including chloride control, a managed aquifer recharge project, a water recycling project, or a project to provide alternative water supplies to reduce aquifer depletion;

(vi) A project to prevent, reduce, or mitigate the effects of drought, including projects that enhance the resilience of drought-stricken watersheds;

(vii) Acquisition of real property or an interest in real property—

(a) If the acquisition is integral to a project described in paragraphs (i) through (v); or

(b) Pursuant to an existing plan that, in the judgment of the Administrator, would mitigate the environmental impacts of water resources infrastructure projects otherwise eligible for assistance under this section;

(viii) A combination of projects, each of which is eligible under paragraph (i) or (ii), for which a state infrastructure financing authority submits to the Administrator a single application; or

(ix) A combination of projects secured by a common security pledge, each of which is eligible under paragraph (i), (ii), (iii), (iv), (v), (vi), or (vii), for which an eligible entity, or a combination of eligible entities, submits a single application.

#### C. Eligible Costs

As defined under 33 U.S.C. 3906 and described in the WIFIA program

handbook, eligible project costs are costs associated with the following activities:

(i) Development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(ii) Construction, reconstruction, rehabilitation, and replacement activities;

(iii) The acquisition of real property or an interest in real property (including water rights, land relating to the project, and improvements to land), environmental mitigation (including acquisitions pursuant to 33 U.S.C. 3905(8)), construction contingencies, and acquisition of equipment; and

(iv) Capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction. Capitalized interest on WIFIA credit assistance may not be included as an eligible project cost.

#### D. Threshold Requirements

For a project to be considered for WIFIA credit assistance, a project must meet the following five criteria:

(i) The project and obligor shall be creditworthy;

(ii) A project shall have eligible project costs that are reasonably anticipated to equal or exceed \$20 million, or for a project eligible under paragraphs (2) or (3) of 33 U.S.C. 3905 serving a community of not more than 25,000 individuals, project costs that are reasonably anticipated to equal or exceed \$5 million;

(iii) Project financing shall be repayable, in whole or in part, from state or local taxes, user fees, or other dedicated revenue sources that also secure the senior project obligations of the project; shall include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and may have a lien on revenues subject to any lien securing project obligations;

(iv) In the case of a project that is undertaken by an entity that is not a state or local government or an agency or instrumentality of a State or local government, or a tribal government or consortium of tribal governments, the project that the entity is undertaking shall be publicly sponsored; and

(v) The applicant shall have developed an operations and maintenance plan that identifies adequate revenues to operate, maintain,

and repair the project during its useful life.

#### E. Federal Requirements

All projects receiving WIFIA assistance must comply, if applicable, with federal requirements and regulations, including (but not limited to):

(i) American Iron and Steel Requirement, 33 U.S.C. 3914, <https://www.epa.gov/cwsrf/state-revolving-fund-american-iron-and-steel-ais-requirement/>;

(ii) Labor Standards, 33 U.S.C. 1372, <https://www.dol.gov/whd/govcontracts/dbra.htm>;

(iii) National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, <https://www.epa.gov/nepa/>;

(iv) Floodplain Management, Executive Order 11988, 42 FR 26951, May 24, 1977, <https://www.archives.gov/federal-register/codification/executive-order/11988.html>;

(v) Archeological and Historic Preservation Act, 16 U.S.C. 469–469c, <https://www.nps.gov/archeology/tools/laws/ahpa.htm>;

(vi) Clean Air Act, 42 U.S.C. 7401 *et seq.*, <https://www.epa.gov/clean-air-act-overview/>;

(vii) Clean Water Act, 33 U.S.C. 1251 *et seq.*, <https://www.epa.gov/aboutepa/about-office-water/>;

(viii) Coastal Barrier Resources Act, 16 U.S.C. 3501 *et seq.*, <https://www.fws.gov/ecological-services/habitat-conservation/cbra/Act/index.html>;

(ix) Coastal Zone Management Act, 16 U.S.C. 1451 *et seq.*, <https://coast.noaa.gov/czm/about/>;

(x) Endangered Species Act, 16 U.S.C. 1531 *et seq.*, <https://www.fws.gov/ endangered/>;

(xi) Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Executive Order 12898, 59 FR 7629, February 16, 1994, <https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf>;

(xii) Protection of Wetlands, Executive Order 11990, 42 FR 26961, May 25, 1977, as amended by Executive Order 12608, 52 FR 34617, September 14, 1987, <https://www.epa.gov/cwa-404/>;

(xiii) Farmland Protection Policy Act, 7 U.S.C. 4201 *et seq.*, [https://www.nrcs.usda.gov/wps/portal/nrcs/detail/?cid=nrcs143\\_008275](https://www.nrcs.usda.gov/wps/portal/nrcs/detail/?cid=nrcs143_008275);

(xiv) Fish and Wildlife Coordination Act, 16 U.S.C. 661–666c, as amended, <https://www.fws.gov/>;

(xv) Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*, <https://www.fisheries.noaa.gov/resource/>

[document/magnuson-stevens-fishery-conservation-and-management-act/](https://www.fisheries.noaa.gov/resource/document/magnuson-stevens-fishery-conservation-and-management-act/);

(xvi) National Historic Preservation Act, 16 U.S.C. 470 *et seq.*, <https://www.nps.gov/archeology/tools/laws/NHPA.htm>;

(xvii) Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*, <https://www.epa.gov/ground-water-and-drinking-water/>;

(xviii) Wild and Scenic Rivers Act, 16 U.S.C. 1271 *et seq.*, <https://rivers.gov/>;

(xix) Debarment and Suspension, Executive Order 12549, 51 FR 6370, February 18, 1986, <https://www.archives.gov/federal-register/codification/executive-order/12549.html>;

(xx) Demonstration Cities and Metropolitan Development Act, 42 U.S.C. 3301 *et seq.*, as amended, and Executive Order 12372, 47 FR 30959, July 14, 1982, [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/);

(xxii) New Restrictions on Lobbying, 31 U.S.C. 1352, <https://www.epa.gov/grants/lobbying-and-litigation-information-federal-grants-cooperative-agreements-contracts-and-loans/>;

(xxiii) Prohibitions relating to violations of the Clean Water Act or Clean Air Act with respect to Federal contracts, grants, or loans under 42 U.S.C. 7606 and 33 U.S.C. 1368, and Executive Order 11738, 38 FR 25161, September 12, 1973, <https://www.archives.gov/federal-register/codification/executive-order/11738.html>;

(xxiv) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 *et seq.*, <https://www.gpo.gov/fdsys/pkg/FR-2005-01-04/pdf/05-6.pdf>;

(xxv) Age Discrimination Act, 42 U.S.C. 6101 *et seq.*, <https://www.eeoc.gov/laws/statutes/adea.cfm>;

(xxvi) Equal Employment Opportunity, Executive Order 11246, 30 FR 12319, September 28, 1965, [https://www.dol.gov/ofccp/regs/compliance/ca\\_11246.htm](https://www.dol.gov/ofccp/regs/compliance/ca_11246.htm);

(xxvii) Section 13 of the Clean Water Act, Public Law 92–500, codified in 42 U.S.C. 1251, <https://www.epa.gov/ocr/external-civil-rights-compliance-office-title-vi/>;

(xxviii) Section 504 of the Rehabilitation Act, 29 U.S.C. 794, supplemented by Executive Orders 11914, 41 FR 17871, April 29, 1976 and 11250, 30 FR 13003, October 13, 1965, <https://www.epa.gov/ocr/external-civil-rights-compliance-office-title-vi/>;

(xxix) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*, <https://www.epa.gov/ocr/external-civil-rights-compliance-office-title-vi/>

[www.epa.gov/environmentaljustice/title-vi-and-environmental-justice](http://www.epa.gov/environmentaljustice/title-vi-and-environmental-justice); and

(xxx) Participation by Disadvantaged Business Enterprises in Procurement under the Environmental Protection Agency's Financial Assistance Agreements, 73 FR 15904, March 26, 2008, <https://www.epa.gov/resources-small-businesses>.

Detailed information about some of these requirements is outlined in the WIFIA program handbook. Further information can be found at the links above.

#### IV. Types of Credit Assistance

Under WIFIA, the EPA is permitted to provide credit assistance in the form of secured (direct) loans or loan guarantees. The maximum amount of WIFIA credit assistance to a project is 49 percent of eligible project costs. Each prospective borrower should list the estimated total capital costs of the project, broken down by activity type and differentiating between eligible project costs and ineligible project costs in the LOI and application.

#### V. Letters of Interest and Applications

Each prospective borrower will be required to submit a LOI and, if invited, an application to the EPA in order to be considered for approval. This section describes the LOI submission and application submission.

##### A. Letter of Interest (LOI)

Prospective borrowers seeking a WIFIA loan must submit a LOI describing the project fundamentals and addressing the WIFIA selection criteria.

The primary purpose of the LOI is to provide adequate information to the EPA to: (i) Validate the eligibility of the prospective borrower and the prospective project, (ii) perform a preliminary creditworthiness assessment, (iii) perform a preliminary engineering feasibility assessment, and (iv) evaluate the project against the selection criteria. Based on its review of the information provided in the LOI, the EPA will invite prospective borrowers to submit applications for their projects. Prospective borrowers are encouraged to review the WIFIA program handbook to help create the best justification possible for the project and a cohesive and comprehensive LOI submittal.

Prospective borrowers are encouraged to utilize the LOI form on the WIFIA website and ensure that sufficient detail about the project is provided for the EPA's review. The EPA will notify a prospective borrower if its project is deemed ineligible as described in Section III of this NOFA.

Below is guidance on what should be included in the LOI.

**A. Prospective Borrower Information.** In this section, the prospective borrower describes the entity seeking WIFIA assistance, including its legal name, address, website, Dun and Bradstreet Data Universal Number System (DUNS) number, and employer/taxpayer identification number.

In the case of a project that is undertaken by an entity that is not a state or local government or an agency or instrumentality of a state or local government, or a tribal government or consortium of tribal governments, the project that the entity is undertaking must be publicly sponsored. Public sponsorship means that the prospective borrower can demonstrate, to the satisfaction of the EPA, that it has consulted with the affected state, local, or tribal government in which the project is located, or is otherwise affected by the project, and that such government supports the proposed project. A prospective borrower can show support by including a certified letter signed by the approving state, tribal, or municipal department or similar agency; governor, mayor or other similar designated authority; statute or local ordinance, or any other means by which government approval can be evidenced.

**B. Project Plan.** In this section, the prospective borrower provides a general description of the project, including its location, population served, permit number(s), purpose, design features, and development schedule. The prospective borrower describes how the project can be categorized as one of the project types eligible for WIFIA assistance as described in the program handbook. The prospective borrower includes other relevant information that could affect the development of the project, such as community support, pending legislation, or litigation. In this section, the prospective borrower summarizes the status of the project's environmental review, engineering report, operations and maintenance agreements, and other approvals or analyses that are integral to the project's development.

**C. Financing Plan.** In this section, the prospective borrower indicates the requested type and amount of WIFIA credit assistance. In addition, the prospective borrower details the proposed sources and uses of funds for the project. The discussion of proposed financing should identify the source(s) of revenue or other security that would be pledged to the WIFIA assistance. As part of the description of its financial condition, the prospective borrower should include its year-end audited

financial statements for the past three years, as available. Additionally, the prospective borrower describes the credit characteristics of the project and how the senior obligations of the project will achieve an investment-grade rating, as well as the anticipated rating on the WIFIA instrument. The prospective borrower should also include a summary financial pro forma, presented in a formula-based Microsoft Excel document, as well as revenue and expense projections for at least ten years.

**D. Selection Criteria.** In this section, the prospective borrower describes the potential policy benefits achieved using WIFIA assistance with respect to each of the WIFIA program selection criteria. These criteria and their weights are enumerated in Section VII of this NOFA and further explained in the WIFIA program handbook.

**E. Contact Information.** In this section, the prospective borrower identifies the point of contact with whom the WIFIA program should communicate regarding the LOI. To complete the EPA's evaluation, the WIFIA program staff may contact a prospective borrower regarding specific information in the LOI.

**F. Certifications.** In this section, the prospective borrower certifies that it will abide by all applicable laws and regulations, including NEPA, the Federal Water Pollution Control Act, the American Iron and Steel requirements, and federal labor standards, among others, if selected to receive funding.

**G. SRF Notification.** In this section, the prospective borrower acknowledges that the EPA will notify the state infrastructure financing authority in the state in which the project is located that it submitted a LOI and provide the submitted LOI and source documents to that authority. The prospective borrower may opt out of having its LOI and source documents shared.

##### B. Application

After the EPA concludes its evaluation of the LOIs, a selection committee will invite prospective borrowers to apply based on the scoring of the selection criteria, while taking into consideration geographic and project diversity. The selection committee may choose to combine multiple LOIs or separate projects from a prospective borrower based on the creditworthiness review and may offer less WIFIA assistance than requested in the LOI.

An invitation to apply for WIFIA credit assistance does not guarantee the EPA's approval, which remains subject to a project's continued eligibility,

including creditworthiness, the successful negotiation of terms acceptable to the EPA, and the availability of funds at the time at which all necessary recommendations and evaluations have been completed. However, the purpose of the EPA's LOI review is to pre-screen prospective borrowers to the extent practicable. It is expected that the EPA will only invite projects to apply if it anticipates that those projects are able to obtain WIFIA credit assistance. Detailed information needs for the application are listed in the application form and described in the WIFIA program handbook.

#### VI. Fees

There is no fee to submit a LOI. The final fee rule, Fees for Water Infrastructure Project Applications under WIFIA, 40 CFR 35.10080, was signed by the EPA on June 19, 2017, and establishes the fees related to the provision of federal credit assistance under WIFIA. Each invited applicant must submit, concurrent with its application, a non-refundable Application Fee of \$25,000 for projects serving communities of not more than 25,000 individuals or \$100,000 for all other projects. Applications will not be evaluated until the Application Fee is paid. For successful applicants, this fee will be credited toward final payment of a Credit Processing Fee, assessed following financial close, to reimburse the EPA for actual engineering, financial, and legal costs. In the event a final credit agreement is not executed, the borrower is still required to reimburse the EPA for the costs incurred. Borrowers may finance these fees with WIFIA credit assistance.

#### VII. Selection Criteria

This section specifies the criteria and process that the EPA will use to evaluate LOIs and award applications for WIFIA assistance.

The selection criteria described below incorporate statutory eligibility requirements, supplemented by the WIFIA regulations at 40 CFR 35.10055. The EPA has also identified the following strategic objectives as priorities for this LOI submittal period:

(i) **Readiness to proceed:** In order to ensure the efficient use of limited federal resources for infrastructure finance, a project's readiness to proceed toward development, including loan closing and the commencement of construction, is an Agency priority.

(ii) **Provide for clean and safe drinking water:** The EPA is working to strengthen its implementation of the Safe Drinking Water Act to ensure we protect and build upon the enormous

public health benefits achieved through the provision of safe drinking water throughout the country. One of the Agency's highest priorities include reducing exposure to lead and addressing emerging contaminants, including per- and polyfluoroalkyl substances (PFAS), in the nation's drinking water systems.

(iii) **Repair, rehabilitate, and replace aging infrastructure and conveyance systems:** Many communities face formidable challenges in providing adequate and reliable water and wastewater infrastructure services. Existing water and wastewater infrastructure in some of these communities is aging, and investment is not always keeping up with the needs. The EPA estimates the national funding need for capital improvements for such facilities totals approximately \$740 billion over the next 20 years. In many cases, meeting these needs will require significant increases in capital investment.

(iv) **Water reuse and recycling:** The EPA is highlighting water reuse and recycling as a new or innovative approach. The EPA recognizes that reuse and recycling of water can play a critical role in helping states, tribes, and communities meet their future drinking water needs with a diversified portfolio of water sources. The practice can alleviate the effects of drought and assure groundwater resource sustainability and a secure water supply.

The EPA's priorities reflect water sector challenges that require innovative tools to assist municipalities in managing and adapting to our most pressing public health and environmental challenges. These priorities are reflected in the scoring methodology of the selection criteria below, described in greater detail in the WIFIA program handbook.

The WIFIA selection criteria are divided into three categories that represent critical considerations for selecting projects: Project Impact, Project Readiness, and Borrower Creditworthiness. Each criterion within a category can provide a range of points with the maximum number of points indicated. Each category can provide up to 100 points out of a total of 300 available points, and the category-specific and overall scores will help inform the selection committee's deliberations within the overall WIFIA framework. For the Project Readiness and Borrower Creditworthiness categories, criteria scores are supplemented by points awarded from the preliminary engineering feasibility analysis and preliminary

creditworthiness assessment, respectively, described in the WIFIA program handbook. In order to reflect the EPA's priorities and give greater consideration to a class of projects that reduce exposure to lead and address emerging contaminants, including PFAS, in the nation's drinking water systems, the EPA has added a criterion (ix) to the Project Impact category of criteria in accordance with 40 CFR 35.10055(b). The criteria are as follows:

**Project Impact:**

(i) **15 points:** The extent to which the project is nationally or regionally significant, with respect to the generation of economic and public benefits, such as (1) the reduction of flood risk; (2) the improvement of water quality and quantity, including aquifer recharge; (3) the protection of drinking water, including source water protection; and (4) the support of international commerce. 33 U.S.C. 3907(b)(2)(A); 40 CFR 35.10055(a)(1).

(ii) **5 points:** The extent to which the project (1) protects against extreme weather events, such as floods or hurricanes; or (2) helps maintain or protect the environment: 33 U.S.C. 3907(b)(2)(F); 40 CFR 35.10055(a)(4); 40 CFR 35.10055(a)(5).

(iii) **5 points:** The extent to which the project serves regions with significant energy exploration, development, or production areas: 33 U.S.C. 3907(b)(2)(G); 40 CFR 35.10055(a)(6).

(iv) **10 points:** The extent to which a project serves regions with significant water resource challenges, including the need to address: (1) water quality concerns in areas of regional, national, or international significance; (2) water quantity concerns related to groundwater, surface water, or other water sources; (3) significant flood risk; (4) water resource challenges identified in existing regional, state, or multistate agreements; or (5) water resources with exceptional recreational value or ecological importance. 33 U.S.C. 3907(b)(2)(H); 40 CFR 35.10055(a)(7).

(v) **10 points:** The extent to which the project addresses identified municipal, state, or regional priorities. 33 U.S.C. 3907(b)(2)(I); 40 CFR 35.10055(a)(8).

(vi) **25 points:** The extent to which the project addresses needs for repair, rehabilitation or replacement of a treatment works, community water system, or aging water distribution or wastewater collection system. 40 CFR 35.10055(a)(12).

(vii) **10 points:** The extent to which the project serves economically stressed communities, or pockets of economically stressed rate payers within otherwise non-economically

stressed communities. 40 CFR 35.10055(a)(13).

(viii) *20 points*: The extent to which the project reduces exposure to lead in the nation's drinking water systems or addresses emergent contaminants. 40 CFR 35.10055(b).

**Project Readiness:**

(i) *50 points*: The readiness of the project to proceed toward development, including a demonstration by the obligor that there is a reasonable expectation that the contracting process for construction of the project can commence by not later than 90 days after the date on which a federal credit instrument is obligated for the project under [WIFIA]. 33 U.S.C. 3907(b)(2)(J); 40 CFR 35.10055(a)(9).

(ii) *30 points*: Preliminary engineering feasibility analysis score. 33 U.S.C. 3907(a)(2); 33 U.S.C. 3907(a)(6); 40 CFR 35.10015(c); 40 CFR 35.10045(a).

(iii) *20 points*: The extent to which the project uses new or innovative approaches. 33 U.S.C. 3907(b)(2)(D); 40 CFR 35.10055(a)(3).

**Borrower Creditworthiness:**

(i) *10 points*: The likelihood that assistance under [WIFIA] would enable the project to proceed at an earlier date than the project would otherwise be able to proceed. 33 U.S.C. 3907(b)(2)(C); 40 CFR 35.10055(a)(2).

(ii) *10 points*: The extent to which the project financing plan includes public or private financing in addition to assistance under [WIFIA]. 33 U.S.C. 3907(b)(2)(B); 40 CFR 35.10055(a)(10).

(iii) *10 points*: The extent to which assistance under [WIFIA] reduces the contribution of Federal assistance to the project. 33 U.S.C. 3907(b)(2)(K); 40 CFR 35.10055(a)(11).

(iv) *10 points*: The amount of budget authority required to fund the Federal credit instrument made available under [WIFIA]. 33 U.S.C. 3907(b)(2)(E).

(v) *60 points*: Preliminary creditworthiness assessment score. 33 U.S.C. 3907(a)(1); 40 CFR 35.10015(c); 40 CFR 35.10045(a)(1); 40 CFR 35.10045(a)(4); 40 CFR 35.10045(b).

In addition to the selection criteria score, the EPA is required by 33 U.S.C. 3902(a) to "ensure a diversity of project types and geographical locations."

Following analysis by the WIFIA program staff, a final score is calculated for each project. Projects will be selected in order of score, subject to the requirement to ensure a diversity of project types and geographical locations. To ensure diversity, the EPA will establish a ceiling for each project type and geographical location. The EPA will select projects in rank order up until the point that the ceiling is reached. Thereafter, the next highest

project that adds diversity will be selected.

The scoring scales and guidance used to evaluate each project against the selection criteria are available in the WIFIA program handbook. Prospective borrowers considering WIFIA should review the WIFIA program handbook and discuss how the project addresses each of the selection criteria in the LOI submission.

**Authority:** 33 U.S.C. 3901–3914; 40 CFR part 35.

Dated: March 29, 2019.

**Andrew R. Wheeler,**  
*Administrator.*

[FR Doc. 2019–06731 Filed 4–4–19; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9044–2]

### Environmental Impact Statements; Notice of Availability

*Responsible Agency:* Office of Federal Activities, General Information 202–564–5632 or <https://www.epa.gov/nepa/>.

Weekly receipt of Environmental Impact Statements

Filed 03/25/2019 Through 03/29/2019 Pursuant to 40 CFR 1506.9.

### Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: <https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search>.

*EIS No. 20190042*, Draft, USFS, WY, Invasive Plant Management Draft Environmental Impact Statement for the Bridger-Teton National Forest, *Comment Period Ends:* 05/20/2019, *Contact:* Chad Hayward 307–276–5817.

*EIS No. 20190043*, Draft, FHWA, AZ, Draft Tier 1 Environmental Impact Statement and Preliminary Section 4(f) Evaluation for Interstate 11 Corridor between Nogales and Wickenburg, Arizona, *Comment Period Ends:* 05/31/2019, *Contact:* Rebecca Yedlin 602–382–8979.

*EIS No. 20190045*, Draft, USFWS, MT, National Bison Range Draft Comprehensive Conservation Plan, Environmental Impact Statement, and Compatibility Determinations, *Comment Period Ends:* 05/20/2019, *Contact:* Vanessa Fields 406–644–2211.

*EIS No. 20190046*, Draft Supplement, FHWA, AL, Project No. DPI–0030(005) I–10 Mobile River Bridge and Bayway, Mobile and Baldwin Counties, Alabama, *Comment Period Ends:* 05/20/2019, *Contact:* Mr. Mark D. Bartlett, P.E. 334–274–6350.

*EIS No. 20190047*, Draft Supplement, NRC, FL, Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 5, Second Renewal, Regarding Subsequent License Renewal for Turkey Point Nuclear Generating Unit Nos. 3 and 4, *Comment Period Ends:* 05/20/2019, *Contact:* David Drucker 301–415–6223.

*EIS No. 20190048*, Draft, HUD, NY, East Side Coastal Resiliency (ESCR), *Comment Period Ends:* 08/15/2019, *Contact:* Eram Qadri 212–788–6282.

*EIS No. 20190049*, Draft Supplement, USFS, AZ, Tonto National Forest Motorized Travel Management, *Comment Period Ends:* 05/21/2019, *Contact:* Gregory Schuster 602–225–5200.

*EIS No. 20190051*, Draft, FERC, OR, The Jordan Cove Energy Project, *Comment Period Ends:* 05/20/2019, *Contact:* Office of External Affairs 866–208–3372.

### Amended Notice

*EIS No. 20180284*, Draft Supplement, USFS, MT, Stonewall Vegetation Project, *Comment Period Ends:* 04/12/2019, *Contact:* Allen Byrd 406–495–3903. Revision to FR Notice Published 03/01/2019; Extending the Comment Period from 03/25/2019 to 04/12/2019.

*EIS No. 20180335*, Draft Supplement, USN, GU, Mariana Islands Training and Testing Draft Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement, *Comment Period Ends:* 04/17/2019, *Contact:* Nora Macariola-See 808–472–1402, Revision to FR Notice Published 02/01/2019; Extending the Comment Period from 03/18/2019 to 04/17/2019.

Dated: April 2, 2019.

**Robert Tomiak,**

*Director, Office of Federal Activities.*

[FR Doc. 2019–06688 Filed 4–4–19; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL–9991–52–OMS]

### Good Neighbor Environmental Board

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Federal Advisory Committee Teleconference Meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Good Neighbor Environmental Board will hold a public teleconference meeting on Friday, April 19, 2019. The meeting is open to the public.

**DATES:** The Good Neighbor Environmental Board will hold an open teleconference meeting on Friday, April 19, 2019 from 12-4 p.m. EDT.

*Purpose of Meeting:* The purpose of this meeting is to discuss the Board's next report, which is examining regulatory and permitting processes to promote development of new energy infrastructure in the U.S.-Mexico border region.

*General Information:* The agenda for the teleconference will be available at <http://www2.epa.gov/faca/gneb>. General information about the Board can be found on its website at <http://www2.epa.gov/faca/gneb>. If you wish to make oral comments or submit written comments to the Board, please contact Ann-Marie Gantner at least five days prior to the meeting. Written comments should be submitted to Ann-Marie Gantner at [gantner.ann-marie@epa.gov](mailto:gantner.ann-marie@epa.gov).

*Meeting Access:* For information on access or services for individuals with disabilities, please contact Ann-Marie Gantner at (202) 564-4330 or email at [gantner.ann-marie@epa.gov](mailto:gantner.ann-marie@epa.gov).

To request accommodation of a disability, please contact Ann-Marie Gantner at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

Dated: April 1, 2019.

**Ann-Marie Gantner,**

*Program Analyst.*

[FR Doc. 2019-06733 Filed 4-4-19; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0207]

### Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or

the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection.

Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written comments should be submitted on or before May 6, 2019. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicholas A. Fraser, OMB, via email [Nicholas\\_A\\_Fraser@omb.eop.gov](mailto:Nicholas_A_Fraser@omb.eop.gov); and to Nicole Ongele, FCC, via email [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Nicole.Ongele@fcc.gov](mailto:Nicole.Ongele@fcc.gov). Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection, contact Nicole Ongele at (202) 418-2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then

click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

**SUPPLEMENTARY INFORMATION:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection.

Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

*OMB Control Number:* 3060-0207.

*Title:* Part 11—Emergency Alert System (EAS), Orders, FCC 18-94.

*Form No.:* N/A.

*Type of Review:* Revision of currently approved collection.

*Respondents:* Business or other for-profit; Not-for-profit institutions; State, Local, or Tribal Government.

*Number of Respondents and Responses:* 63,084 respondents; 3,588,830 responses.

*Estimated Time per Response:* 0.017 hours-100 hours.

*Frequency of Response:* On occasion reporting requirement, annual reporting requirement, one-time reporting requirement, recordkeeping requirement and third-party disclosure requirements.

*Obligation to Respond:* Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 154(i) and 606 of the Communications Act of 1934, as amended.

*Total Annual Burden:* 140,751 hours.

*Total Annual Cost:* No Cost.

*Privacy Act Impact Assessment:* No Impact(s).

*Nature and Extent of Confidentiality:* For false alert information filed with the Commission via email to the FCC Ops Center at [FCCOPS@fcc.gov](mailto:FCCOPS@fcc.gov), the Commission will share individual and aggregated data on a confidential basis with other federal agencies and state governmental emergency management agencies that have confidentiality

protection at least equal to that provided by the Freedom of Information Act. State EAS Plan data and any aggregation of such data will have the same level of confidentiality as data filed in the ETRS, *i.e.*, the Commission will share individual and aggregated data on a confidential basis with other federal agencies and state governmental emergency management agencies that have confidentiality protection at least equal to that provided by the Freedom of Information Act.

*Needs and Uses:* Part 11 contains rules and regulations addressing the nation's Emergency Alert System (EAS). The EAS provides the President with the capability to provide immediate communications and information to the general public during periods of national emergency over broadcast television and radio, cable, direct broadcast radio and other EAS Participants, as defined in Section 11.11(a) of the Commission's rules. The EAS also provides state and local governments and the National Weather Service with the capability to provide immediate communications and information to the public concerning emergency situations posing a threat to life and property. The manner in which the EAS delivers alerts to the public is set forth in State EAS Plans, which are drafted by State Emergency Communications Committees (SECCs), the entities required to submit State EAS Plans to the Commission's Public Safety and Homeland Security Bureau (PSHSB) under Section 11.21 of the Commission's rules.

In the Order, PS Dockets 15–94, 15–91, FCC 18–94, the Commission amended Section 11.45 of its rules to require that no later than twenty-four (24) hours of an EAS Participant's discovery that it has transmitted or otherwise sent a false alert to the public, the EAS Participant send an email to the FCC Ops Center (at [FCCOPS@fcc.gov](mailto:FCCOPS@fcc.gov)), informing the Commission of the event and of any details that the EAS Participant may have concerning the event. In addition, the Commission amended Section 11.61 of the rules to include "Live Code Tests" as a separate category of alerting exercise that EAS Participants may undertake voluntarily, provided such live code tests are conducted in accordance with specific parameters, including: (1) Notifying the public before the test that live event codes will be used, but that no emergency is, in fact, occurring; (2) to the extent technically feasible, stating in the test message that the event is only a test; and (3) consistent with the Commission's rules, providing in widely accessible formats the required

notification to the public that the test is not, in fact, a warning about an actual emergency.

The Commission seeks Office of Management and Budget (OMB) approval of these rule amendments as a modification of a previously approved information collection. The false alert reporting obligation is essential to provide the Commission, FEMA and other affected stakeholders with the information necessary to identify and mitigate problems with the EAS, and benefits ongoing EAS reliability. The false alert reporting rules also will provide a significant public safety benefit by allowing the Commission to detect whether there are trends and patterns in false alerts that may indicate weaknesses that require further Commission study and action to strengthen the alerting system. The "Live Code Testing" provisions remove regulatory obstacles and reduce time and cost burdens on EAS Participants by eliminating the need to obtain a waiver to conduct such tests. These testing rules will promote greater proficiency in the use of EAS, both by EAS alert initiators and EAS Participants, which will help address potential gaps in alert originator training.

In the Order, PS Docket No. 15–94, FCC 18–39, the Commission adopted a rule obligating SECCs to file State EAS Plans electronically through the new Alert Reporting System (ARS), rather than in paper-based filings, the method currently approved by OMB for this collection. For the required electronic filing, the Commission has developed a proposed reporting template, attached as Appendix D to the Order, and seeks OMB approval of the proposed template as a modification of a previously approved information collection. The proposed template will decrease the paperwork burden associated with this collection over time, and there is no change to any other reporting obligation in this collection. The information sought in this collection is necessary and vital to the effective electronic filing of State EAS Plans in the ARS, which will replace paper-based filing requirements, minimize the burdens on SECCs, and allow the Commission, the Federal Emergency Management Agency (FEMA), and other authorized entities to better access and use up-to-date information about the EAS, thus increasing its value as a tool to protect life and property for all Americans.

The following information collections contained in Part 11 may be impacted by the rule amendments described herein. With respect to the establishment of a false alert reporting

obligation, the Commission found such obligation to be minimally burdensome, affecting approximately 290 EAS Participants annually, with each successive year likely involving a different group of EAS Participants, and requiring no more than 15 minutes to email the required information to the FCC Ops Center. With respect to the establishment of "Live Code Test" rules, which codified requirements that were previously imposed on waivers granted by the Commission, the Commission found that such action reduced time and cost burdens on EAS Participants by eliminating the need to obtain a waiver.

With respect to the establishment of a mandatory electronic test reporting system that EAS participants must utilize to file identifying and test result data, the Commission noted that this electronic submission system would impose a lesser burden on EAS test participants because they could input electronically (via a web-based interface) the same information into a confidential database that the Commission would use to monitor and assess the test. This information would include identifying information such as station call letters, license identification number, geographic coordinates, EAS designation (Local Primary, National Primary, *etc.*), EAS monitoring assignment, as well as a 24/7 emergency contact for the EAS Participant. The only difference, other than the electronic nature of the filing, would be the timing of the collections. Test participants would submit the identifying data. These rules may impact currently existing paperwork collection requirements as discussed below.

Section 11.15 requires a copy of the EAS operating handbook to be located at normal duty positions or EAS equipment locations when an operator is required to be on duty. The handbook must be immediately available to staff responsible for authenticating messages and initiating actions. Copies of the handbook are posted on the Commission's website and can be obtained at <https://www.fcc.gov/general/emergency-alert-system-eas>.

Section 11.21 requires that state and local EAS plans be reviewed and approved by the Chief, Public Safety and Homeland Security, prior to implementation to ensure that they are consistent with national plans, FCC regulations, and EAS operation.

Section 11.34 requires manufacturers to include instructions and information on how to install, operate and program an EAS Encoder, EAS Decoder, or combined unit and a list of all U.S., State, Territory and Offshore (Marine

Area) ANSI number codes with each unit sold or marketed in the U.S. This requirement would be done in the normal course of doing business.

Section 11.35 requires that all EAS Participants are responsible for ensuring that EAS Encoders/Decoders and Attention Signal generating and receiving equipment used as part of the EAS are installed so that the monitoring and transmitting functions are available during the times the stations/systems are in operation. EAS Participants must determine the cause of any failure to receive the required tests or activations. When the EAS is not operating properly, section 11.35 requires appropriate entries be made in the station/system logs indicating why any tests were not received for all broadcast streams and cable systems. All other EAS Participants must also keep record indicating reasons why any tests were not received and these records must be retained for two years, maintained at the EAS Participant's headquarters, and made available for public inspection upon reasonable request.

Section 11.35 also requires that entries be made in the station/system logs, and records of other EAS Participants, when the EAS Encoder/Decoder becomes defective showing the date and time the equipment was removed and restored to service. If replacement of defective equipment is not completed within 60 days, an informal request shall be submitted to the District Director of the FCC field office. For DBS and SDARS providers, this informal request shall be submitted to the District Director of the FCC field office serving the area where their headquarters is located. This request must explain what steps have been taken to repair or replace the defective equipment, the alternative procedures being used while the defective equipment is out of service and when the defective equipment will be repaired or replaced.

Section 11.41 allows all EAS Participants to submit a written request to the FCC asking to be a Non-Participating National source. In addition, a Non-Participating National source that wants to become a Participating National source must submit a written request to the FCC.

Section 11.42 allows a communications common carrier to participate in the national level EAS, without charge. A communications common carrier rendering free service is required to file with the FCC, on or before July 31st and January 31st of each year, reports covering the six months ending on June 30th and December 31st respectively. These reports shall state

what free service was rendered under this rule and the charges in dollars which would have accrued to the carrier for this service if charges had been collected at the published tariff rates if such carriers are required to file tariffs.

Section 11.43 allows entities to voluntarily participate in the national level EAS after submission of a written request to the Chief, Public Safety and Homeland Security Bureau.

Section 11.51 requires that EAS equipment be operational, ready to monitor, transmit and receive EAS electronic signals. Cable and wireless cable systems, both analog and digital, can elect not to interrupt EAS messages from broadcast stations based upon a written agreement between all concerned. Furthermore, cable and wireless cable systems, both analog and digital, can elect not to interrupt the programming of a broadcast station carrying news or weather-related emergency information with state and local EAS messages based upon a written agreement between all concerned. These written agreements are contained in state and local franchise agreements.

Section 11.51 also requires all actions to be logged when manual interruption of programming and transmission of EAS messages is used. Estimates for testing are included in the estimate for section 11.61.

Section 11.52 requires all EAS Participants to monitor two EAS sources. If the required EAS sources cannot be received, alternate arrangements or a waiver may be obtained by written request to the FCC's EAS office. In an emergency, a waiver may be issued over the telephone with a follow-up letter to confirm temporary or permanent reassignment. In addition, EAS Participants are required to interrupt normal programming either automatically or manually when they receive an EAS message in which the header code contains the event codes for emergency action notification, emergency action termination and required monthly test for their state or state/county location.

Section 11.54 requires EAS Participants to enter into their logs/records the time of receipt of an emergency alert notice and an emergency action termination messages during a national level emergency.

Section 11.55 requires EAS participants to monitor their emergency alert system upon receipt of a state or local area EAS message. Stations/systems must also enter into their logs/records the time of receipt of an emergency alert message. If an SDARS licensee or DBS provider is unable to

receive and transmit state and local EAS messages, it must inform its subscribers, on its website, and in writing on an annual basis of which channels are and are not capable of supplying state and local EAS messages.

Section 11.61 requires EAS Participants to conduct periodic EAS tests. Tests of the EAS header codes, attention signal, test script and EOM code are required to be performed monthly. Tests of the EAS header codes and end of message codes are made at least once a week. National primary sources shall participate in tests as appropriate. DBS providers, Class D non-commercial educational FM stations and low power TV stations are not required to transmit this test but must log receipt of the test. The FCC may request a report of the tests of the national primary sources. In addition, entries must be made in stations/systems logs/records as previously stated.

This information is used by FCC staff as part of routine inspections of EAS Participants. Accurate recordkeeping of this data is vital in determining the location and nature of possible equipment failure on the part of the transmitting or receiving entity. Furthermore, since the national level EAS is solely for the President's use, its proper operation must be assured.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2019-06711 Filed 4-4-19; 8:45 am]

**BILLING CODE 6712-01-P**

## **FEDERAL COMMUNICATIONS COMMISSION**

[OMB 3060-1000]

### **Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper

performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written PRA comments should be submitted on or before June 4, 2019. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information about the

information collection, contact Cathy Williams at (202) 418-2918.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060-1000.  
*Title:* Section 87.147, Authorization of Equipment.

*Form Number:* N/A.  
*Type of Review:* Extension of a currently approved collection.  
*Respondents:* Business or other for-profit entities.

*Number of Respondents:* 25 respondents; 25 responses.

*Estimated Time per Response:* 1 hour.  
*Frequency of Response:* One time and occasion reporting requirements and third party disclosure requirement.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154, 303 and 307(e) of the Communications Act of 1934, as amended.

*Total Annual Burden:* 25 hours.  
*Total Annual Cost:* N/A.

*Privacy Impact Assessment:* No impact(s).

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection of information.

*Needs and Uses:* Section 87.147 is needed to require applicants for aviation equipment certification to submit a Federal Aviation Administration (FAA) determination of the equipment's compatibility with the National Airspace System (NAS). This will

ensure that radio equipment operating in certain frequencies is compatible with the NAS, which shares system components with the military. The notification must describe the equipment, along with a report of measurements, give the manufacturer's identification, antenna characteristics, rated output power, emission type and characteristics, the frequency or frequencies of operation, and essential receiver characteristics if protection is required.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2019-06710 Filed 4-4-19; 8:45 am]

**BILLING CODE 6712-01-P**

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**Notice of Termination of Receiverships**

The Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for each of the following insured depository institutions, was charged with the duty of winding up the affairs of the former institutions and liquidating all related assets. The Receiver has fulfilled its obligations and made all dividend distributions required by law.

**NOTICE OF TERMINATION OF RECEIVERSHIPS**

Fund	Receivership name	City	State	Termination date
10142 .....	Madisonville State Bank .....	Madisonville .....	TX	4/1/2019
10198 .....	Century Security Bank .....	Duluth .....	GA	4/1/2019
10214 .....	Innovative Bank .....	Oakland .....	CA	4/1/2019
10424 .....	Charter National Bank & Trust .....	Hoffman Estates .....	IL	4/1/2019
10522 .....	Allied Bank .....	Mulberry .....	AR	4/1/2019

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary, including but not limited to releases, discharges, satisfactions, endorsements, assignments, and deeds. Effective on the termination dates listed above, the Receiverships have been terminated, the Receiver has been discharged, and the Receiverships have ceased to exist as legal entities.

Dated at Washington, DC, on April 2, 2019.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2019-06712 Filed 4-4-19; 8:45 am]

**BILLING CODE 6714-01-P**

**FEDERAL RESERVE SYSTEM**

**Solicitation of Applications for Membership on the Community Advisory Council**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) established the Community Advisory

Council (CAC) as an advisory committee to the Board on issues affecting consumers and communities. This Notice advises individuals who wish to serve as CAC members of the opportunity to be considered for the CAC.

**DATES:** Applications received between Monday, April 8, 2019 and Friday, May 31, 2019 will be considered for selection to the CAC for terms beginning January 1, 2020.

**ADDRESSES:** Individuals who are interested in being considered for the CAC may submit an application via the Board's website or via email. The application can be accessed at <https://www.federalreserve.gov/secure/CAC/Application/>. Emailed submissions can

be sent to [CCA-CAC@frb.gov](mailto:CCA-CAC@frb.gov). The information required for consideration is described below.

If electronic submission is not feasible, submissions may be mailed to the Board of Governors of the Federal Reserve System, Attn: Community Advisory Council, Mail Stop I-305, 20th Street and Constitution Ave. NW, Washington, DC 20551.

**FOR FURTHER INFORMATION CONTACT:**

Jennifer Fernandez, Community Development Analyst, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, 20th Street and Constitution Ave. NW, Washington, DC 20551, or (202) 452-2412, or [CCA-CAC@frb.gov](mailto:CCA-CAC@frb.gov). Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869.

**SUPPLEMENTARY INFORMATION:** The Board created the Community Advisory Council (CAC) as an advisory committee to the Board on issues affecting consumers and communities. The CAC is composed of a diverse group of experts and representatives of consumer and community development organizations and interests, including from such fields as affordable housing, community and economic development, employment and labor, financial services and technology, small business, and asset and wealth building. CAC members meet semiannually with the members of the Board in Washington, DC to provide a range of perspectives on the economic circumstances and financial services needs of consumers and communities, with a particular focus on the concerns of low- and moderate-income consumers and communities. The CAC complements two of the Board's other advisory councils—the Community Depository Institutions Advisory Council (CDIAC) and the Federal Advisory Council (FAC)—whose members represent depository institutions.

The CAC serves as a mechanism to gather feedback and perspectives on a wide range of policy matters and emerging issues of interest to the Board of Governors and aligns with the Federal Reserve's mission and current responsibilities. These responsibilities include, but are not limited to, banking supervision and regulatory compliance (including the enforcement of consumer protection laws), systemic risk oversight and monetary policy decision-making, and, in conjunction with the Office of the Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation (FDIC), responsibility for implementation of the Community Reinvestment Act (CRA).

This Notice advises individuals of the opportunity to be considered for appointment to the CAC. To assist with the selection of CAC members, the Board will consider the information submitted by the candidate along with other publicly available information that it independently obtains.

**Council Size and Terms**

The CAC consists of at least 15 members. The Board will select members in the fall of 2019 to replace current members whose terms will expire on December 31, 2019. The newly appointed members will serve three-year terms that will begin on January 1, 2020. If a member vacates the CAC before the end of the three-year term, a replacement member will be appointed to fill the unexpired term.

**Application**

Candidates may submit applications by one of three options:

- **Online:** Complete the application form on the Board's website at <https://www.federalreserve.gov/secure/CAC/Application/>.
- **Email:** Submit all required information to [CCA-CAC@frb.gov](mailto:CCA-CAC@frb.gov).
- **Postal Mail:** If electronic submission is not feasible, submissions may be mailed to the Board of Governors of the Federal Reserve System, Attn: Community Advisory Council, Mail Stop I-305, 20th Street and Constitution Ave. NW, Washington, DC 20551.

Interested parties can view the current Privacy Act Statement at: <https://www.federalreserve.gov/aboutthefed/cac-privacy.htm>.

Below are the application fields. Asterisks (\*) indicate required fields.

- Full Name \*
- Email Address \*
- Phone Number \*
- Postal Mail Street Address \*
- Postal Mail City \*
- Postal Zip Code \*
- Organization \*
- Title \*
- Organization Type (select one) \*
  - For Profit
    - Community Development Financial Institution (CDFI)
    - Non-CDFI Financial Institution
    - Financial Services
    - Professional Services
    - Other
  - Non-Profit
    - Advocacy
    - Association
    - Community Development Financial Institution (CDFI)
    - Educational Institution
    - Foundation
    - Service Provider

- Think Tank/Policy Organization
- Other
  - Government
- Primary Area of Expertise (select one) \*
  - Civil rights
  - Community development finance
  - Community reinvestment and stabilization
  - Consumer protection
  - Economic and small business development
  - Labor and workforce development
  - Financial technology
  - Household wealth building and financial stability
  - Housing and mortgage finance
  - Rural issues
  - Other (please specify)
- Secondary Area of Expertise (select one)
  - Civil rights
  - Community development finance
  - Community reinvestment and stabilization
  - Consumer protection
  - Economic and small business development
  - Labor and workforce development
  - Financial technology
  - Household wealth building and financial stability
  - Housing and mortgage finance
  - Rural issues
  - Other (please specify)
- Resume \*
  - The resume should include information about past and present positions you have held, dates of service for each, and a description of responsibilities.
- Cover Letter \*
  - The cover letter should explain why you are interested in serving on the CAC as well as what you believe are your primary qualifications.
- Additional Information
  - At your option, you may also provide additional information about your qualifications.

**Qualifications**

The Board is interested in candidates with knowledge of fields such as affordable housing, community and economic development, employment and labor, financial services and technology, small business, and asset and wealth building, with a particular focus on the concerns of low- and moderate-income consumers and communities. Candidates do not have to be experts on all topics related to consumer financial services or community development, but they should possess some basic knowledge of these areas and related issues. In

appointing members to the CAC, the Board will consider a number of factors, including diversity in terms of subject matter expertise, geographic representation, and the representation of women and minority groups.

CAC members must be willing and able to make the necessary time commitment to participate in organizational conference calls and prepare for and attend meetings two times per year (usually for two days). The meetings will be held at the Board's offices in Washington, DC. The Board will provide a nominal honorarium and will reimburse CAC members only for their actual travel expenses subject to Board policy.

By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division of Consumer and Community Affairs under delegated authority, March 26, 2019.

**Ann E. Misback,**  
Secretary of the Board.

[FR Doc. 2019-06406 Filed 4-4-19; 8:45 am]

BILLING CODE 6210-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2016-D-2730]

#### **Risk Evaluation and Mitigation Strategy: The Food and Drug Administration's Application of Statutory Factors in Determining When a Risk Evaluation and Mitigation Strategy Is Necessary; 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 "Risk Evaluation and Mitigation Strategy: FDA's Application of Statutory Factors in Determining When a Risk Evaluation and Mitigation Strategy Is Necessary." This guidance is intended to clarify how FDA applies the factors set forth in the Federal Food, Drug, and Cosmetic Act (FD&C Act) in determining whether a risk evaluation and mitigation strategy (REMS) is necessary to ensure that the benefits of a drug outweigh its risks. This guidance is one of several developed to fulfill performance goals that FDA agreed to satisfy in the reauthorization of the prescription drug user fee program (the Prescription Drug User Fee Act (PDUFA) V). This

guidance finalizes the draft guidance entitled "FDA's Application of Statutory Factors in Determining When a REMS Is Necessary," issued September 21, 2016.

**DATES:** The announcement of the guidance is published in the **Federal Register** on April 5, 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-2016-D-2730 for "REMS: FDA's Application of Statutory Factors in Determining When a REMS Is Necessary." 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 to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to

assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

**FOR FURTHER INFORMATION CONTACT:** Jason Bunting, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6366, Silver Spring, MD 20993, 301-796-1292, [Jason.Bunting@fda.hhs.gov](mailto:Jason.Bunting@fda.hhs.gov); 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, [Stephen.Ripley@fda.hhs.gov](mailto:Stephen.Ripley@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

FDA is announcing the availability of a guidance for industry entitled “REMS: FDA’s Application of Statutory Factors in Determining When a REMS Is Necessary.” The Food and Drug Administration Amendments Act of 2007 (FDAAA) (Pub. L. 110-85) created section 505-1 of the FD&C Act (21 U.S.C. 355-1),<sup>1</sup> which authorizes FDA to require a REMS for certain drugs if FDA determines that a REMS is necessary to ensure that the benefits of the drug outweigh its risks (see section 505-1(a) of the FD&C Act). FDA can require a REMS before initial approval of a new drug application or, should FDA become aware of “new safety information” (as defined in section 505-1(b)(3) of the FD&C Act) about a drug and determine that a REMS is necessary to ensure that the benefits of the drug outweigh its risks, after the drug has been approved (see section 505-1(a)(2) of the FD&C Act).

FDA’s determination as to whether a REMS is necessary for a particular drug is a complex, drug specific inquiry, reflecting an analysis of multiple, interrelated factors. Section 505-1(a) of the FD&C Act, as added by FDAAA, requires FDA to consider the following six factors<sup>2</sup> in making a decision about whether to require a REMS:

- The seriousness of any known or potential adverse events that may be related to the drug and the background incidence of such events in the population likely to use the drug;
- The expected benefit of the drug with respect to the disease or condition;
- The seriousness of the disease or condition that is to be treated with the drug;
- Whether the drug is a new molecular entity;
- The expected or actual duration of treatment with the drug; and
- The estimated size of the population likely to use the drug.

These six factors influence FDA’s decisions with respect to whether a REMS is required for a particular drug and what type of REMS might be necessary (*i.e.*, what specific elements or tools should be included as part of the REMS). FDA makes decisions about requiring a REMS as part of a benefit-risk determination for a drug after an evaluation that includes integrated consideration of each of the statutory factors. All six factors are considered together to inform FDA’s REMS decision making process and no single factor is determinative as to whether a REMS is necessary. The relative importance or weight of each factor is a case specific inquiry. This guidance describes how FDA considers each of these factors in conducting its REMS analysis.

This guidance finalizes the draft guidance entitled “FDA’s Application of Statutory Factors in Determining When a REMS Is Necessary,” issued September 21, 2016 (81 FR 64911). Interested persons were invited to comment by November 21, 2016. FDA received comments related to how we weigh the six factors when determining if a REMS is necessary, minor clarifying comments on how we apply the six factors, and comments suggesting that FDA expand on which REMS elements or tools should be used when it is determined that a REMS is necessary. FDA has considered all of the public comments received in finalizing this guidance. Clarifying edits were made to address the comments as appropriate. Additionally, edits were made to streamline the guidance, extraneous background information was removed, and the title was modified for clarity.

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 “REMS: FDA’s Application of Statutory Factors in Determining When a REMS Is Necessary.” 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. Electronic Access**

Persons with access to the internet may obtain the guidance at either <https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm>, <https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm>, or <https://www.regulations.gov>.

Dated: April 1, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019-06663 Filed 4-4-19; 8:45 am]

**BILLING CODE 4164-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket Nos. FDA-2011-P-0047, FDA-2012-P-0468, FDA-2015-P-3400, and FDA-2016-P-1667]

**Determination That ANTIVERT Chewable Tablets, 25 Milligrams, and Tablets, 12.5 Milligrams, 25 Milligrams, and 50 Milligrams, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) has determined that ANTIVERT (meclizine hydrochloride) chewable tablets, 25 milligrams (mg), and tablets, 12.5 mg, 25 mg, and 50 mg, were not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to these drug products, and it will allow FDA to continue to approve ANDAs that refer to the products as long as they meet relevant legal and regulatory requirements.

**FOR FURTHER INFORMATION CONTACT:** Linda Jong, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6288, Silver Spring, MD 20993-0002, 301-796-3977.

**SUPPLEMENTARY INFORMATION:** In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) (the 1984 amendments), which

<sup>1</sup> Section 505-1 of the FD&C Act applies to applications for prescription drugs submitted or approved under subsections 505(b) (*i.e.*, new drug applications) or (j) (*i.e.*, abbreviated new drug applications) (21 U.S.C. 355(b) or (j)) of the FD&C Act and to applications submitted or licensed under section 351 (*i.e.*, biologics license applications) of the Public Health Service Act (42 U.S.C. 262). In this document, unless otherwise specified, the term “drug” refers to drug and biological products (or biologics).

<sup>2</sup> Section 505-1(a)(1) of the FD&C Act requires the Agency to consider these factors in determining whether a REMS is necessary for a new drug. FDA also generally considers these factors in determining whether (based on new safety information), a REMS is necessary for a drug that is the subject of an approved application.

authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the “listed drug,” which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the “Approved Drug Products With Therapeutic Equivalence Evaluations,” which is known generally as the “Orange Book.” Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug’s NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

ANTIVERT (meclizine hydrochloride) chewable tablets, 25 mg, and tablets, 12.5 mg, 25 mg, and 50 mg, are the subject of NDA 010721, currently held by Casper Pharma LLC, and initially approved on February 14, 1957. ANTIVERT is indicated for the treatment of vertigo associated with diseases affecting the vestibular system.

ANTIVERT (meclizine hydrochloride) chewable tablets, 25 mg, and tablets, 12.5 mg, 25 mg, and 50 mg, are currently listed in the “Discontinued Drug Product List” section of the Orange Book.

Since 2011, the Agency has received four citizen petitions, submitted under 21 CFR 10.30, requesting that FDA determine whether one or more dosage forms and strengths of ANTIVERT were withdrawn from sale for reasons of safety or effectiveness.

- InvaGen Pharmaceuticals submitted a citizen petition dated January 14, 2011, and amendment dated February 24, 2011 (Docket No. FDA–2011–P–

0047), requesting that the Agency determine whether ANTIVERT (meclizine hydrochloride) chewable tablets, 25 mg, was withdrawn from sale for reasons of safety or effectiveness.

- Modavar Pharmaceuticals LLC submitted a citizen petition dated May 4, 2012, (Docket No. FDA–2012–P–0468) requesting that the Agency determine whether ANTIVERT (meclizine hydrochloride) tablets, 12.5 mg and 25 mg, were withdrawn from sale for reasons of safety or effectiveness.

- Lupin Pharmaceuticals, Inc. submitted a citizen petition dated September 18, 2015 (Docket No. FDA–2015–P–3400), requesting that the Agency determine whether ANTIVERT (meclizine hydrochloride) tablets, 12.5 mg, 25 mg, and 50 mg, were withdrawn from sale for reasons of safety or effectiveness.

- Zydus Pharmaceuticals submitted a citizen petition dated June 14, 2016 (Docket No. FDA–2016–P–1667), requesting that the Agency determine whether ANTIVERT (meclizine hydrochloride) tablets, 12.5 mg and 25 mg, were withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petitions and reviewing Agency records, and based on the information we have at this time, FDA has determined under § 314.161 that ANTIVERT (meclizine hydrochloride) chewable tablets, 25 mg, and tablets, 12.5 mg, 25 mg, and 50 mg, were not withdrawn for reasons of safety or effectiveness. The petitioners have identified no data or other information suggesting that these drug products were withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of ANTIVERT (meclizine hydrochloride) chewable tablets, 25 mg, and tablets, 12.5 mg, 25 mg, and 50 mg, from sale. We have also independently evaluated relevant literature and data for possible post marketing adverse events. We have found no information that would indicate that these drug products were withdrawn from sale for reasons of safety or effectiveness. Accordingly, the Agency will continue to list ANTIVERT (meclizine hydrochloride) chewable tablets, 25 mg, and tablets, 12.5 mg, 25 mg, and 50 mg, in the “Discontinued Drug Product List” section of the Orange Book. The “Discontinued Drug Product List” delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. FDA will not begin procedures to withdraw approval of approved ANDAs that refer to these drug products. Additional

ANDAs for these drug products may also be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for these drug products should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: April 1, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019–06656 Filed 4–4–19; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Office of the Director; Notice of Charter Renewal

In accordance with Title 41 of the U.S. Code of Federal Regulations, Section 102–3.65(a), notice is hereby given that the Charter for the Center for Scientific Review Advisory Council (CSRAC) was renewed for an additional two-year period on March 31, 2019.

It is determined that the CSRAC is in the public interest in connection with the performance of duties imposed on the National Institutes of Health by law, and that these duties can best be performed through the advice and counsel of this group.

Inquiries may be directed to Claire Harris, Acting Director, Office of Federal Advisory Committee Policy, Office of the Director, National Institutes of Health, 6701 Democracy Boulevard, Suite 1000, Bethesda, Maryland 20892 (Mail Code 4875), Telephone (301) 496–2123, or [harriscl@mail.nih.gov](mailto:harriscl@mail.nih.gov).

Dated: April 1, 2019.

**Ronald J. Livingston, Jr.,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019–06615 Filed 4–4–19; 8:45 am]

**BILLING CODE 4140–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Proposed Collection; 60-day Comment Request: A Generic Submission for Formative Research, Pretesting and Customer Satisfaction of NCI’s Communication and Education Resources (NCI)

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

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**SUMMARY:** In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Institutes of Health, National Cancer Institute (NCI) will publish periodic summaries of propose projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

**DATES:** Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

**FOR FURTHER INFORMATION CONTACT:** To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Ilene France, Branch Chief, Office of Communication and Public Liaison, National Cancer Institute, 9609 Medical Center Drive, Rockville, MD, 20850 or call non-toll-free number (240) 276-7787 or Email your request, including your address to: [nciocpl@mail.nih.gov](mailto:nciocpl@mail.nih.gov). Formal requests for additional plans and instruments must be requested in writing.

**SUPPLEMENTARY INFORMATION:** Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following

points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

*Proposed Collection Title:* A Generic Submission for Formative Research, Pretesting and Customer Satisfaction of NCI's Communication and Education Resources (NCI), 0925-0046, Expiration Date 07/31/2019, REVISION, National Cancer Institute (NCI), National Institutes of Health (NIH).

*Need and Use of Information Collection:* This information collection request is to approve the Generic Submission for Formative Research, Pretesting and Customer Satisfaction of NCI's Communication and Education Resources (NCI) for three years. As part of NCI's mandate from Congress to disseminate information on cancer research, detection, prevention, and

treatment, the Institute develops a wide variety of messages and materials. Testing these messages and materials assesses their potential effectiveness in reaching and communicating with their intended audience while they are still in the developmental stage and can be revised. The formative research and pretesting process thus contributes to maximizing NCI's limited dollar resources for information dissemination and education. NCI also must ensure the relevance, utility, and appropriateness of the many educational programs and products that the Institute produces. Customer satisfaction studies help NCI identify modifications necessary to meet the needs of NCI's various target audiences. Since the previous submission, there have been 8 approved sub-studies (and 1 pending) with an approved request of 1,967 burden hours over 2.5 years. Approval is requested for the conduct of multiple studies annually using such methods as interviews, focus groups, and various types of surveys. The content, timing, and number of respondents to be included in each sub-study will vary, depending on the nature of the message/material/program being assessed, the methodology selected, and the target audiences.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 7,200.

**ESTIMATED ANNUALIZED BURDEN HOURS**

Form name	Type of respondents	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Focus Groups, Individual In-Depth Interviews, Brief Interviews, Surveys, Website Usability Testing.	Individuals (General Public) .....	18,000	1	12/60	3,600
Focus Groups, Individual In-Depth Interviews, Brief Interviews, Surveys, Website Usability Testing.	Individuals (Health Care Professionals).	18,000	1	12/60	3,600
Total .....	.....	36,000	36,000	.....	7,200

**Patricia M. Busche,**  
*Project Clearance Liaison, National Cancer Institute, National Institutes of Health.*  
 [FR Doc. 2019-06735 Filed 4-4-19; 8:45 am]  
**BILLING CODE 4140-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Center without Walls for

Imaging Proteinopathies with PET (CW2IP2) for Alzheimer's disease related dementias (ADRDs) (U19).

*Date:* April 11, 2019.

*Time:* 2:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

*Contact Person:* Delany Torres-Salazar, Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/DHHS, NSC, 6001 Executive Blvd., Suite 3208, Bethesda, MD 20892-9529, (301) 496-9223, [delany.torressalazar@nih.gov](mailto:delany.torressalazar@nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Evaluation of DSPAN F99 Blueprint Applications.

*Date:* May 20, 2019.

*Time:* 08:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Ritz Carlton Hotel, 100 Carondelet Plaza, St. Louis, MO 63105.

*Contact Person:* William Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/DHHS, NSC, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892-9529, (301) 496-0660, [benzingw@mail.nih.gov](mailto:benzingw@mail.nih.gov).

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NINDS Research Education Programs for Residents and Fellows in Neurological Disorders and Stroke R25 Application Review.

*Date:* June 24, 2019.

*Time:* 08:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Ritz Carlton Hotel, 100 Carondelet Plaza, St. Louis, MO 63105.

*Contact Person:* William Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/DHHS, NSC, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892-9529, (301) 496-0660, [benzingw@mail.nih.gov](mailto:benzingw@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: April 2, 2019.

**Sylvia L. Neal,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019-06736 Filed 4-4-19; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Neurological Disorders and Stroke

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Interagency Pain Research Coordinating Committee (IPRCC).

The meeting will be open to the public.

*Name of Committee:* Interagency Pain Research Coordinating Committee.

*Type of meeting:* Open Meeting.

*Date:* May 28, 2019.

*Time:* 2:30 p.m. to 5:00 p.m. \*Eastern Time\*

*Agenda:* The meeting will include discussions of committee business items including information about the NIH HEAL Initiative and an update on the Pain Management Best Practices Interagency Task Force.

*Place:* National Institutes of Health, 31 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Call-In Number:* 1-650-479-3208.

*Public Access Code:* 622 058 845.

*Deadline:* Submission of intent to submit written/electronic statement for comments: Monday, May 20th, by 5:00 p.m. ET.

*Contact Person:* Linda L. Porter, Ph.D., Director, Office of Pain Policy, Office of the Director, National Institute of Neurological Disorders and Stroke, NIH, 31 Center Drive, Room 8A31, Bethesda, MD 20892, Phone: (301) 451-4460, Email: [Linda.Porter@nih.gov](mailto:Linda.Porter@nih.gov).

*Please Note:* Any member of the public interested in submitting written comments to the Committee must notify the Contact Person listed on this notice by 5:00 p.m. ET on Monday, May 20, 2019, with their request. Interested individuals and representatives of organizations must submit a written/electronic copy of the oral statement/comments including a brief description of the organization represented by 5:00 p.m. ET on Wednesday, May 22, 2019. Statements submitted will be shared with the committee members and become a part of the public record.

The meeting will be open to the public for audio access through a telephone call in phone number. Members of the public who participate using the conference call phone number will be able to listen to the meeting as attendees but will not be heard. If you experience any technical problems with the call line, please call Operator Service on (301) 496-4517 for conference call issues and the NIH IT Service Desk at (301) 496-4357.

Individuals who participate in person or by using these electronic services and who need special assistance, such as captioning of the call or other reasonable accommodations, should submit a request to the Contact Person listed on this notice at least seven days prior to the meeting.

Information about the IPRCC is available on the website: <http://iprcc.nih.gov>.

Dated: April 2, 2019.

**Sylvia L. Neal,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019-06737 Filed 4-4-19; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Docket ID FEMA-2007-0008]

#### National Advisory Council; Meeting

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Committee management; notice of open federal advisory committee meeting.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) National Advisory Council (NAC) will meet in person on May 7-9, 2019, in College Station, Texas. The meeting will be open to the public.

**DATES:** The NAC will meet Tuesday, May 7, 2019, from 8:00 a.m. to 5:00 p.m., Wednesday, May 8, 2019, from 8:30 a.m. to 5:00 p.m., and Thursday, May 9, 2019, from 8:30 a.m. to 1:00 p.m. Central Time (CT). Please note that the meeting may close early if the NAC has completed its business.

**ADDRESSES:** The meeting will be held at the Texas A&M Hotel and Conference Center, 177 Joe Routh Blvd., College Station, TX 77840. It is recommended that attendees register with FEMA by April 26, 2019, by providing their name, telephone number, email address, title, and organization to the person listed in the **FOR FURTHER INFORMATION CONTACT** below.

Reasonable accommodations are available for people with disabilities and others with access and functional needs. To request a reasonable accommodation at the meeting, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section below as soon as possible.

To facilitate public participation, members of the public are invited to provide written comments on the issues to be considered by the NAC. The "Agenda" section below outlines these issues. The full agenda and any related documents for this meeting will be posted by Friday, May 3, 2019, on the NAC website at <https://www.fema.gov/national-advisory-council>. Written comments must be submitted and received by 5:00 p.m. ET on May 3, 2019, identified by Docket ID FEMA-

2007–0008, and submitted by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* (540) 504–2331. Please include a cover sheet addressing the fax to ATTN: Jasper Cooke.

- *Mail:* Regulatory Affairs Division, Office of Chief Counsel, FEMA, 500 C Street SW, Room 8NE, Washington, DC 20472–3100.

*Instructions:* All submissions must include the words “Federal Emergency Management Agency” and the docket number for this action. Comments received, including any personal information provided, will be posted without alteration at <http://www.regulations.gov>.

*Docket:* For access to the docket to read comments received by the NAC, go to <http://www.regulations.gov>, and search for Docket ID FEMA–2007–0008.

A public comment period will be held at the NAC meeting on Wednesday, May 8, 2019, from 1:00 p.m. to 1:15 p.m. CT. All speakers must limit their comments to 5 minutes. Comments should be addressed to the NAC. Any comments not related to the agenda topics will not be considered by the NAC. To register to make remarks during the public comment period, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section below by May 3, 2019. Please note that the public comment period may end before the time indicated, following the last call for comments.

**FOR FURTHER INFORMATION CONTACT:** Jasper Cooke, Designated Federal Officer, Office of the National Advisory Council, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472–3184, telephone (202) 646–2700, Fax (540) 504–2331, and email [FEMA-NAC@fema.dhs.gov](mailto:FEMA-NAC@fema.dhs.gov). The NAC website is [www.fema.gov/national-advisory-council](http://www.fema.gov/national-advisory-council).

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. Appendix.

The NAC advises the FEMA Administrator on all aspects of emergency management. The NAC incorporates input from state, local, tribal and territorial governments, non-governmental organizations and the private sector, in the development and revision of FEMA plans and strategies. The NAC includes a cross-section of officials, emergency managers, and emergency response providers from state, local, and tribal governments, the private sector, and nongovernmental organizations.

*Agenda:* On Tuesday, May 7, 2019, the NAC will hear presentations from, or about, the FEMA National Integration Center, various aspects of emergency management and recovery in Texas, and the Texas Engineering Extension Service. The NAC Subcommittee leadership will also present to the NAC on the research they conducted that supports the recommendations they will make on Wednesday.

On Wednesday, May 8, 2019, the NAC will be briefed on progress made on previous recommendations from the relevant FEMA program leadership and will also hear about strategic priorities from the Acting FEMA Administrator. Following this, the three permanent and one ad-hoc NAC subcommittees (Federal Insurance and Mitigation Subcommittee, Preparedness and Protection Subcommittee, Response and Recovery Subcommittee, and Tribal Subcommittee) will discuss and deliberate on their potential recommendations. Based on group discussion, the NAC will vote to make recommendations as appropriate to the FEMA Administrator. Potential recommendation topics include (1) building financial preparedness, (2) using pre-disaster mitigation funding to support whole community lifeline infrastructure projects, (3) closing the insurance gap for all-hazards renter’s insurance policies, and (4) better supporting effective codes and standards compliance.

On Thursday, May 9, 2019, the NAC will review potential topics for research before the next in-person meeting, discuss recent disasters, review agreed upon recommendations, and confirm charges for the subcommittees.

The full agenda and any related documents for this meeting will be posted by Friday, May 3, 2019, on the NAC website at <http://www.fema.gov/national-advisory-council>.

Dated: March 29, 2019.

**Pete Gaynor,**

*Acting Administrator, Federal Emergency Management Agency.*

[FR Doc. 2019–06692 Filed 4–4–19; 8:45 am]

**BILLING CODE 9111–48–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Docket ID FEMA–2019–0002; Internal Agency Docket No. FEMA–B–1915]

### Proposed Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

**DATES:** Comments are to be submitted on or before July 5, 2019.

**ADDRESSES:** The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://www.fema.gov/preliminaryfloodhazarddata> and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA–B–1915, to Rick Sacbbit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472,

(202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov); or visit the FEMA Map Information eXchange (FMIX) online at [https://www.floodmaps.fema.gov/fhm/fmx\\_main.html](https://www.floodmaps.fema.gov/fhm/fmx_main.html).

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other

Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a

mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at [https://www.floodsrp.org/pdfs/srp\\_overview.pdf](https://www.floodsrp.org/pdfs/srp_overview.pdf).

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://www.fema.gov/preliminaryfloodhazarddata> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

**Michael M. Grimm,**

*Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.*

Community	Community map repository address
<b>Crittenden County, Kentucky and Incorporated Areas</b> <b>Project: 13-04-8739S Preliminary Date: September 30, 2016 and June 29, 2018</b>	
Unincorporated Areas of Crittenden County .....	Crittenden County Courthouse, Clerk's Office, 107 South Main Street, Suite 203, Marion, KY 42064.
<b>Livingston County, Kentucky and Incorporated Areas</b> <b>Project: 13-04-8739S Preliminary Date: September 30, 2016 and June 29, 2018</b>	
City of Smithland .....	City Hall, 310 Wilson Avenue, Smithland, KY 42081.
Unincorporated Areas of Livingston County .....	Livingston County Judge Executive's Office, 321 Court Street, Smithland, KY 42081.
<b>Cass County, North Dakota (All Jurisdictions)</b> <b>Project: 10-08-0041S Preliminary Date: January 29, 2016 and July 18, 2018</b>	
City of Amenia .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
City of Argusville .....	City Auditor's Office, 602 Lynn Dawn Drive, Argusville, ND 58005.
City of Arthur .....	Community Hall, 340 Main Street, Arthur, ND 58006.
City of Casselton .....	City Hall, 702 1st Street North, Casselton, ND 58012.
City of Davenport .....	City Hall, 115 4th Avenue, Davenport, ND 58021.
City of Fargo .....	City Hall, 225 4th Street North, Fargo, ND 58102.
City of Harwood .....	City Hall, 108 Main Street, Harwood, ND 58042.
City of Horace .....	City Hall 215 Park Drive East, Horace, ND 58047.
City of Hunter .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
City of Kindred .....	City Hall, 31 5th Avenue North, Kindred, ND 58051.
City of Mapleton .....	City Hall, 651 2nd Street, Mapleton, ND 58059.
City of Reiles Acres .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
City of West Fargo .....	City Hall, 800 4th Avenue East, Suite 1, West Fargo, ND 58078.
Township of Addison .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
Township of Amenia .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.

Community	Community map repository address
Township of Arthur .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
Township of Berlin .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
Township of Casselton .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
Township of Davenport .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
Township of Durbin .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
Township of Everest .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
Township of Gardner .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
Township of Harmony .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
Township of Harwood .....	Clerk, Zoning and Administrator's Office, 126 Brooktree Park, Harwood, ND 58042.
Township of Highland .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
Township of Hunter .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
Township of Maple River .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
Township of Mapleton .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
Township of Noble .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
Township of Normanna .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
Township of Pleasant .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
Township of Raymond .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
Township of Reed .....	Reed Township Hall, 1851 County Road 17 North, West Fargo, ND 58078.
Township of Rush River .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
Township of Walburg .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
Township of Warren .....	Warren Township Chairman's Office, 9605 81st Street South, Horace, ND 58047.
Township of Watson .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.
Township of Wisner .....	Cass County Planning Office, 1201 Main Avenue West, West Fargo, ND 58078.

[FR Doc. 2019-06687 Filed 4-4-19; 8:45 am]

BILLING CODE 9110-12-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Docket ID FEMA-2019-0002; Internal Agency Docket No. FEMA-B-1917]

#### Changes in Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area

(SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes,

the currently effective community number is shown in the table below and must be used for all new policies and renewals.

**DATES:** These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

**ADDRESSES:** The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbabit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbabit@fema.dhs.gov](mailto:patrick.sacbabit@fema.dhs.gov); or visit the FEMA Map Information eXchange (FMIX) online at [https://www.floodmaps.fema.gov/fhm/fmx\\_main.html](https://www.floodmaps.fema.gov/fhm/fmx_main.html).

**SUPPLEMENTARY INFORMATION:** The specific flood hazard determinations are not described for each community in

this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any

existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

**Michael M. Grimm,**

*Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.*

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Arizona: Yavapai ...	City of Cottonwood (18-09-1452P).	The Honorable Tim Elinski, Mayor, City of Cottonwood, 827 North Main Street, Cottonwood, AZ 86326.	Department of Public Works, 1490 West Mingus Avenue, Cottonwood, AZ 86326.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 27, 2019 .....	040096
Colorado:						
Garfield .....	City of Glenwood Springs (19-08-0116P).	The Honorable Michael Gamba, Mayor, City of Glenwood Springs, 101 West 8th Street, Glenwood Springs, CO 81601.	Engineering Department, 101 West 8th Street, Glenwood Springs, CO 81601.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 11, 2019 .....	080071
Garfield .....	Unincorporated areas of Garfield County (19-08-0116P).	The Honorable John Martin, Chairman, Garfield County Board of Commissioners, 108 8th Street, Suite 101, Glenwood Springs, CO 81601.	Garfield County Courthouse, 109 8th Street, Glenwood Springs, CO 81601.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 11, 2019 .....	080205
Florida:						
Bay .....	Unincorporated areas of Bay County (18-04-4009P).	The Honorable William Dozier, Chairman, Bay County Board of Commissioners, 840 West 11th Street, Panama City, FL 32401.	Bay County Planning and Zoning Department, 840 West 11th Street, Panama City, FL 32401.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 11, 2019 .....	120004
Monroe .....	City of Key West (19-04-0349P).	The Honorable Teri Johnston, Mayor, City of Key West, P.O. Box 1409, Key West, FL 33041.	City Hall, 1300 White Street, Key West, FL 33041.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 12, 2019 .....	120168
Monroe .....	Unincorporated areas of Monroe County (19-04-0349P).	The Honorable Sylvia Murphy, Mayor, Monroe County Board of Commissioners, 102050 Overseas Highway, Suite 234, Key Largo, FL 33037.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 12, 2019 .....	125129
Orange .....	Unincorporated areas of Orange County (18-04-3127P).	The Honorable Teresa Jacobs, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	Orange County Stormwater Division, 4200 South John Young Parkway, Orlando, FL 32839.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 11, 2019 .....	120179

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Orange .....	Unincorporated areas of Orange County (18-04-6487P).	The Honorable Teresa Jacobs, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	Orange County Stormwater Division, 4200 South John Young Parkway, Orlando, FL 32839.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jul. 5, 2019 .....	120179
Orange .....	Unincorporated areas of Orange County (19-04-0061P).	The Honorable Teresa Jacobs, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	Orange County Stormwater Division, 4200 South John Young Parkway, Orlando, FL 32839.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 12, 2019 .....	120179
Pasco .....	Unincorporated areas of Pasco County (18-04-4034P).	Mr. Dan Biles Administrator, Pasco County, 8731 Citizens Drive, Suite 340, New Port Richey, FL 34654.	Pasco County, Dade City Record Center, 38301 McDonald Street, Dade City, FL 33525.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 27, 2019 .....	120230
Pennsylvania: Huntingdon .....	Township of Smithfield (18-03-2287P).	The Honorable Doyland Gladfelter, Chairman, Township of Smithfield Board of Supervisors, 202 South 13th Street, Suite 3, Huntingdon, PA 16652.	Code Enforcement Department, 202 South 23rd Street, Suite 3, Huntingdon, PA 16652.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 11, 2019 .....	420494
Montgomery ...	Borough of Ambler (18-03-1837P).	The Honorable Frank DeRuosi, President, Borough of Ambler Council, 131 Rosemary Avenue, Ambler, PA 19002.	Borough Hall, 131 Rosemary Avenue, Ambler, PA 19002.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jul. 8, 2019 .....	420947
Montgomery ...	Township of Upper Dublin (18-03-1837P).	The Honorable Ira S. Tackel, President, Township of Upper Dublin Board of Commissioners, 801 Loch Alsh Avenue, Fort Washington, PA 19034.	Township Hall, 801 Loch Alsh Avenue, Fort Washington, PA 19034.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jul. 8, 2019 .....	420708
South Dakota: Minnehaha.	City of Sioux Falls (18-08-1114P).	The Honorable Paul TenHaken, Mayor, City of Sioux Falls, 224 West 9th Street, Sioux Falls, SD 57104.	Planning and Building Services Department, 224 West 9th Street, Sioux Falls, SD 57104.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 14, 2019 .....	460060
Texas: Bexar .....	City of San Antonio (18-06-2159P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capitol Improvements Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	May 13, 2019 .....	480045
Bexar .....	City of San Antonio (18-06-2478P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capitol Improvements Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	May 13, 2019 .....	480045
Bexar .....	City of San Antonio (18-06-3206P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capitol Improvements Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Apr. 29, 2019 .....	480045
Bexar .....	Unincorporated areas of Bexar County (18-06-3206P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Apr. 29, 2019 .....	480035
Dallas .....	City of DeSoto (18-06-3315P).	The Honorable Curtistene Smith McCowan, Mayor, City of DeSoto, 211 East Pleasant Run Road, DeSoto, TX 75115.	Engineering Department, 211 East Pleasant Run Road, DeSoto, TX 75115.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	May 3, 2019 .....	480172
Dallas .....	City of Garland (18-06-2735P).	The Honorable Lori Barnett Dodson, Mayor, City of Garland, 200 North 5th Street, Garland, TX 75040.	City Hall, 800 Main Street, Garland, TX 75040.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	May 13, 2019 .....	485471

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Fort Bend .....	Unincorporated areas of Fort Bend County (18-06-2990P).	The Honorable K. P. George, Fort Bend County Judge, 401 Jackson Street, Richmond, TX 77469.	Fort Bend County Engineering Department, 301 Jackson Street, Richmond, TX 77469.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	May 16, 2019 .....	480228
Harris .....	Unincorporated areas of Harris County (18-06-2625P).	The Honorable Lina Hidalgo, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permits Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 17, 2019 .....	480287
Hays .....	City of Kyle (18-06-1606P).	The Honorable Travis Mitchell, Mayor, City of Kyle, 100 West Center Street, Kyle, TX 78640.	Building Department, 100 West Center Street, Kyle, TX 78640.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	May 16, 2019 .....	481108
Hays .....	Unincorporated areas of Hays County (18-06-1606P).	The Honorable Debbie Ingalsbe, Acting Hays County Judge, 111 East San Antonio Street, Suite 300, San Marcos, TX 78666.	Hays County Development Services Department, 2171 Yarrington Road, Suite 100, Kyle, TX 78640.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	May 16, 2019 .....	480321
Kerr .....	City of Kerrville (18-06-2862P).	The Honorable Bill Blackburn, Mayor, City of Kerrville, 701 Main Street, Kerrville, TX 78028.	Engineering Department, 200 Sidney Baker Street, Kerrville, TX 78028.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	May 13, 2019 .....	480420
Webb .....	Unincorporated areas of Webb County (19-06-0140X).	The Honorable Tano E. Tijerina, Webb County Judge, 1000 Houston Street, 3rd Floor, Laredo, TX 78040.	Webb County Planning Department, 1110 Washington Street, Suite 302, Laredo, TX 78040.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Apr. 25, 2019 .....	481059
Utah: Iron .....	City of Cedar City (18-08-0285P).	The Honorable Maile Wilson Edwards, Mayor, City of Cedar City, 10 North Main Street, Cedar City, UT 84720.	Engineering Department, 10 North Main Street, Cedar City, UT 84720.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 13, 2019 .....	490074

[FR Doc. 2019-06684 Filed 4-4-19; 8:45 am]

BILLING CODE 9110-12-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4415-DR; Docket ID FEMA-2019-0001]

#### Mississippi; Amendment No. 1 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Mississippi (FEMA-4415-DR), dated February 14, 2019, and related determinations.

**DATES:** This amendment was issued March 20, 2019.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the State of Mississippi is hereby amended to include the following area among those areas determined to have been

adversely affected by the event declared a major disaster by the President in his declaration of February 14, 2019.

Noxubee County for Public Assistance. The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Pete Gaynor,**

*Acting Administrator, Federal Emergency Management Agency.*

[FR Doc. 2019-06634 Filed 4-4-19; 8:45 am]

BILLING CODE 9111-23-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4420-DR; Docket ID FEMA-2019-0001]

#### Nebraska; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of Nebraska (FEMA-4420-DR), dated March 21, 2019, and related determinations.

**DATES:** The declaration was issued March 21, 2019.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated March 21, 2019, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of Nebraska resulting from a severe winter storm, straight-line winds, and flooding beginning on March 9, 2019, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of Nebraska.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and assistance for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate subject to completion of Preliminary Damage Assessments (PDAs).

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Constance Johnson-Cage, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Nebraska have been designated as adversely affected by this major disaster:

Butler, Cass, Colfax, Dodge, Douglas, Nemaha, Sarpy, Saunders, and Washington Counties for Individual Assistance.

Adams, Antelope, Blaine, Boone, Box Butte, Boyd, Brown, Buffalo, Burt, Butler, Cass, Cedar, Cherry, Colfax, Cuming, Custer, Dakota, Dixon, Dodge, Douglas, Fillmore, Frontier, Furnas, Gage, Garfield, Gosper, Greeley, Hall, Harlan, Holt, Howard,

Jefferson, Johnson, Keya Paha, Knox, Lancaster, Lincoln, Logan, Loup, Madison, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Pierce, Platte, Richardson, Rock, Saline, Sarpy, Saunders, Scotts Bluff, Seward, Sherman, Stanton, Thayer, Thurston, Valley, Washington, Wayne, Wheeler, and York Counties and the Santee Sioux Nation, Ponca Tribe of Nebraska, Omaha Tribe of Nebraska, Sac and Fox, and Winnebago Tribe for debris removal and emergency protective measures (Categories A and B), including direct federal assistance, under the Public Assistance program.

All areas within the State of Nebraska are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Pete Gaynor,**

*Acting Administrator, Federal Emergency Management Agency.*

[FR Doc. 2019-06633 Filed 4-4-19; 8:45 am]

**BILLING CODE 9111-23-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4412-DR; Docket ID FEMA-2019-0001]

#### North Carolina; Amendment No. 1 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for State of North Carolina (FEMA-4412-DR), dated January 31, 2019, and related determinations.

**DATES:** This change occurred on March 28, 2019.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency

(FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Nancy Casper, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Albert Lewis as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Pete Gaynor,**

*Acting Administrator, Federal Emergency Management Agency.*

[FR Doc. 2019-06636 Filed 4-4-19; 8:45 am]

**BILLING CODE 9111-23-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4393-DR; Docket ID FEMA-2019-0001]

#### North Carolina; Amendment No. 11 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for State of North Carolina (FEMA-4393-DR), dated September 14, 2018, and related determinations.

**DATES:** This change occurred on March 28, 2019.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Nancy Casper, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Albert Lewis as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Pete Gaynor,**

*Acting Administrator, Federal Emergency Management Agency.*

[FR Doc. 2019–06637 Filed 4–4–19; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4417–DR; Docket ID FEMA–2019–0001]

#### Kansas; Amendment No. 1 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Kansas (FEMA–4417–DR), dated February 25, 2019, and related determinations.

**DATES:** This amendment was issued March 20, 2019.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the State of Kansas is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of February 25, 2019.

Barber and Ottawa Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030,

Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Pete Gaynor,**

*Acting Administrator, Federal Emergency Management Agency.*

[FR Doc. 2019–06641 Filed 4–4–19; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4415–DR; Docket ID FEMA–2019–0001]

#### Mississippi; Amendment No. 2 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for State of Mississippi (FEMA–4415–DR), dated February 14, 2019, and related determinations.

**DATES:** This change occurred on March 28, 2019.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Lai Sun Yee, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Jon K. Huss as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to

Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Pete Gaynor,**

*Acting Administrator, Federal Emergency Management Agency.*

[FR Doc. 2019–06635 Filed 4–4–19; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4399–DR; Docket ID FEMA–2019–0001]

#### Florida; Amendment No. 8 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of Florida (FEMA–4399–DR), dated October 11, 2018, and related determinations.

**DATES:** This amendment was issued March 9, 2019.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated March 9, 2019, the President amended the cost-sharing arrangements regarding Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), in a letter to Pete Gaynor, Acting Administrator, Federal Emergency Management Agency, Department of Homeland Security, under Executive Order 12148, as follows:

I have determined that the damage in certain areas of the State of Florida resulting from Hurricane Michael during the period of October 7 to October 19, 2018, is of sufficient severity and magnitude that special cost sharing arrangements are warranted regarding Federal funds provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”).

Therefore, I amend my declarations of October 11, 2018, and October 14, 2018, to

authorize Federal funds for debris removal and emergency protective measures (Categories A and B), including direct Federal assistance, under the Public Assistance program at 100 percent of the total eligible costs from October 10, 2018 through November 24, 2018.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Pete Gaynor,**

*Acting Administrator, Federal Emergency Management Agency.*

[FR Doc. 2019-06640 Filed 4-4-19; 8:45 am]

**BILLING CODE 9111-23-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Docket ID FEMA-2019-0002; Internal Agency Docket No. FEMA-B-1919]

#### Changes in Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The

FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

**DATES:** These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

**ADDRESSES:** The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below. **FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov); or visit the FEMA Map Information eXchange (FMIX) online at [https://www.floodmaps.fema.gov/fhm/fmx\\_main.html](https://www.floodmaps.fema.gov/fhm/fmx_main.html).

**SUPPLEMENTARY INFORMATION:** The specific flood hazard determinations are

not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

**Michael M. Grimm,**

*Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.*

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Arizona:						
Cochise .....	City of Sierra Vista (18-09-1540P).	The Honorable Rick Mueller, Mayor, City of Sierra Vista, 1011 North Coronado Drive, Sierra Vista, AZ 85635.	Community Development Department, 1011 North Coronado Drive, Sierra Vista, AZ 85635.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 12, 2019 .....	040017
Maricopa .....	City of Peoria (18-09-2141P).	The Honorable Cathy Carlat, Mayor, City of Peoria, 8401 West Monroe Street, Peoria, AZ 85345.	City Hall, 8401 West Monroe Street, Peoria, AZ 85345.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 21, 2019 .....	040050
Mohave .....	City of Bullhead City (18-09-1188P).	The Honorable Tom Brady, Mayor, City of Bullhead City, 2355 Trane Road, Bullhead City, AZ 86442.	Public Works Department, 2355 Trane Road, Bullhead City, AZ 86442.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jul. 2, 2019 .....	040125
California:						
San Diego .....	City of San Diego (18-09-1129P).	The Honorable Kevin L. Faulconer, Mayor, City of San Diego, 202 C Street, 11th Floor, San Diego, CA 92101.	Development Services Department, 1222 1st Avenue, MS301, San Diego, CA 92101.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 19, 2019 .....	060295
Solano .....	City of Vacaville (18-09-0833P).	The Honorable Ron Rowlett, Mayor, City of Vacaville, 650 Merchant Street, Vacaville, CA 95688.	Planning and Engineering, 650 Merchant Street, Vacaville, CA 95688.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jul. 1, 2019 .....	060373
Florida:						
Bay .....	City of Panama City Beach (18-04-6432P).	The Honorable Mike Thomas, Mayor, City of Panama City Beach, City Hall, 110 South Arnold Road, Panama City Beach, FL 32413.	City Hall, 110 South Arnold Road, Panama City Beach, FL 32413.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 26, 2019 .....	120013
Miami-Dade ....	City of Miami (19-04-0054P).	The Honorable Tomas P. Regaldo, Mayor, City of Miami, 3500 Pan American Drive, Miami, FL 33133.	Emergency Management Department, 444 Southwest 2nd Avenue, 10th Floor, Miami, FL 33130.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jul. 5, 2019 .....	120650
Hawaii: Hawaii .....	Hawaii County (18-09-2287P).	The Honorable Harry Kim, Mayor, County of Hawaii, 25 Aupuni Street, Suite 2603, Hilo, HI 96720.	Hawaii County Department of Public Works, Engineering Division, 101 Pauahi Street, Suite 7, Hilo, HI 96720.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 28, 2019 .....	155166
Illinois:						
Kane .....	Village of Hampshire (18-05-5585P).	The Honorable Jeffrey Magnussen, Village President, Village of Hampshire, P.O. Box 457, Hampshire, IL 60140.	Village Hall, 234 South State Street, Hampshire, IL 60140.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 20, 2019 .....	170327
Will .....	Village of Homer Glen (18-05-6035P).	The Honorable George Yukich, Mayor, Village of Homer Glen, 14240 West 151st Street, Homer Glen, IL 60491.	Village Hall, 14240 West 151st Street, Homer Glen, IL 60491.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jul. 5, 2019 .....	171080
Indiana: Allen .....	City of Fort Wayne (18-05-6504P).	The Honorable Tom Henry, Mayor, City of Fort Wayne, Citizens Square, 200 East Berry Street, Suite 420, Fort Wayne, IN 46802.	Department of Planning Services, 200 East Berry Street, Suite 150, Fort Wayne, IN 46802.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 26, 2019 .....	180003
Iowa: Black Hawk	City of Waterloo (18-07-1103P).	The Honorable Quentin M. Hart, Mayor, City of Waterloo, 715 Mulberry Street, Waterloo, IA 50703.	City Hall, 715 Mulberry Street, Waterloo, IA 50703.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jul. 1, 2019 .....	190025
Kansas:						
Johnson .....	City of Shawnee (18-07-1853P).	The Honorable Michelle Distler, Mayor, City of Shawnee, Shawnee City Hall, 11110 Johnson Drive, Shawnee, KS 66203.	City Hall, 11110 Johnson Drive, Shawnee, KS 66203.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jul. 3, 2019 .....	200177
Johnson .....	City of Shawnee (18-07-2004P).	The Honorable Michelle Distler, Mayor, City of Shawnee, Shawnee City Hall, 11110 Johnson Drive, Shawnee, KS 66203.	City Hall, 11110 Johnson Drive, Shawnee, KS 66203.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 26, 2019 .....	200177

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Clay .....	City of Moorhead (18-05-1711P).	The Honorable Del Rae Williams, Mayor, City of Moorhead, City Hall, 500 Center Avenue, Moorhead, MN 56561.	City Hall, 500 Center Avenue, Moorhead, MN 56561.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	May 17, 2019 .....	275244
Clay .....	Unincorporated Areas of Clay County (18-05-1711P).	The Honorable Jenny Mongeau, Chair, Clay County Board of Commissioners Clay County Courthouse, 807 11th Street, North Commission Room, 3rd Floor Moorhead, MN 56560.	Clay County Courthouse, 8107 11th Street, Moorhead, MN 56560.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	May 17, 2019 .....	275235
Nevada: Clark .....	City of North Las Vegas (18-09-2027P).	The Honorable John J. Lee, Mayor, City of North Las Vegas, 2250 Las Vegas Boulevard North, North Las Vegas, NV 89030.	Public Works Department, 2250 Las Vegas Boulevard North, Suite 200, North Las Vegas, NV 89030.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jul. 3, 2019 .....	320007
Ohio: Lorain .....	City of Avon Lake (18-05-3982P).	The Honorable Greg Zilka, Mayor, City of Avon Lake, City Hall, 150 Avon Belden Road, Avon Lake, OH 44012.	City Hall, 150 Avon Belden Road, Avon Lake, OH 44012.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 26, 2019 .....	390602
Washington: Island .....	Unincorporated Areas of Island County (18-10-1156P).	Ms. Jill Johnson, Chair, Island County Commissioners, Administration Building, 1 Northeast 7th Street, Room 214, Coupeville, WA 98239.	Island County Courthouse Annex, 1 Northeast 6th Street, Coupeville, WA 98239.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 27, 2019 .....	530312
Pierce .....	City of Puyallup (19-10-0145P).	The Honorable John Palmer, Mayor, City of Puyallup, Puyallup City Hall, 333 South Meridian, Puyallup, WA 98371.	City Hall, 333 South Meridian, Puyallup, WA 98371.	<a href="https://msc.fema.gov/portal/advanceSearch">https://msc.fema.gov/portal/advanceSearch</a> .	Jun. 28, 2019 .....	530144

[FR Doc. 2019-06685 Filed 4-4-19; 8:45 am]  
BILLING CODE 9110-12-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4416-DR; Docket ID FEMA-2019-0001]

#### Texas; Amendment No. 1 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Texas (FEMA-4416-DR), dated February 25, 2019, and related determinations.

**DATES:** This amendment was issued March 29, 2019.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the State of Texas is hereby amended to

include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of February 25, 2019.

Polk, Schleicher, and Walker Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Pete Gaynor,**

*Acting Administrator, Federal Emergency Management Agency.*

[FR Doc. 2019-06639 Filed 4-4-19; 8:45 am]

BILLING CODE 9111-23-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Docket ID FEMA-2019-0002; Internal Agency Docket No. FEMA-B-1914]

#### Proposed Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report

are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

**DATES:** Comments are to be submitted on or before July 5, 2019.  
**ADDRESSES:** The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://www.fema.gov/preliminaryfloodhazarddata> and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-1914, to Rick Sacbabit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbabit@fema.dhs.gov](mailto:patrick.sacbabit@fema.dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbabit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbabit@fema.dhs.gov](mailto:patrick.sacbabit@fema.dhs.gov); or visit the FEMA Map Information eXchange

(FMIX) online at [https://www.floodmaps.fema.gov/fhm/fmx\\_main.html](https://www.floodmaps.fema.gov/fhm/fmx_main.html).

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in

support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at [https://www.floodsrp.org/pdfs/srp\\_overview.pdf](https://www.floodsrp.org/pdfs/srp_overview.pdf).

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://www.fema.gov/preliminaryfloodhazarddata> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

**Michael M. Grimm,**  
*Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.*

Community	Community map repository address
<b>Franklin County, Missouri and Incorporated Areas</b> <b>Project: 17-07-0683S Preliminary Date: October 12, 2018</b>	
City of Pacific .....	City Hall, 300 Hoven Drive, Pacific, MO 63069.
City of St. Clair .....	City Hall #1 Paul Parks Drive, St. Clair, MO 63077.
City of Union .....	City Hall, 500 East Locust Street, Union, MO 63084.
Unincorporated Areas of Franklin County .....	Franklin County Office, 400 East Locust Street, Union, MO 63084.
Village of Miramigoua Park .....	Franklin County Office, 400 East Locust Street, Union, MO 63084.
<b>Greene County, Missouri and Incorporated Areas</b> <b>Project: 17-07-0862S Preliminary Date: August 23, 2018</b>	
City of Ash Grove .....	City Hall, 100 West Main Street, Ash Grove, MO 65604.
City of Battlefield .....	City Hall, 5434 South Tower Drive, Battlefield, MO 65619.
City of Fair Grove .....	City Hall, 81 South Orchard Boulevard, Fair Grove, MO 65648.
City of Republic .....	City Hall, 213 North Main Street, Republic, MO 65738.
City of Springfield .....	City Hall, 840 Booneville Avenue, Springfield, MO 65802.
City of Strafford .....	City Hall, 126 South Washington Street, Strafford, MO 65757.
City of Willard .....	City Hall, 224 West Jackson Street, Willard, MO 65781.
Unincorporated Areas of Greene County .....	Greene County Courthouse, 940 North Booneville Avenue, Springfield, MO 65802.

Community	Community map repository address
<b>Washington County, Missouri and Incorporated Areas</b> <b>Project: 17-07-0519S Preliminary Date: October 12, 2018</b>	
City of Irondale ..... City of Potosi ..... Village of Caledonia ..... Village of Mineral Point ..... Unincorporated Areas of Washington County .....	City Hall, 110 South Oak Street, Irondale, MO 63648. City Hall, 121 East High Street, Potosi, MO 63664. Village Hall, 130 Webster Road, Caledonia, MO 63631. Village Hall, 702 State Street, Mineral Point, MO 63660. Washington County Courthouse, 102 North Missouri Street, Potosi, MO 63664.
<b>Douglas County, Oregon and Incorporated Areas</b> <b>Project: 14-10-0574S Preliminary Dates: March 29, 2018 and August 31, 2018</b>	
City of Reedsport ..... Unincorporated Areas of Douglas County .....	City Hall, 451 Winchester Avenue, Reedsport, OR 97467. Douglas County Courthouse, Justice Building, 1036 Southeast Douglas Avenue, Room 106, Roseburg, OR 97470.

[FR Doc. 2019-06686 Filed 4-4-19; 8:45 am]  
**BILLING CODE 9110-12-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

[Internal Agency Docket No. FEMA-4420-DR; Docket ID FEMA-2019-0001]

**Nebraska; Amendment No. 1 to Notice of a Major Disaster Declaration**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Nebraska (FEMA-4420-DR), dated March 21, 2019, and related determinations.

**DATES:** This amendment was issued March 30, 2019.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the State of Nebraska is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of March 21, 2019.

Boone, Buffalo, Custer, Knox, Richardson, and Thurston Counties and the Santee Sioux Nation for Individual Assistance (already designated for debris removal and emergency protective measures [Categories A and B], including direct federal assistance, under the Public Assistance program).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora

Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Pete Gaynor,**  
*Acting Administrator, Federal Emergency Management Agency.*

[FR Doc. 2019-06632 Filed 4-4-19; 8:45 am]  
**BILLING CODE 9111-23-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

[Internal Agency Docket No. FEMA-4421-DR; Docket ID FEMA-2019-0001]

**Iowa; Major Disaster and Related Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of Iowa (FEMA-4421-DR), dated March 23, 2019, and related determinations.

**DATES:** The declaration was issued March 23, 2019.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated

March 23, 2019, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the damage in certain areas of the State of Iowa resulting from severe storms and flooding beginning on March 12, 2019, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Iowa.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and assistance for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate subject to completion of Preliminary Damage Assessments (PDAs).

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing

Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Timothy J. Scranton, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Iowa have been designated as adversely affected by this major disaster:

Fremont, Harrison, Mills, Monona, and Woodbury Counties for Individual Assistance.

Adair, Allamakee, Audubon, Boone, Bremer, Buena Vista, Butler, Calhoun, Carroll, Cass, Cherokee, Clay, Crawford, Dallas, Decatur, Dickinson, Emmet, Fayette, Franklin, Fremont, Greene, Guthrie, Hamilton, Hancock, Hardin, Harrison, Howard, Humboldt, Ida, Iowa, Jasper, Kossuth, Lyon, Madison, Mahaska, Marshall, Mills, Monona, Montgomery, O'Brien, Osceola, Page, Plymouth, Pocahontas, Polk, Pottawattamie, Sac, Shelby, Sioux, Tama, Union, Webster, Winnebago, Winneshiek, Woodbury, and Wright Counties for debris removal and emergency protective measures (Categories A and B), including direct federal assistance, under the Public Assistance program.

All areas within the State of Iowa are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Pete Gaynor,**

*Acting Administrator, Federal Emergency Management Agency.*

[FR Doc. 2019-06638 Filed 4-4-19; 8:45 am]

**BILLING CODE 9111-23-P**

**DEPARTMENT OF HOMELAND SECURITY**

[Docket No. DHS-2019-0010]

**Support Anti-Terrorism by Fostering Effective Technologies Act (SAFETY Act)**

**AGENCY:** Science and Technology Directorate (S&T), Department of Homeland Security (DHS).

**ACTION:** 60-Day Notice of Information Collection; Request for comment. (Extension of a Currently Approved Collection, 1640-0001)

**SUMMARY:** S&T will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The DHS S&T currently has approval to collect information using the forms: Registration of a Seller as an Anti-Terrorism Technology (DHS Form 10010), Request for a Pre-application Consultation (DHS Form 10009), Notice of License of Qualified Anti-Terrorism Technology (DHS Form 10003), Notice of Modification of Qualified Anti-Terrorism Technology (DHS Form 10002), Application for Transfer of SAFETY Act Designation and Certification (DHS Form 10001), Application for Renewal Of SAFETY Act Protections of a Qualified Anti-Terrorism Technology (DHS Form 10057), Application for SAFETY Act Developmental Testing and Evaluation Designation (DHS Form 10006), Application for SAFETY Act Designation (DHS Form 10008), Application for SAFETY Act Certification (DHS Form 10007), SAFETY Act Block Designation Application (DHS Form 10005), and SAFETY Act Block Certification Application (DHS Form 10004) until June 30, 2019 with OMB approval number 1640-0001. The information collection activity will determine if a technology merits SAFETY Act protections. The information requested in the collection instruments are necessary to address not only the criteria and conditions for SAFETY Act Designation and Certification, but also to address other items of note that may be necessary for the Secretary, or their Designee to make their decision.

**DATES:** Comments are encouraged and accepted until June 4, 2019.

**ADDRESSES:** You may submit comments, identified by docket number DHS-2019-0010, at:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Please follow the instructions for submitting comments.

- *Mail and hand delivery or commercial delivery:* Science and Technology Directorate, ATTN: Chief Information Office—Mary Cantey, 245 Murray Drive, Mail Stop 0202, Washington, DC 20528.

*Instructions:* All submissions received must include the agency name and docket number DHS-2019-0010. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** DHS/S&T/OCIO Program Manager: Mary Cantey, [Mary.K.Cantey@hq.dhs.gov](mailto:Mary.K.Cantey@hq.dhs.gov) or 202-254-5367 (Not a toll free number).

**SUPPLEMENTARY INFORMATION:** The SAFETY Act Program collects this information in order to evaluate anti-terrorism technologies, based on the economic and technical criteria contained in the Regulations Implementing the Support Anti-Terrorism by Fostering Effective Technologies Act (6 U.S.C. 441), for protection in accordance with the Act, and therefore encourage the development and deployment of innovative anti-terrorism products and services. The SAFETY Act enacted as part of the Homeland Security Act of 2002, Public Law 107-296. The program provides legal liability protections for providers of qualified anti-terrorism technologies. The collected information is used by S&T to facilitate the evaluation of SAFETY Act applications received from any person, firm, or other entity that provides an anti-terrorism technology. S&T provides a secure website, accessible through [www.SAFETYAct.gov](http://www.SAFETYAct.gov), through which the public may submit the information collection, however; the public has the option of providing the information via hardcopy forms that via mail to the program office. The data collection forms have standardized the collection of information that is both necessary and essential for DHS. The Act applies to a broad range of technologies, including products, services, and software, or combinations thereof.

DHS, in accordance with the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. DHS is soliciting

comments on the proposed Information Collection Request (ICR) that is described below. DHS is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology? Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Support Anti-Terrorism by Fostering Effective Technologies Act (SAFETY Act) forms include: DHS Form 10010, DHS Form 10009, DHS Form 10008, DHS Form 10007, DHS Form 10006, DHS Form 10005, DHS Form 10004, DHS Form 10003, DHS Form 10002, DHS Form 10001, DHS Form 100057

*Prior OMB Control Number:* 1640–0016.

*Type of Review:* An extension of an information collection.

*Affected Public:* Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

*Frequency of Collection:* One per Request

*Estimated Time per Respondent:* 18.2 minutes or under

*Number of Respondents:* 665

*Total Burden Hours:* 3,325

Dated: March 19, 2019.

**Rick Stevens,**

Chief Information Officer, Science and Technology Directorate.

[FR Doc. 2019–06751 Filed 4–4–19; 8:45 am]

BILLING CODE 9110–9F–P

**DEPARTMENT OF HOMELAND SECURITY**

**U.S. Citizenship and Immigration Services**

[OMB Control Number 1615–0116]

**Agency Information Collection Activities; Revision of a Currently Approved Collection: Request for Fee Waiver**

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

**DATES:** The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until May 6, 2019.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at [dhsdeskofficer@omb.eop.gov](mailto:dhsdeskofficer@omb.eop.gov). All submissions received must include the agency name and the OMB Control Number 1615–0116 in the subject line.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, Telephone number (202) 272–8377. (This is not a toll-free number; comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <http://www.uscis.gov>, or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

**SUPPLEMENTARY INFORMATION:**

**Reason for Changes**

USCIS is primarily funded by application and petition fees. Under INA 286(m), 8 U.S.C. 1356(m), DHS has the authority to establish the fees it charges for immigration and naturalization services to recover the full costs of such services, including those provided without charge, and to recover costs associated with the administration of the fees collected. Therefore, the fees are set at a level that is intended to recover the full cost of

USCIS operations. USCIS may waive the fee for certain immigration benefit requests when the individual requesting the benefit is unable to pay the fee. See 8 CFR 103.7(c). To request a fee waiver, the individual must submit a written waiver request for permission to have their benefit request processed without payment. The waiver request must state the person's belief that he or she is entitled to or deserving of the benefit requested and the reasons for his or her inability to pay and include evidence to support the reasons indicated. See 8 CFR 103.7(c)(2).

The proposed revision would reduce the evidence required for a fee waiver to only a person's household income and no longer require proof of whether or not an individual receives a means-tested benefit. USCIS policy since 2011 has been to permit a fee waiver where an applicant received a means-tested benefit, even for a short period of time. USCIS has found that the various income levels used in states to grant a means-tested benefit result in inconsistent income levels being used to determine eligibility for a fee waiver. Consequently, a fee waiver may be granted for one person who has a certain level of income in one state, but denied for a person with that same income who lives in another state. Therefore, USCIS has determined that fee waivers should not be based on the receipt of a means tested benefit, and the revised form will not permit a fee waiver based on receipt of a means-tested benefit. It will retain the poverty-guideline threshold and financial hardship criteria. USCIS requested public comments on the revised form and policy and is proceeding with the form revision after considering the public comments. Therefore, USCIS will rescind Policy Memorandum, PM–602–0011.1, *Fee Waiver Guidelines as Established by the Final Rule of the USCIS Fee Schedule; Revisions to Adjudicator's Field Manual (AFM) Chapter 10.9*, AFM Update AD11–26 (Mar. 13, 2011) and issue new guidance on the documentation acceptable for individuals to present to demonstrate that they are unable to pay a fee when requesting a fee waiver. The applications and petitions that are eligible for a fee waiver are provided in 8 CFR 103.7(c)(3) and will not be changed by this form and policy change.

**Comments**

The information collection notice was previously published in the **Federal Register** on September 28, 2018, at 83 FR 49120, allowing for a 60-day public comment period. USCIS did receive 1,198 comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: <http://www.regulations.gov> and enter USCIS-2010-0008 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

- (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 submission of responses.

#### Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Request for Fee Waiver.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I-912; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

*Primary:* Individuals or households. USCIS uses the data collected on this form to verify that the applicant is unable to pay for the immigration benefit being requested. USCIS will consider waiving a fee for an application or petition when the applicant or petitioner clearly demonstrates that he or she is unable to pay the fee. Form I-912 standardizes the collection and analysis of statements and supporting documentation provided by the applicant with the fee waiver request. Form I-912 also streamlines and expedites USCIS's review, approval, or denial of the fee waiver request by clearly laying out the most salient data and evidence necessary for the determination of inability to pay. Officers evaluate all factors, circumstances, and evidence supplied in support of a fee waiver request when

making a final determination. Each case is unique and is considered on its own merits. If the fee waiver is granted, the application will be processed. If the fee waiver is not granted, USCIS will notify the applicant and instruct him or her to file a new application with the appropriate fee.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I-912 is 350,000 and the estimated hour burden per response is 1.17 hours; for the information collection DACA Exemptions the estimated total number of respondents is 108 and the estimated hour burden per response is 1.17 hours; for the information collection 8 CFR 103.7(d) Director's exception request the estimated total number of respondents is 20 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 409,650 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$1,312,980.

Dated: March 29, 2019.

**Samantha L. Deshombres,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2019-06657 Filed 4-4-19; 8:45 am]

**BILLING CODE 9111-97-P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

[CIS No. 2643-19; DHS Docket No. USCIS-2014-0004]

**RIN 1615-ZB79**

### Extension of the Designation of South Sudan for Temporary Protected Status

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** Through this Notice, the Department of Homeland Security (DHS) announces that the Secretary of Homeland Security (Secretary) is extending the designation of South Sudan for Temporary Protected Status

(TPS) for 18 months, from May 3, 2019, through November 2, 2020. The extension allows currently eligible TPS beneficiaries to retain TPS through November 2, 2020, so long as they otherwise continue to meet the eligibility requirements for TPS.

This Notice also sets forth procedures necessary for nationals of South Sudan (or aliens having no nationality who last habitually resided in South Sudan) to re-register for TPS and to apply for Employment Authorization Documents (EADs) with U.S. Citizenship and Immigration Services (USCIS). USCIS will issue new EADs with a November 2, 2020 expiration date to eligible beneficiaries under South Sudan's TPS designation who timely re-register and apply for EADs under this extension.

**DATES:** *Extension of Designation of South Sudan for TPS:* The 18-month extension of the TPS designation of South Sudan is effective May 3, 2019, and will remain in effect through November 2, 2020. The 60-day re-registration period runs from April 5, 2019 through June 4, 2019. (*Note:* It is important for re-registrants to timely re-register during this 60-day period and not to wait until their EADs expire.)

#### FOR FURTHER INFORMATION CONTACT:

- You may contact Samantha Deshombres, Branch Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security, by mail at 20 Massachusetts Avenue NW, Washington, DC 20529-2060, or by phone at 800-375-5283.

- For further information on TPS, including guidance on the re-registration process and additional information on eligibility, please visit the USCIS TPS web page at <http://www.uscis.gov/tps>. You can find specific information about this extension of South Sudan's TPS designation by selecting "South Sudan" from the menu on the left side of the TPS web page.

- If you have additional questions about TPS, please visit [www.uscis.gov/tools](http://www.uscis.gov/tools). Our online virtual assistant, Emma, can answer many of your questions and point you to additional information on our website. If you are unable to find your answers there, you may also call our USCIS Contact Center at 800-375-5283.

- Applicants seeking information about the status of their individual cases may check Case Status Online, available on the USCIS website at <http://www.uscis.gov>, or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

• Further information will also be available at local USCIS offices upon publication of this Notice.

#### SUPPLEMENTARY INFORMATION:

##### Table of Abbreviations

BIA—Board of Immigration Appeals  
 CFR—Code of Federal Regulations  
 DHS—U.S. Department of Homeland Security  
 DOS—U.S. Department of State  
 EAD—Employment Authorization Document  
 FNC—Final Nonconfirmation  
 FR—Federal Register  
 Government—U.S. Government  
 IJ—Immigration Judge  
 INA—Immigration and Nationality Act  
 IER—U.S. Department of Justice Civil Rights Division, Immigrant and Employee Rights Section  
 SAVE—USCIS Systematic Alien Verification for Entitlements Program  
 Secretary—Secretary of Homeland Security  
 TNC—Tentative Nonconfirmation  
 TPS—Temporary Protected Status  
 TTY—Text Telephone  
 USCIS—U.S. Citizenship and Immigration Services  
 USC—United States Code

Through this Notice, DHS sets forth procedures necessary for eligible nationals of South Sudan (or aliens having no nationality who last habitually resided in South Sudan) to re-register for TPS and to apply for renewal of their EADs with USCIS. Re-registration is limited to persons who have previously registered for TPS under the designation of South Sudan and whose applications have been granted.

For individuals who have already been granted TPS under South Sudan's designation, the 60-day re-registration period runs from April 5, 2019 through June 4, 2019. USCIS will issue new EADs with a November 2, 2020 expiration date to eligible South Sudanese TPS beneficiaries who timely re-register and apply for EADs. Given the timeframes involved with processing TPS re-registration applications, DHS recognizes that not all re-registrants may receive new EADs before their current EADs expire on May 2, 2019. Accordingly, through this **Federal Register** notice, DHS automatically extends the validity of EADs issued under the TPS designation of South Sudan for 180 days, through October 29, 2019. Additionally, individuals who have EADs with an expiration date of November 2, 2017, and who applied for a new EAD during the last re-registration period but have not yet received their new EADs are also covered by this automatic extension. These individuals may show their EAD indicating a November 2, 2017, expiration date and their EAD application receipt (Notice of Action, Form I-797C) that notes the application was received on or after September 21, 2017, to employers as proof of continued employment authorization through October 29, 2019. This Notice explains how TPS beneficiaries and their employers may determine which EADs are automatically extended and how this affects the Form I-9, Employment Eligibility Verification, and E-Verify processes.

Individuals who have a South Sudan TPS Form I-821 and/or Form I-765 that was still

pending as of April 5, 2019 do not need to file either application again. If the TPS application is approved, the individual will be granted TPS through November 2, 2020. Similarly, if a pending TPS-related application for an EAD is approved, it will be valid through the same date. There are approximately 84 current beneficiaries under South Sudan's TPS designation.

#### What is Temporary Protected Status (TPS)?

- TPS is a temporary immigration status granted to eligible nationals of a country designated for TPS under the INA, or to eligible persons without nationality who last habitually resided in the designated country.
- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States, may not be removed, and are authorized to obtain EADs so long as they continue to meet the requirements of TPS.
- TPS beneficiaries may also apply for and be granted travel authorization as a matter of discretion.
- The granting of TPS does not result in or lead to lawful permanent resident status.
- To qualify for TPS, beneficiaries must meet the eligibility standards at INA section 244(c)(1)–(2), 8 U.S.C. 1254a(c)(1)–(2).
- When the Secretary terminates a country's TPS designation, beneficiaries return to one of the following:
  - The same immigration status or category that they maintained before TPS, if any (unless that status or category has since expired or been terminated); or
  - Any other lawfully obtained immigration status or category they received while registered for TPS, as long as it is still valid beyond the date TPS terminates.

#### When was South Sudan designated for TPS?

South Sudan was initially designated for TPS on October 13, 2011, on the basis of ongoing armed conflict and extraordinary and temporary conditions in South Sudan that prevented nationals of South Sudan from safely returning. *See Designation of Republic of South Sudan for Temporary Protected Status*, 76 FR 63629 (Oct. 13, 2011). Following the initial designation, the Secretary extended and newly designated South Sudan for TPS in 2013, 2014, and 2016 respectively. *See Extension and Redesignation of South Sudan for Temporary Protected Status*, 78 FR 1866 (Jan. 9, 2013); *Extension and Redesignation of South Sudan for Temporary Protected Status*, 79 FR 52019 (Sept. 2, 2014); *Extension and Redesignation of South Sudan for Temporary Protected Status*, 81 FR 4051 (Jan. 25, 2016). Most recently, in 2017, the Acting Secretary extended South Sudan's TPS designation for 18 months, based on ongoing armed conflict and extraordinary and temporary conditions. *See Extension of South Sudan for Temporary Protected Status*, 82 FR 44205 (Sept. 21, 2017).

#### What authority does the Secretary have to extend the designation of South Sudan for TPS?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate agencies of the U.S. Government (Government), to designate a foreign state (or part thereof) for TPS if the Secretary determines that certain country conditions exist.<sup>1</sup> The Secretary may then grant TPS to eligible nationals of that foreign state (or eligible aliens having no nationality who last habitually resided in the designated country). *See* INA section 244(a)(1)(A), 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of a country's TPS designation or extension, the Secretary, after consultation with appropriate Government agencies, must review the conditions in the foreign state designated for TPS to determine whether the conditions for the TPS designation continue to be met. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). If the Secretary does not determine that the foreign state no longer meets the conditions for TPS designation, the designation will be extended for an additional period of 6 months or, in the Secretary's discretion, 12 or 18 months. *See* INA section 244(b)(3)(A), (C), 8 U.S.C. 1254a(b)(3)(A), (C). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation. *See* INA section 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B).

#### Why is the Secretary extending the TPS designation for South Sudan through November 2, 2020?

DHS has reviewed conditions in South Sudan. Based on the review, including input received from other U.S. Government agencies, the Secretary has determined that an 18-month extension is warranted because the ongoing armed conflict and extraordinary and temporary conditions supporting South Sudan's TPS designation remain.

Currently, 4.2 million individuals are displaced in or outside of South Sudan, and over 7 million of the country's 12 million people require humanitarian

<sup>1</sup> As of March 1, 2003, in accordance with section 1517 of title XV of the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, any reference to the Attorney General in a provision of the INA describing functions transferred from the Department of Justice to DHS “shall be deemed to refer to the Secretary” of Homeland Security. *See* 6 U.S.C. 557 (codifying the Homeland Security Act of 2002, tit. XV, section 1517).

assistance. Numerous armed groups remain active in South Sudan. Since the 2017 extension of TPS for South Sudan, all parties to the conflict have continued to violate international humanitarian law and perpetrated serious human rights abuses against civilians.

Armed conflict and lawlessness prevail in much of South Sudan, despite the warring parties' adoption of an agreement to cease hostilities in December 2017, followed by the signing of a new peace agreement in September 2018. Although violence is assessed to have declined in parts of the country where the ceasefire has taken hold, incidents of indiscriminate violence against South Sudanese civilians, humanitarian aid workers, and United Nations personnel persist today. In particular, while the United Nations Mission in South Sudan (UNMISS) reported a decline in the overall number of reported human rights violations and abuses by the signatory parties following the ceasefire, reported incidents of sexual violence and child soldier recruitment increased from 2017 to 2018.

Instances of the use of sexual violence—including against women and girls in government-controlled parts of the country and at UNMISS protection sites—remain widespread, even after the signing of the September 2018 peace agreement. Civilians, primarily women and girls, have reportedly been abducted by government forces and allied militias and raped in detention, where they were sometimes held for hours, days, or even weeks. Since mid-2018, there have been nearly 2,300 reported cases of gender-based violence in South Sudan, although the actual number of incidents is believed to be much higher. This represents a 72 percent increase in reported incidents from the same period in 2017.

Children in South Sudan are routinely abducted and forced to join fighting forces. In December 2017, the United Nations Children's Fund (UNICEF) reported that armed groups had recruited more than 19,000 children since the civil conflict started—representing an overall increase since 2015, when a total of 16,000 children had been recruited and since 2016, when a total of 17,000 children had been recruited.

An upsurge in intercommunal violence in 2018, including cattle raiding and revenge killings, in Lakes and Jonglei states increased civilian displacement, looting, and casualties. Conflicts in these regions also occurred because of the uneven disarmament of local militias, and other festering intercommunal tensions. This violence

had spillover effects, including hampering the delivery of humanitarian assistance in 2018. Three aid workers were killed in September and October 2018 alone, bringing the total number of aid workers killed since the outset of the conflict to at least 112.

As of January 2019, 4.2 million South Sudanese were displaced; 1.9 million South Sudanese were internally displaced; and an estimated 2.3 million were refugees in neighboring countries. UNMISS hosted nearly 200,000 civilians seeking safety in five protection sites. The figures reflect an increase in displacement since August 2017, when 3.9 million were displaced, of which 1.9 million were internally displaced and 2 million had fled to neighboring countries. South Sudan hosted approximately 292,500 refugees from neighboring countries during the same time period.

In September 2018, increases in acute malnutrition due to severe food insecurity, widespread conflict and displacement, poor access to services, high morbidity, extremely poor diets, and poor sanitation and hygiene continued to characterize South Sudan's humanitarian situation. In October 2018, the Department of State (DOS) assessed that ongoing fighting continued to plague South Sudan and resulted in large-scale displacement, restricted humanitarian access, and disrupted market and agricultural activities.

Acute food insecurity has increased substantially since the outbreak of the conflict in 2013. In February 2019, Integrated Food Security Phase Classification (IPC) initiative data estimated that 6.17 million South Sudanese, over half of the total population, faced Crisis (IPC Phase 3) acute food insecurity or worse in January 2019, out of which 1.36 million people faced Emergency (IPC Phase 4) acute food insecurity and 30,000 people faced Catastrophe (IPC Phase 5) famine-like conditions. This is nearly four times the 1.6 million people estimated in "crisis" phase or worse in August 2013.

In 2018, for the third consecutive year, South Sudan was the most dangerous place for delivering humanitarian assistance, according to the United Nations. Nevertheless, a decline in the number of conflict incidents in November and early December 2018, when compared with early 2018 and the same months in 2016 and 2017, has allowed for some increased humanitarian access.

South Sudan's economic collapse continued in 2018 according to the World Bank. The country's real gross domestic product (GDP) contracted about 6.9 percent in Fiscal Year (FY)

2017 and in July 2018, and was projected to further contract by 3.5 percent in FY 2018. Average GDP per capita dropped from \$1,111 in 2014 to less than \$200 in 2017. Over 80 percent of South Sudan's population lives below the poverty line.

As of December 2018, the protracted conflict and economic crisis has left over 5.7 million people in South Sudan without sufficient public health, water, and sanitation services and made them more susceptible to disease and malnutrition. About 1.5 million people live in areas facing high levels of access constraints—places where armed hostilities, violence against aid workers and assets, and other access impediments render humanitarian activities severely restricted, or in some cases impossible. Based upon this review and after consultation with appropriate Government agencies, the Secretary has determined that:

- The conditions supporting South Sudan's designation for TPS continue to be met. *See* INA section 244(b)(3)(A) and (C), 8 U.S.C. 1254a(b)(3)(A) and (C).
- There continues to be an ongoing armed conflict in South Sudan and, due to such conflict, requiring the return to South Sudan of South Sudanese nationals (or aliens having no nationality who last habitually resided in South Sudan) would pose a serious threat to their personal safety. *See* INA section 244(b)(1)(A), 8 U.S.C. 1254a(b)(1)(A).
- There continue to be extraordinary and temporary conditions in South Sudan that prevent South Sudanese nationals (or aliens having no nationality who last habitually resided in South Sudan) from returning to South Sudan in safety, and it is not contrary to the national interest of the United States to permit South Sudanese TPS beneficiaries to remain in the United States temporarily. *See* INA section 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C).
- The designation of South Sudan for TPS should be extended for an 18-month period, from May 3, 2019 through November 2, 2020. *See* INA section 244(b)(3)(C), 8 U.S.C. 1254a(b)(3)(C).

#### **Notice of Extension of the TPS Designation of South Sudan**

By the authority vested in me as Secretary under INA section 244, 8 U.S.C. 1254a, I have determined, after consultation with the appropriate Government agencies, the conditions supporting South Sudan's designation for TPS continue to be met. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). On the basis of this determination, I am extending the

existing designation of TPS for South Sudan for 18 months, from May 3, 2019, through November 2, 2020. See INA section 244(b)(1)(A), (b)(1)(C); 8 U.S.C. 1254a(b)(1)(A), (b)(1)(C).

**Kirstjen M. Nielsen,**  
Secretary.

**Required Application Forms and Application Fees To Re-Register for TPS**

To re-register for TPS based on the designation of South Sudan, you *must* submit an Application for Temporary Protected Status (Form I-821). You do not need to pay the filing fee for the Form I-821. See 8 CFR 244.17. You may be required to pay the biometric services fee. Please see additional information under the “Biometric Services Fee” section of this Notice.

Through operation of this **Federal Register** notice, your existing EAD issued under the TPS designation of South Sudan with the expiration date of May 2, 2019, is automatically extended for 180 days, through October 29, 2019. However, if you want to obtain a new EAD valid through November 2, 2020, you must file an Application for Employment Authorization (Form I-765) and pay the Form I-765 fee (or request a fee waiver). If you do not want a new EAD, you do not have to file Form I-765 or pay the Form I-765 fee. If you do not want to request a new EAD now, you may also file Form I-765 at a later date and pay the fee (or request a fee waiver), provided that you still have TPS or a pending TPS application.

Additionally, individuals who have EADs with an expiration date of November 2, 2017, and who applied for a new EAD during the last re-registration period but have not yet received their new EADs are also covered by this automatic extension through October 29, 2019. You do not need to apply for a new EAD in order to benefit from this 180-day automatic extension. If you have a Form I-821

and/or Form I-765 that was still pending as of April 5, 2019, then you do not need to file either application again. If your pending TPS application is approved, you will be granted TPS through November 2, 2020. Similarly, if you have a pending TPS-related application for an EAD that is approved, it will be valid through the same date.

You may file the application for a new EAD either prior to or after your current EAD has expired. However, you are strongly encouraged to file your application for a new EAD as early as possible to avoid gaps in the validity of your employment authorization documentation and to ensure that you receive your new EAD by October 29, 2019.

For more information on the application forms and fees for TPS, please visit the USCIS TPS web page at <http://www.uscis.gov/tps>. Fees for the Form I-821, the Form I-765, and biometric services are also described in 8 CFR 103.7(b)(1)(i).

**Biometric Services Fee**

Biometrics (such as fingerprints) are required for all applicants 14 years of age and older. Those applicants must submit a biometric services fee. As previously stated, if you are unable to pay for the biometric services fee, you may complete a Form I-912 or submit a personal letter requesting a fee waiver, with satisfactory supporting documentation. For more information on the biometric services fee, please visit the USCIS website at <http://www.uscis.gov>. If necessary, you may be required to visit an Application Support Center to have your biometrics captured. For additional information on the USCIS biometrics screening process, please see the USCIS Customer Profile Management Service Privacy Impact Assessment, available at [www.dhs.gov/privacy](http://www.dhs.gov/privacy).

**Refiling a Re-Registration TPS Application After Receiving a Denial of a Fee Waiver Request**

You should file as soon as possible within the 60-day re-registration period so USCIS can process your application and issue any EAD promptly. Properly filing early will also allow you to have time to refile your application before the deadline, should USCIS deny your fee waiver request. If, however, you receive a denial of your fee waiver request and are unable to refile by the re-registration deadline, you may still refile your Form I-821 with the biometrics fee. This situation will be reviewed to determine whether you established good cause for late TPS re-registration. However, you are urged to refile within 45 days of the date on any USCIS fee waiver denial notice, if possible. See INA section 244(c)(3)(C); 8 U.S.C. 1254a(c)(3)(C); 8 CFR 244.17(b). For more information on good cause for late re-registration, visit the USCIS TPS web page at <http://www.uscis.gov/tps>. Following denial of your fee waiver request, you may also refile your Form I-765 with fee either with your Form I-821 or at a later time, if you choose.

*Note:* Although a re-registering TPS beneficiary age 14 and older must pay the biometric services fee (but not the Form I-821 fee) when filing a TPS re-registration application, you may decide to wait to request an EAD. Therefore, you do not have to file the Form I-765 or pay the associated Form I-765 fee (or request a fee waiver) at the time of re-registration, and could wait to seek an EAD until after USCIS has approved your TPS re-registration application. If you choose to do this, to re-register for TPS you would only need to file the Form I-821 with the biometrics services fee, if applicable, (or request a fee waiver).

**Mailing Information**

Mail your application for TPS to the proper address in Table 1.

TABLE 1—MAILING ADDRESSES

If you would like to send your application by:	Then, mail your application to:
U.S. Postal Service .....	U.S. Citizenship and Immigration Services, Attn: TPS South Sudan, P.O. Box 6943, Chicago, IL 60680-6943.
A non-U.S. Postal Service courier .....	U.S. Citizenship and Immigration Services, Attn: TPS South Sudan, 131 S Dearborn Street—3rd Floor, Chicago, IL 60603-5517.

If you were granted TPS by an Immigration Judge (IJ) or the Board of Immigration Appeals (BIA) and you wish to request an EAD or are re-registering for the first time following a grant of TPS by an IJ or the BIA, please

mail your application to the appropriate mailing address in Table 1. When re-registering and requesting an EAD based on an IJ/BIA grant of TPS, please include a copy of the IJ or BIA order granting you TPS with your application.

This will help us to verify your grant of TPS and process your application.

**Supporting Documents**

The filing instructions on the Form I-821 list all the documents needed to

establish eligibility for TPS. You may also find information on the acceptable documentation and other requirements for applying or registering for TPS on the USCIS website at [www.uscis.gov/tps](http://www.uscis.gov/tps) under “South Sudan.”

### Employment Authorization Document (EAD)

*How can I obtain information on the status of my EAD request?*

To get case status information about your TPS application, including the status of an EAD request, you can check Case Status Online at <http://www.uscis.gov>, or call the USCIS National Contact Center at 800-375-5283 (TTY 800-767-1833). If your Form I-765 has been pending for more than 90 days, and you still need assistance, you may request an EAD inquiry appointment with USCIS by using the InfoPass system at <https://infopass.uscis.gov>. However, we strongly encourage you first to check Case Status Online or call the USCIS National Contact Center for assistance before making an InfoPass appointment.

*Am I eligible to receive an automatic 180-day extension of my current EAD through October 29, 2019, using this Federal Register notice?*

Yes. Provided that you currently have a South Sudan TPS-based EAD, this **Federal Register** notice automatically extends your EAD through October 29, 2019, if you:

- Are a national of South Sudan (or an alien having no nationality who last habitually resided in South Sudan); and either
- Have an EAD with a marked expiration date of May 2, 2019, bearing the notation A-12 or C-19 on the face of the card under Category, or
- Have an EAD with a marked expiration date of November 2, 2017, bearing the notation A-12 or C-19 on the face of the card under Category and you applied for a new EAD during the last re-registration period but have not yet received a new EAD.

Although this **Federal Register** notice automatically extends your EAD through October 29, 2019, you must re-register timely for TPS in accordance with the procedures described in this **Federal Register** notice if you would like to maintain your TPS.

*When hired, what documentation may I show to my employer as evidence of employment authorization and identity when completing Employment Eligibility Verification (Form I-9)?*

You can find lists of acceptable documents on the “Acceptable

Documents” web page for Form I-9 at <https://www.uscis.gov/i-9-central/acceptable-documents>. Employers must complete Form I-9 to verify the identity and employment authorization of all new employees. Within three days of hire, employees must present acceptable documents to their employers as evidence of identity and employment authorization to satisfy Form I-9 requirements.

You may present any document from List A (which provides evidence of both identity and employment authorization), or one document from List B (which provides evidence of your identity) together with one document from List C (which is evidence of employment authorization), or you may present an acceptable receipt for List A, List B, or List C documents as described in the Form I-9 Instructions. Employers may not reject a document based on a future expiration date. You can find additional information about Form I-9 on the I-9 Central web page at <http://www.uscis.gov/I-9Central>.

An EAD is an acceptable document under List A. If your EAD has an expiration date of May 2, 2019, or November 2, 2017 (and you applied for a new EAD during the last re-registration period but have not yet received a new EAD), and states A-12 or C-19 under Category, it has been extended automatically by virtue of this **Federal Register** notice and you may choose to present this Notice along with your EAD to your employer as proof of identity and employment eligibility for Form I-9 through October 29, 2019, unless your TPS has been withdrawn or your request for TPS has been denied. If you have an EAD with a marked expiration date of May 2, 2019, that states A-12 or C-19 under Category, and you properly filed for a new EAD in accordance with this Notice, you will also receive Form I-797C, Notice of Action that will state your EAD is automatically extended for 180 days. You may choose to present your EAD to your employer together with this Form I-797C as a List A document that provides evidence of your identity and employment authorization for Form I-9 through October 29, 2019, unless your TPS has been withdrawn or your request for TPS has been denied. See the subsection titled, “How do my employer and I complete the Employment Eligibility Verification (Form I-9) using an automatically extended EAD for a new job?” for further information.

To reduce confusion over this extension at the time of hire, you should explain to your employer that your EAD has been automatically extended through October 29, 2019. You may also

provide your employer with a copy of this **Federal Register** notice, which explains that your EAD has been automatically extended. As an alternative to presenting evidence of your automatically extended EAD, you may choose to present any other acceptable document from List A, a combination of one selection from List B and one selection from List C, or a valid receipt.

*What documentation may I present to my employer for Employment Eligibility Verification (Form I-9) if I am already employed but my current TPS-related EAD is set to expire?*

Even though your EAD has been automatically extended, your employer is required by law to ask you about your continued employment authorization no later than before you start work on May 3, 2019. You will need to present your employer with evidence that you are still authorized to work. Once presented, you may correct your employment authorization expiration date in Section 1 and your employer should correct the EAD expiration date in Section 2 of Form I-9. See the subsection titled, “What corrections should my current employer and I make to Employment Eligibility Verification (Form I-9) if my employment authorization has been automatically extended?” for further information. You may show this **Federal Register** notice to your employer to explain what to do for Form I-9 and to show that your EAD has been automatically extended through October 29, 2019. Your employer may need to re-inspect your automatically extended EAD to check the expiration date and Category code if your employer did not keep a copy of this EAD when you initially presented it. In addition, if you have an EAD with a marked expiration date of May 2, 2019 that states A-12 or C-19 under Category, and you properly filed your Form I-765 to obtain a new EAD, you will receive a Form I-797C, Notice of Action. Form I-797C will state that your EAD is automatically extended for 180 days. You may present Form I-797C to your employer along with your EAD to confirm that the validity of your EAD has been automatically extended through October 29, 2019, unless your TPS has been withdrawn or your request for TPS has been denied. To reduce the possibility of gaps in your employment authorization documentation, you should file your Form I-765 to request a new EAD as early as possible during the re-registration period.

The last day of the automatic EAD extension is October 29, 2019. Before

you start work on October 30, 2019, your employer must reverify your employment authorization. At that time, you must present any document from List A or any document from List C on Form I-9 Lists of Acceptable Documents, or an acceptable List A or List C receipt described in the Form I-9 Instructions to reverify employment authorization.

By October 30, 2019, your employer must complete Section 3 of the current version of the form, Form I-9 07/17/17 N, and attach it to the previously completed Form I-9, if your original Form I-9 was a previous version. Your employer can check the I-9 Central web page at <http://www.uscis.gov/I-9Central> for the most current version of Form I-9.

Note that your employer may not specify which List A or List C document you must present and cannot reject an acceptable receipt.

*Can my employer require that I provide any other documentation to prove my status, such as proof of my South Sudanese citizenship?*

No. When completing Form I-9, including reverifying employment authorization, employers must accept any documentation that appears on the Form I-9 "Lists of Acceptable Documents" that reasonably appears to be genuine and that relates to you, or an acceptable List A, List B, or List C receipt. Employers need not reverify List B identity documents. Employers may not request documentation that does not appear on the "Lists of Acceptable Documents." Therefore, employers may not request proof of South Sudanese citizenship or proof of re-registration for TPS when completing Form I-9 for new hires or reverifying the employment authorization of current employees. If presented with EADs that have been automatically extended, employers should accept such documents as a valid List A document so long as the EAD reasonably appears to be genuine and relates to the employee. Refer to the Note to Employees section of this **Federal Register** notice for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

*How do my employer and I complete Employment Eligibility Verification (Form I-9) using my automatically extended employment authorization for a new job?*

When using an automatically extended EAD to complete Form I-9 for a new job before October 30, 2019, you and your employer should do the following:

1. For Section 1, you should:
  - a. Check "An alien authorized to work until" and enter October 29, 2019 as the "expiration date"; and
  - b. Enter your Alien Number/USCIS number or A-Number where indicated (your EAD or other document from DHS will have your USCIS number or A-Number printed on it; the USCIS number is the same as your A-Number without the A prefix).
2. For Section 2, employers should:
  - a. Determine if the EAD is auto-extended by ensuring it is in category A-12 or C-19 and has a May 2, 2019, expiration date (or November 2, 2017 expiration date provided your employee applied for a new EAD during the last re-registration period but has not yet received a new EAD);
  - b. Write in the document title;
  - c. Enter the issuing authority;
  - d. Provide the document number; and
  - e. Write October 29, 2019, as the expiration date.

Before the start of work on October 30, 2019, employers must reverify the employee's employment authorization in Section 3 of Form I-9.

*What corrections should my current employer and I make to Employment Eligibility Verification (Form I-9) if my employment authorization has been automatically extended?*

If you presented a TPS-related EAD that was valid when you first started your job and your EAD has now been automatically extended, your employer may need to re-inspect your current EAD if they do not have a copy of the EAD on file. You may, and your employer should, correct your previously completed Form I-9 as follows:

1. For Section 1, you may:
  - a. Draw a line through the expiration date in Section 1;
  - b. Write October 29, 2019, above the previous date; and
  - c. Initial and date the correction in the margin of Section 1.
2. For Section 2, employers should:
  - a. Determine if the EAD is auto-extended by ensuring:
    - It is in category A-12 or C-19; and
    - Has a marked expiration date of May 2, 2019, or November 2, 2017,

provided your employee applied for a new EAD during the last re-registration period but has not yet received a new EAD.

- b. Draw a line through the expiration date written in Section 2;
- c. Write October 29, 2019, above the previous date; and
- d. Initial and date the correction in the Additional Information field in Section 2.

*Note:* This is not considered a reverification. Employers do not need to complete Section 3 until either the 180-day automatic extension has ended or the employee presents a new document to show continued employment authorization, whichever is sooner. By October 30, 2019, when the employee's automatically extended EAD has expired, employers must reverify the employee's employment authorization in Section 3.

*If I am an employer enrolled in E-Verify, how do I verify a new employee whose EAD has been automatically extended?*

Employers may create a case in E-Verify for these employees by providing the employee's Alien Registration number, USCIS number, and entering the receipt number as the document number on Form I-9 into the document number field in E-Verify.

If I am an employer enrolled in E-Verify, what do I do when I receive a "Work Authorization Documents Expiration" alert for an automatically extended EAD?

E-Verify automated the verification process for TPS-related EADs that are automatically extended. If you have employees who provided a TPS-related EAD when they first started working for you, you will receive a "Work Authorization Documents Expiring" case alert when the auto-extension period for this EAD is about to expire. The alert indicates that before this employee starts to work on October 30, 2019, you must reverify his or her employment authorization in Section 3 of Form I-9. Employers should not use E-Verify for reverification.

#### **Note to All Employers**

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This **Federal Register** notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call

USCIS at 888-464-4218 (TTY 877-875-6028) or email USCIS at [I9Central@dhs.gov](mailto:I9Central@dhs.gov). Calls and emails are accepted in English and many other languages. For questions about avoiding discrimination during the employment eligibility verification process (Form I-9 and E-Verify), employers may call the U.S. Department of Justice's Civil Rights Division, Immigrant and Employee Rights Section (IER) (formerly the Office of Special Counsel for Immigration-Related Unfair Employment Practices) Employer Hotline at 800-255-8155 (TTY 800-237-2515). IER offers language interpretation in numerous languages. Employers may also email IER at [IER@usdoj.gov](mailto:IER@usdoj.gov).

### Note to Employees

For general questions about the employment eligibility verification process, employees may call USCIS at 888-897-7781 (TTY 877-875-6028) or email USCIS at [I-9Central@dhs.gov](mailto:I-9Central@dhs.gov). Calls are accepted in English, Spanish, and many other languages. Employees or applicants may also call the IER Worker Hotline at 800-255-7688 (TTY 800-237-2515) for information regarding employment discrimination based upon citizenship, immigration status, or national origin, including discrimination related to Employment Eligibility Verification (Form I-9) and E-Verify. The IER Worker Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the Lists of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee, or an acceptable List A, List B, or List C receipt as described in the Employment Eligibility Verification (Form I-9) Instructions. Employers may not require extra or additional documentation beyond what is required for Form I-9 completion. Further, employers participating in E-Verify who receive an E-Verify case result of "Tentative Nonconfirmation" (TNC) must promptly inform employees of the TNC and give such employees an opportunity to contest the TNC. A TNC case result means that the information entered into E-Verify from an employee's Form I-9 differs from Federal or state government records.

Employers may not terminate, suspend, delay training, withhold pay, lower pay, or take any adverse action against an employee because of the TNC while the case is still pending with E-Verify. A Final Nonconfirmation (FNC) case result is received when E-Verify cannot verify an employee's

employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888-897-7781 (TTY 877-875-6028). For more information about E-Verify-related discrimination or to report an employer for discrimination in the E-Verify process based on citizenship, immigration status, or national origin, contact IER's Worker Hotline at 800-255-7688 (TTY 800-237-2515). Additional information about proper nondiscriminatory Form I-9 and E-Verify procedures is available on the IER website at <https://www.justice.gov/ier> and on the USCIS and E-Verify websites at <https://www.uscis.gov/i-9-central> and <https://www.e-verify.gov>.

### Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)

While Federal Government agencies must follow the guidelines laid out by the Federal Government, state and local government agencies establish their own rules and guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, state, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary and/or show you are authorized to work based on TPS. Examples of such documents are:

- (1) Your current EAD;
- (2) A copy of your Notice of Action (Form I-797C), the notice of receipt, for your application to renew your current EAD providing an automatic extension of your currently expired or expiring EAD;
- (3) A copy of your Notice of Action (Form I-797C), the notice of receipt, for your Application for Temporary Protected Status for this re-registration; and
- (4) A copy of your Notice of Action (Form I-797), the notice of approval, for a past or current Application for Temporary Protected Status, if you received one from USCIS.

Check with the government agency regarding which document(s) the agency will accept.

Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements (SAVE) program to confirm the current immigration status of applicants for public benefits. While SAVE can verify when an individual has TPS, each agency's procedures govern whether they will accept an

auto-extended TPS-related document. You should present the agency with a copy of the relevant **Federal Register** Notice showing the extension of TPS-related documentation in addition to your recent TPS-related document with your alien or I-94 number. You should explain that SAVE will be able to verify the continuation of your TPS. You should ask the agency to initiate a SAVE query with your information and follow through with additional verification steps, if necessary, to get a final SAVE response showing the TPS. You can also ask the agency to look for SAVE notices or contact SAVE if they have any questions about your immigration status or auto-extension of TPS-related documentation. In most cases, SAVE provides an automated electronic response to benefit-granting agencies within seconds, but, occasionally, verification can be delayed. You can check the status of your SAVE verification by using CaseCheck at the following link: <https://save.uscis.gov/casecheck/>, then by clicking the "Check Your Case" button. CaseCheck is a free service that lets you follow the progress of your SAVE verification using your date of birth and one immigration identifier number. If an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted upon or will act upon a SAVE verification and you do not believe the response is correct, you may make an InfoPass appointment for an in-person interview at a local USCIS office. Detailed information on how to make corrections, make an appointment, or submit a written request to correct records under the Freedom of Information Act can be found on the SAVE website at <http://www.uscis.gov/save>.

[FR Doc. 2019-06746 Filed 4-4-19; 8:45 am]

BILLING CODE 9111-97-P

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7014-N-08]

### 60-Day Notice of Proposed Information Collection: Manufactured Home Construction and Safety Standards Program

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

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**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* June 4, 2019.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410-5000; telephone 202-402-3400 (this is not a toll-free number) or email at [Colette.Pollard@hud.gov](mailto:Colette.Pollard@hud.gov) for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

**FOR FURTHER INFORMATION CONTACT:** Teresa B. Payne, Acting Administrator, Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708-6423. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

#### A. Overview of Information Collection

*Title of Information Collection:* Manufactured Home Construction and Safety Standards Program.

*OMB Approval Number:* 2502-0233.

*Type of Request:* Revision of a currently approved collection.

*Form Number:* HUD-101, HUD-203, HUD-203B, HUD-301, HUD-302, HUD-303, HUD-304.

*Description of the need for the information and proposed use:* The Manufactured Housing Installation Program establishes regulations for the administration of an installation program and establishes a new manufactured housing installation program for states that choose not to

implement their own programs. HUD uses the information collected for the enforcement of the Model Installation Standards in each State that does not have an installation program established by State law to ensure that the minimum criteria of an installation program are met.

*Respondents (i.e., affected public):* Business or other for-profit; State, Local, or Tribal Government.

*Estimated Number of Respondents:* 145.

*Estimated Number of Responses:* 4,557.

*Frequency of Response:* Monthly.

*Average Hours per Response:* 1/2-hour.

*Total Estimated Burdens:* 2,279 hours.

#### B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

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

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

*Authority:* Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: March 27, 2019.

**Vance T. Morris,**

*Special Assistant to the Assistant Secretary for Housing—Federal Housing Commissioner.*

[FR Doc. 2019-06762 Filed 4-4-19; 8:45 am]

**BILLING CODE 4210-67-P**

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No.: FR-6156-N-01]

#### Removal of Obsolete and Superseded Guidance Documents

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Notice.

**SUMMARY:** As part of the Department's continuing effort to implement

Executive Orders 13771, "Reducing Regulation and Controlling Regulatory Costs," and 13777, "Enforcing the Regulatory Reform Agenda," this notice announces that the Department has completed a comprehensive review of all administrative guidance and that certain guidance documents deemed unnecessary and obsolete will be removed from HUD's program websites. The removal of this unnecessary and obsolete guidance material will reduce compliance burdens, promote regulatory analysis, fair notice and administrative due process. This is the first phase of document removal; HUD anticipates a second phase of removal of obsolete guidance. The removal of this material will make it easier for HUD constituents and members of the public seeking to determine the guidance that currently applies. In some cases, documents may continue to be accessible in an online archive, such as for historical or research purposes. The archived documents will be clearly marked to indicate that such documents are no longer applicable.

**FOR FURTHER INFORMATION CONTACT:** For questions about Community Planning and Development documents, contact Larry B. Jackson II, Program Advisor to the Assistant Secretary, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410-8000; telephone number 202-402-5433. For questions about Office of Housing documents, contact Paul M. Olin, Management Analyst, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410-8000; telephone number 202-402-3672. For questions about Public and Indian Housing documents, contact Merrie Nichols-Dixon, Office of Public and Indian Housing, Office of Policy, Programs, and Legislative Initiatives, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410-8000; telephone number 202-402-4673 (these are not toll-free numbers). Hearing- and speech-impaired persons may access these numbers through TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

**SUPPLEMENTARY INFORMATION:** On February 24, 2017, the President issued Executive Order 13777, entitled "Enforcing the Regulatory Reform Agenda." Among other things, section 2(iv) of this Executive Order requires agencies to terminate consistent with applicable law, "programs or activities that derive from or implement Executive Orders, guidance documents, policy

memoranda, rule interpretations, and similar documents, or relevant portions thereof, that have been rescinded or that were terminated during the fiscal year.” Consistent with this Executive Order, the Department has begun several initiatives to evaluate existing regulations and guidance to identify those that may merit repeal, replacement or modification. See, e.g., 82 FR 22344, May 15, 2017 and 83 FR 3635, January 26, 2018. As part of this effort, the Department conducted a comprehensive review of its administrative guidance documents to identify those that are unnecessary and obsolete. These guidance documents provide important information about HUD programs by elaborating and explaining statutory or regulatory requirements. Directives should generally not impose requirements unless there is an underlying statutory or regulatory basis for the directive containing requirements. These documents are posted on HUD’s website for the public to review.

Due to the multiplicity of guidance documents, which includes large numbers of expired guidance documents, some of which date back

many years, HUD has determined that it may be difficult for members of the public to readily determine which guidance currently applies to HUD-related activities. Furthermore, HUD’s program web pages provide a great deal of information about HUD’s policies, but may be difficult for the public and HUD’s constituents to use because they do not clearly delineate which policy documents are currently applicable. There is no single source that identifies HUD’s rescinded and expired guidance documents, with the result that it can be difficult to ascertain which guidance documents are no longer in effect. This may increase the difficulty and cost of compliance.

To reduce this burden and reduce costs of compliance, HUD identified guidance documents that are unnecessary and obsolete or expired. This notice announces that HUD is removing obsolete and expired guidance documents from its main program websites. This will result in a large reduction of documents that members of the public have to sift to find their particular relevant materials. For historical and research purposes, some of the former guidance may be placed

into an archive. The archive will be clearly marked as such to avoid confusion.

In order to clarify which guidance documents are no longer in effect, the following Appendices list the obsolete guidance documents that HUD is removing, or removing and archiving, pursuant to this initiative. HUD at this time is removing or archiving 671 obsolete guidance documents.

**Environmental Impact**

This notice does not (i) direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing (other than tenant-based rental assistance), rehabilitation, alteration, demolition, or new construction; or (ii) Establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy, and therefore is categorically excluded from environmental review under 24 CFR 50.19(c)(1).

Dated: April 1, 2019.

**Benjamin S. Carson, Sr.,**  
Secretary.

**APPENDIX A—PUBLIC AND INDIAN HOUSING NOTICES**

Name of document	Date	Arch.	Remove
1. Federal Fiscal Year 2017 Funding Provisions for the Housing Choice Voucher Program—Award of Remaining Set-Aside Funds.	12/05/2017		X
2. Guidance Related to (1) Eligibility for Potential Shortfall Funding Under the Calendar Year (CY) 2017 Housing Assistance Payments (HAP) Renewal Set-Aside for the Housing Choice Voucher (HCV) Program and (2) CY 2017 Administrative Fees.	04/26/2017		X
3. Amendment—Public Housing Operating Subsidy Eligibility Calculations for Calendar Year 2015 .....	10/04/2016		X
4. Funding Availability for Tenant-Protection Vouchers for Certain at Risk Households in Low-Vacancy Areas—FY16.	08/18/2016		X
5. Public Housing Operating Subsidy Eligibility Calculations for Calendar Year 2016 .....	06/09/2016		X
6. Implementation of the Federal Fiscal Year (FFY) 2016 Funding Provisions for the Housing Choice Voucher Program.	03/10/2016		X
7. Process for Public Housing Agency Voluntary Transfers and Consolidations of Housing Choice Vouchers, Five-Year Mainstream Vouchers, Project-Based Vouchers and Project-Based Certificates. • Attachment 1—Checklist HCV Transfer or Consolidations .....	12/16/2015		X
• Attachment 2—Additional Questions—Details for HCV Transfers .....			
8. Public Housing Operating Subsidy Eligibility Calculations for Calendar Year 2016 .....	12/13/2015		X
9. Changes to Flat Rent Requirements—FY 2015 Appropriations Act .....	09/08/2015		X
10. Administering the Community Service and Self-Sufficiency Requirement (CSSR) .....	08/13/2015		X
11. Project-Basing HUD—Veterans Affairs Supportive Housing (VASH) Vouchers .....	06/12/2015		X
12. Funding Availability for Tenant-Protection Vouchers for Certain At-Risk Households in Low-Vacancy Areas—Fiscal Year 2015.	04/23/2015		X
13. Expiration of Temporary Compliance Assistance for Public Housing and Housing Choice Voucher Programs—Temporary Compliance Assistance.	03/12/2015		X
14. Implementation of the Federal Fiscal Year (FFY) 2015 Funding Provisions for the Housing Choice Voucher Program.	02/21/2015		X
15. Extension: Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System.	01/09/2015	X	
16. Public Housing Operating Subsidy Eligibility Calculations for Calendar Year 2015 .....	08/19/2014		X
17. Relocation Requirements under the Rental Assistance Demonstration (RAD) Program, Public Housing in the First Component.	07/14/2014		X
18. Voluntary conversion assessment for public housing agencies (PHAs) with fewer than 250 public housing units.	06/18/2014		X
19. Funding for Tenant-Protection Vouchers for Certain At-Risk Households in Low-Vacancy Areas—2014 Appropriations Act.	05/20/2014		X
20. Changes to Flat Rent Requirements—2014 Appropriations Act .....	05/19/2014		X

## APPENDIX A—PUBLIC AND INDIAN HOUSING NOTICES—Continued

Name of document	Date	Arch.	Remove
21. Revision to PIH 2013–16—Public Housing Operating Subsidy Eligibility Calculations for Calendar Year 2014.	06/25/2013		X
22. Implementation of the Federal Fiscal Year 2014 Funding Provisions for the Housing Choice Voucher Program.	03/18/2014		
23. Funding for Tenant-Protection Vouchers for Certain At-Risk Households in Low-Vacancy Areas—Revision.	02/04/2014		X
24. Set-Aside Funding Availability for Project-Basing HUD–VASH Vouchers .....	02/04/2014		X
25. Extension: Public Housing and Housing Choice Voucher Programs—Temporary Compliance Assistance.	11/05/2013	X	
26. Notice of Annual Factors for Determining Public Housing Agency Administrative Fees for the Section 8 Housing Choice Voucher and Moderate Rehabilitation Programs.	09/27/2013		X
27. Revised Eligibility Requirements for Housing Choice Voucher (HCV) Contract Renewal Set-Aside Funding for Category 1, Shortfall Funds—Notice PIH 2013–12—Implementation of the Federal Fiscal Year 2013 Funding Provisions for the Housing Choice Voucher Program.	09/13/2013		X
28. Extension: Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System.	08/30/2013	X	
29. Public Housing Operating Subsidy Eligibility Calculations for Calendar Year 2014 .....	06/25/2013		X
30. Disaster Housing Assistance Program—Sandy (DHAP-Sandy) Operating Requirements .....	06/10/2013		X
31. Extension: Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System.	06/01/2013	X	
32. Implementation of the Federal Fiscal Year 2013 Funding Provisions for the Housing Choice Voucher Program.	05/23/2013		X
33. Funding for Tenant-Protection Vouchers for Certain At-Risk Households in Low-Vacancy Areas—Final Implementation.	04/12/2013		X
34. Public Housing and Housing Choice Voucher Programs—Temporary Compliance Assistance .....	01/22/2013		X
• FAQ—3/1/2013 .....			
35. Section 184 Indian Housing Loan Guarantee Program's Maximum Loan Limits Effective January 1, 2013.	01/09/2013		X
36. Providing Interim Funding in Fiscal Year 2013 to Recipients of Indian Housing Block Grants .....	12/12/2012		X
37. Draft Notice Extending Use of Op Reserves for Cap Improvements .....	10/25/2012		X
38. Housing Choice Voucher Family Moves with Continued Assistance .....	10/25/2012	X	
39. Funding for Tenant-Protection Vouchers for Certain At-Risk Households in Low-Vacancy Areas—Request for Comments.	09/10/2012	X	
40. Emergency Safety and Security Funding as it Relates to the Full-Year Continuing Appropriations Act, 2012 [Pub. L. 112–36].	09/07/2012		X
41. SUPPLEMENTAL NOTICE to PIH Notice 2012–16 Request for Applications under the Moving to Work Demonstration Program for Fiscal Year 2011.	08/27/2012		X
42. Federal Fiscal Year 2012 Funding Provisions for the Housing Choice Voucher Program—Award of Remaining Set-Aside Funds.	08/21/2012		X
43. Public Housing Operating Subsidy Eligibility Calculations for Calendar Year 2013 .....	06/22/2012		X
44. Calendar Year 2012 \$20 Million Set-Aside for Financial Hardship due to Public Housing Operating Subsidy Allocation Adjustment.	06/08/2012		X
• Attachment A .....			
• Attachment B1 .....			
• Attachment B2 .....			
45. Extension: Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System.	06/01/2012	X	
46. Non-Smoking Policies in Public Housing .....	05/29/2012		X
47. Revocation of Notice PIH 2012–19 (Implementation of Funding for Tenant-Protection Vouchers for Certain At-Risk Households in Low-Vacancy Areas).	05/02/2012		X
48. Implementation of Funding for Tenant-Protection Vouchers for Certain At-Risk Households in Low-Vacancy Areas.	03/16/2012		X
49. Rental Assistance Demonstration—Partial Implementation and Request for Comments .....	03/08/2012		X
50. Request for Applications under the Moving to Work Demonstration Program for Fiscal Year 2011 ..	02/27/2012		X
51. Extension—Administering the Community Service and Self-Sufficiency Requirement (CSSR) .....	02/22/2012		X
52. Indian Housing Plan/Annual Performance Report Form—Form HUD–52737 .....	02/22/2012		X
53. Implementation of the Federal Fiscal Year 2012 Funding Provisions for the Housing Choice Voucher Program.	02/08/2012		X
54. Prohibition on Exceeding Statutory Limitation of the Number of Public Housing Units .....	12/27/2011		X
55. Extension of Notice 2010–49: Protecting Tenants at Foreclosure Act—Guidance on New Tenant Protections.	12/16/2011		X
56. Implementation of New Cash Management Requirements for the Housing Choice Voucher Program.	12/09/2011		X
57. Terminal Guidance on Disaster Housing Assistance Program—Ike (DHAP-Ike) and Extension Operating Requirements.	12/07/2011		X
58. Extension of Cost-Test and Market Analyses Guidelines for the Voluntary Conversion of Public Housing Units Pursuant to 24 CFR part 972.	11/02/2011		X
59. Extension—Guidance on requirement for PHAs to record current Declaration of Trusts (DOTs) against all public housing property and guidance on adding and removing public housing units and other property from the Annual Contributions Contract (ACC).	11/01/2011		X
60. Instructions for Public Housing Agency on Fiscal Year End Changes .....	10/06/2011		X

## APPENDIX A—PUBLIC AND INDIAN HOUSING NOTICES—Continued

Name of document	Date	Arch.	Remove
61. Public Housing Operating Subsidy Calculations for Calendar Year 2012 .....	09/26/2011		X
• Attachment .....			
62. Guidance on the Project-Based Voucher Program .....	09/20/2011	X	
63. Project-Basing HUD—Veterans Affairs Supportive Housing Vouchers .....	09/15/2011	X	
64. Extension—Administrative Requirements for Investing Indian Housing Block Grant (IHBG) Funds ...	07/21/2011		X
65. Extension—Demonstration Program—Self-Determined Housing Activities for Tribal Governments ...	07/21/2011		X
66. Public Housing Development Cost Limits .....	07/20/2011		X
67. Extension: Information and Procedures for Implementation of Capital Funds Recovery Competition Grants.	07/13/2011		X
68. Extension: Consolidated Guidance on Disaster Housing Assistance Program—Ike (DHAP-Ike) and Extension Operating Requirements.	06/30/2011		X
69. Extension—Continuation of Disaster Voucher Program (DVP) Housing Assistance Payments .....	06/28/2011		X
70. Implementation of the Federal Fiscal Year 2011 Funding Provisions for the Housing Choice Voucher Program.	06/02/2011		X
71. Extension—Establishing a Micro Purchase Process for Purchases Less Than \$5,000 for Indian Housing Block Grant (IHBG) Recipients.	05/25/2011		X
72. Extension: Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System.	05/30/2011	X	
73. Asset-Repositioning Fee .....	04/12/2011	X	
74. Extension of Notice PIH 2010–08, Renewal of Project-Based Certificate Housing Assistance Payments Contracts.	03/31/2011		X
75. Public Housing Operating Subsidy Calculations for Calendar Year 2011 .....	03/18/2011		X
76. Implementation of Statutory Change to the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) related to Income.	03/18/2011		X
77. Guidelines for Undertaking Financing Unsecured by Public Housing Assets .....	02/24/2011		X
78. Reissuance of PIH Notice 2009–31—PIH Implementation Guidance for the Buy American Requirement of the American Recovery and Reinvestment Act of 2009 including Process for Applying Exceptions.	02/17/2011		X
79. Extension—Administering the Community Service and Self Sufficiency Requirement (CSSR) .....	02/11/2011		X
80. Appeals under the Operating Fund Program for Calendar Year 2011 .....	02/11/2011		X
81. Extension—Guidance for Obtaining HUD Consent for Takings of Public Housing Property by Eminent Domain.	01/28/2011	X	
82. Native American Housing Assistance and Self-Determination Act (NAHASDA) Interim Funding for Tribes or Tribally Designated Housing Entities (TDHE) in Fiscal Year (FY) 2011.	01/27/2011		X
83. Amendment to PIH Notice 2010–40 on Set-Aside Funding Availability for Project-Basing HUD-Veterans Affairs Supportive Housing Vouchers.	01/27/2011	X	
84. Reissuance of PIH Notice 2009–12—Information and Procedures for Processing American Recovery and Reinvestment Act Capital Fund Formula Grants.	01/21/2011		X
85. Housing Choice Voucher Family Moves with Continued Assistance .....	01/19/2011	X	
86. Extension: Guidance—Verification of Social Security Numbers (SSNs), Social Security (SS) and Supplemental Security Income (SSI) Benefits.	01/12/2011	X	
87. Over Subsidization in the Housing Choice Voucher Program .....	01/01/2011	X	
88. Protecting Tenants at Foreclosure Act—Guidance on New Tenant Protections .....	12/28/2010		X
89. Extension—Cost-Test and Market Analyses Guidelines for the Voluntary Conversion of Public Housing Units Pursuant to 24 CFR part 972.	10/01/2010		X
90. Financial Reporting Requirements for the Housing Choice Voucher Program Submitted through the Financial Assessment Subsystem for Public Housing and the Voucher Management System.	10/29/2010	X	
91. Revision and Extension of Guidance on requirement for PHAs to record current Declaration of Trusts (DOTs) against all public housing property and guidance on adding and removing public housing units and other property from the Annual Contributions Contract (ACC).	10/20/2010		X
92. Continuation of Disaster Voucher Program (DVP) Housing Assistance Payments .....	10/19/2010		X
93. Certification of accuracy of data in the Inventory Management/Public Housing Information Center System used to calculate the Capital Fund formula allocation.	10/13/2010		X
94. Using Energy Star to Promote Energy Efficiency in Public Housing .....	10/12/2010		X
95. Set-Aside Funding Availability for Project-Basing HUD Veterans Affairs Supportive Housing Vouchers.	09/28/2010		X
96. Process for Public Housing Agency Voluntary Transfers of Housing Choice Vouchers, Project-Based Vouchers and Project-Based Certificates.	09/28/2010		X
97. Operating Fund Program: Guidance on Demonstration of Successful Conversion to Asset Management to Discontinue the Reduction of Operating Subsidy, Year 5 Applications.	09/07/2010		X
98. Extension—Recipient Inspection of Housing Units Assisted under the Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) and Those Assisted Under the United States Housing Act of 1937.	08/31/2010		X
99. Demonstration Program—Self-Determined Housing Activities for Tribal Governments .....	08/17/2010		X
100. Information and Procedures for Implementation of Capital Funds Recovery Competition Grants ....	08/10/2010		X
101. Reinstatement—PIH Notice 2009–6 (TDHEs)—Administrative Requirements for Investing Indian Housing Block Grant (IHBG) Funds.	08/06/2010		X
102. Transactions between Public Housing Agencies and their Related Affiliates and Instrumentalities	08/02/2010		X
103. Request for Applications under the Moving to Work Demonstration Program .....	07/30/2010	X	
• MTW Optional Eligibility Worksheet .....			

## APPENDIX A—PUBLIC AND INDIAN HOUSING NOTICES—Continued

Name of document	Date	Arch.	Remove
104. Reinstatement of PIH Notice 2009–05, Accessibility Requirements for Native American Programs: Section 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act of 1990; Architectural Barriers Act of 1968; and Fair Housing Amendments Act of 1988.	08/27/2010		X
105. Timely Reporting Requirements of the Family Report (form HUD–50058 and form HUD–50058 MTW) into the Public and Indian Housing Information Center.	08/07/2010		X
106. Emergency Safety and Security Funding as it Relates to the Omnibus Appropriations Act, 2009 [Pub. L. 111–8] and the Consolidated Appropriations Act, 2010 [Pub. L. 111–117].	06/28/2010	X	
107. Project-Basing HUD-Veterans Affairs Supportive Housing Vouchers .....	06/25/2010	X	
108. Consolidated Guidance on Disaster Housing Assistance Program—Ike (DHAP-Ike) and Extension Operating Requirements.	06/17/2010		X
109. Public Housing Development Cost Limits .....	05/24/2010		X
• TDC Housing Cap Limits for FY 2010 .....			
110. Revision to HUD Notice PIH 2009–51 PHA Determinations of Rent Reasonableness in the Housing Choice Voucher (HCV) Program—Comparable Unassisted Units in the Premises.	05/10/2010		X
111. Extension—Establishing a Micro Purchase Process for Purchases Less Than \$5,000 for Indian Housing Block Grant (IHBG) Recipients.	05/07/2010		X
112. Voucher Management System Enhancements and Reporting Requirements .....	05/06/2010		X
113. HUD Funding for Non-Presidentially Declared Natural Disasters .....	04/28/2010		X
114. Requests for Exception Payment Standards for Persons with Disabilities as a Reasonable Accommodation.	04/13/2010	X	
115. HQS Inspections for the Housing Choice Voucher Program and Guidance Related to Electrical Outlets.	03/31/2010	X	
116. Renewal of Project-Based Certificate Housing Assistance Payments Contracts .....	03/26/2010	X	
• Attachment .....			
117. Reporting of Administrative Fee Reserves .....	03/12/2010	X	
118. Implementation of the Federal Fiscal Year 2010 Funding Provisions for the Housing Choice Voucher Program.	02/16/2010		X
119. Extension—Guidance for Obtaining HUD Consent for Takings of Public Housing Property by Eminent Domain.	01/22/2010	X	
120. Guidance—Verification of Social Security Numbers (SSNs), Social Security (SS) and Supplemental Security Income (SSI) Benefits.	01/20/2010	X	
121. Appeals under the Operating Fund Program for Calendar Year 2010 .....	01/20/2010		X
122. Extension of the Disaster Voucher Program (DVP) .....	01/05/2010		X
123. Protecting Tenants at Foreclosure Act—Guidance on New Tenant Protections .....	12/15/2009	X	
124. PHA Determinations of Rent Reasonableness in the Housing Choice Voucher (HCV) Program—Comparable Unassisted Units in the Premises.	12/11/2009	X	
125. Line of Credit Control System/Voice Response System (LOCCS/VRS) for the Indian Housing Block Grant Program.	12/02/2009		X
126. Administering the Community Service and Self-Sufficiency Requirement (CSSR) .....	11/25/2009		X
127. Public Housing Operating Subsidy Calculations for Calendar Year 2010 .....	11/19/2009		X
128. Submission of Calendar Year 2009 Notices of Intent and Fungibility Plans by PHAs in Hurricane Katrina and Rita Disaster Areas Authorized To Combine Section 8(o) and 9(d)(e) Funding Under Section 901 of 2006 Emergency Supplemental Appropriations, as Extended by 2008 Emergency and Supplemental Appropriations.	11/06/2009		X
129. Renewable energy and green construction practices in Public Housing .....	10/16/2009		X
130. Extension-Cost-Test and Market Analyses Guidelines for the Voluntary Conversion of Public Housing Units Pursuant to 24 CFR part 972.	10/16/2009	X	
131. Distribution of Fiscal Year (FY) 2009 Administrative Fee Funding for Housing Choice Voucher Family Self-Sufficiency (HCV/FSS) Program Coordinator Salaries.	09/29/2009		X
132. Independent Auditor Report Submission for Public Housing Agencies .....	09/22/2009		
133. Treatment of Income for Participants of Public Housing and Section 8 programs that qualify for payment adjustments under the American Recovery and Reinvestment Act (ARRA).	09/24/2009		X
134. Capital Fund Program Awards for FY 2009 .....	09/02/2009		X
135. Operating Fund Program: Guidance on Demonstration of Successful Conversion To Asset Management to Discontinue the Reduction of Operating Subsidy, Year 4 Applications.	08/26/2009		X
136. PIH Implementation Guidance for the Buy American Requirement of the American Recovery and Reinvestment Act of 2009 including Process for Applying Exceptions.	08/21/2009		X
137. Extension—Recipient Inspection of Housing Units Assisted Under the Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) and Those Assisted Under the United States Housing Act of 1937.	08/19/2009		X
138. Request for Applications Under the Moving To Work Demonstration Program .....	08/19/2009		X
139. Guidance on requirement for PHAs to record current Declaration of Trusts (DOTs) against all public housing property and guidance on adding and removing public housing units and other property from the Annual Contributions Contract (ACC).	08/14/2009	X	
140. Implementation of the Federal Fiscal Year 2009 Funding Provisions for the Housing Choice Voucher Program—Award of Remaining Set-Aside Funds.	08/04/2009		X
141. Transactions between Public Housing Agencies and their Related Affiliates and Instrumentalities	07/23/2009		X
142. Over Subsidization in the Housing Choice Voucher Program .....	07/21/2009	X	
143. Non-Smoking Policies in Public Housing .....	07/17/2009		X
144. Establishing a Micro Purchase Process for Purchases Less than \$5,000 for Indian Housing Block Grant (IHBG) Recipients.	05/18/2009		X

## APPENDIX A—PUBLIC AND INDIAN HOUSING NOTICES—Continued

Name of document	Date	Arch.	Remove
145. Implementation of the Federal Fiscal Year 2009 Funding Provisions for the Housing Choice Voucher Program.	05/06/2009		X
146. Information and Procedures for Processing American Recovery and Reinvestment Act Capital Fund Formula Grants.	03/18/2009		X
147. Project-Basing HUD-Veterans Affairs Supportive Housing Vouchers .....	03/16/2009		X
148. Appeals under the Operating Fund Program for Calendar Year 2009 .....	03/05/2009		X
149. Using ENERGY STAR to Promote Energy Efficiency in Public Housing .....	03/05/2009		X
150. Extension of the Disaster Voucher Program (DVP) .....	02/24/2009		X
151. Administrative Requirements for Investing Indian Housing Block Grant (IHBG) Funds .....	03/05/2009		X
152. Extension—PIH Notice 2008–6 (TDHEs)—Accessibility Requirements for Native American Programs: Section 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act of 1990; Architectural Barriers Act of 1968; and Fair Housing Amendments Act of 1988.	01/26/2009		X
153. Limiting Housing to Indian Families or Tribal Members When Using Indian Housing Block Grant (IHBG) funds.	01/26/2009		X
154. Operating Fund Program: Calculation of Transition Funding Amounts for Calendar Year 2009 .....	01/16/2009		X
155. Public Housing Development Cost Limits—(.pdf) (.doc) .....	12/22/2008		X
156. Certification of accuracy of data in the Inventory Management/Public Housing Information Center System used to calculate the Capital Fund formula allocation.	12/10/2008		X
157. Disaster Housing Assistance Program-Ike (DHAP-Ike) Case Management Guidelines .....	12/10/2008		X
158. Line of Credit Control System/Voice Response System (LOCCS/VRS) for the Indian Housing Block Grant Program. • Extension Notice .....	12/24/2008		X
159. Public Housing Agency (PHA) Five-Year and Annual Plan Process for all PHAs .....	11/13/2008		X
160. Income exclusion of kinship care payments when foster children are placed with relatives .....	11/04/2008		X
161. Processing Changes for Voucher Management System (VMS) Data—Housing Choice Voucher Program.	11/03/2008		X
162. Disaster Housing Assistance Program—Ike (DHAP-Ike) Operating Requirements .....	10/14/2008		X
163. Reporting Requirements for the HUD-Veterans Affairs Supportive Housing Program .....	10/14/2008		X
164. Extension of the Disaster Voucher Program (DVP) .....	10/01/2008		X
165. Public Housing Operating Subsidy Calculations for Calendar Year (CY) 2009 .....	08/13/2008		X
166. Operating Fund Program: Guidance on Demonstration of Successful Conversion To Asset Management To Discontinue the Reduction of Operating Subsidy, Year 3 Applications.	07/17/2008		X
167. Income exclusion of Kinship Guardian Assistant Payments (Kin-GAP) and other guardianship care payments.	07/14/2008		X
168. Extension of the Disaster Voucher Program (DVP) .....	07/08/2008		X
169. Extension—Guidance on Integrated Pest Management .....	05/26/2008		X
170. Exclusion of tax rebates from the Internal Revenue Service (IRS) under the Economic Stimulus Act of 2008.	05/16/2008		X
171. Guidance on Energy Performance Contracts, including those with terms up to 20 years .....	04/25/2008		X
172. Disaster Housing Assistance Program (DHAP) Revisions to the Operating Requirements and Processing Guidance for Phase 3 Families; Suspension of the Incremental Rent Transition Requirement for Phase 2 and Phase 3 Families; Supplemental Guidance on Pre-Transition and Case Management Fees and Use of Disaster Information System (DIS) Information To Determine Family Unit Size Under the PHA Subsidy Standards.	04/16/2008		X
173. Over Subsidization in the Housing Choice Voucher Program .....	04/16/2008	X	
174. Extension—Process for Public Housing Agency Voluntary Transfers of Housing Choice Vouchers, Project-Based Vouchers and Project-Based Certificates.	03/30/2008	X	
175. Implementation of Federal Fiscal Year 2008 Funding Provisions for the Housing Choice Voucher Program.	03/25/2008		X
176. Renewal of Project-Based Certificate Housing Assistance Payments Contracts .....	03/20/2008		X
• Attachment. ....			
177. Requests for Exception Payment Standards for Persons With Disabilities as a Reasonable Accommodation.	03/18/2008	X	
178. Reporting Requirements and Sanctions Policy Under the Public Housing Program for the Family Report (Form HUD–50058) to the Office of Public and Indian Housing (PIH) Information Center (PIC).	02/15/2008		X
179. Financial Reporting Requirements for the Housing Choice Voucher Program Submitted through the Financial Assessment Subsystem for Public Housing and the Voucher Management System.	01/30/2008		X
180. Limiting Housing to Indian Families or Tribal Members When Using Indian Housing Block Grant (IHBG) funds.	01/30/2008		X
181. Reinstatement—PIH Notice 2006–38—Accessibility Requirements for Native American Programs: Section 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act of 1990; Architectural Barriers Act of 1968; and Fair Housing Amendments Act of 1988.	01/24/2008		X
182. Native American Housing Assistance and Self-Determination Act (NAHASDA) Interim Funding for Tribes or Tribally Designated Housing Entities (TDHE) in Fiscal Year (FY) 2008.	01/23/2008		X
183. Allocation of Funds Remaining Under the Fiscal Year (FY) 2007 \$100 Million Set-Aside and Availability of Special Fees for Public Housing Agencies (PHAs) Needing Additional Funds in the Operation of the Housing Choice Voucher (HCV) Program.	01/22/2008		X
184. Guidance for Obtaining HUD Consent for Takings of Public Housing Property by Eminent Domain	01/16/2008	X	
185. Disaster Housing Assistance Program (DHAP) Case Management Guidelines .....	01/04/2008		X

## APPENDIX B—PUBLIC AND INDIAN HOUSING—OTHER GUIDANCE

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1. Phase IIa and IIb Protocol .....	04/12/2017	X	
2. FSS Training Announcement .....	01/2017		X
3. EDSC Guidance .....	02/05/2016	X	
4. October thru Dec Obligation Letters .....	10/05/2015		X
5. Explanation of Final Obligations .....	09/24/2015		X
6. Explanation of September Obligations .....	09/01/2015		X
7. CY 2015 Interim Eligibility as of 8/18/15 .....	08/18/2015		X
8. Final Eligibility Report as of 08/18/15 .....	08/18/2015		X
9. CY 2015 PHA HUD-52723 & 52722 Technical Notes .....	07/15/2015		X
10. Explanation of July & August Obligations .....	06/30/2015		X
11. Explanation of May & June Obligations .....	04/29/2015		X
12. CY 2015 PHA HUD-52723 & 52722 Technical Notes .....	04/05/2015		X
13. CY 2015 PHA HUD-52723 Excel Tools Version 2.08 .....	04/05/2015		X
14. CY 2015 PHA HUD-52722 Excel Tools Version 2.08 .....	04/05/2015		X
15. Explanation of April Obligations .....	03/24/2015		X
16. CY 2015 PHA HUD-52722 Excel Tools Version 2.07 .....	03/21/2015		X
17. CY 2015 Pre-populated Unit Months: Last of Month .....	03/05/2015		X
18. CY 2015 PHA HUD-52722 Excel Tools Version 2.06 .....	03/02/2015		X
19. CY 2015 Pre-populated Unit Months: First of Month .....	03/01/2015		X
20. Explanation of March Obligations .....	02/27/2015		X
21. CY 2015 PHA HUD-52723 Excel Tools Version 2.05 .....	02/15/2015		X
22. CY 2015 PHA HUD-52722 Excel Tool Version 2.04 .....	02/11/2015		X
23. CY 2015 PHA HUD-52722 Excel Tool Version 2.04 .....	02/11/2015		X
24. CY 2015 PHA HUD-52723 Excel Tools Version 2.04 .....	02/11/2015		X
25. CY 2015 PHA HUD-52723 Excel Tools Version 2.03 .....	02/08/2015		X
26. CY 2015 Inventory Validation Workbook .....	02/05/2015		X
27. CY 2015 Operating Subsidy Project Inventory .....	02/05/2015		X
28. CY 2015 PHA HUD-52723 Excel Tool Version 2.01 .....	02/05/2015		X
29. CY 2015 PHA HUD-52723 Excel Tools Version 2.02 .....	02/05/2015		X
30. Appeals for Changing Market Conditions .....	02/05/2015		X
31. CY 2015 Formula Income Methodology .....	02/05/2015		X
32. Asset Management Fees for PHAs with One Project .....	02/05/2015		X
33. Guidance to Assist PHAs in Completing SF-424 .....	02/05/2015		X
34. Guidance for New Projects .....	02/05/2015		X
35. EPCs: Processing COCC Adjustments for an Existing Energy Performance Contract .....	02/05/2015		X
36. EPCs: Capturing the resident-paid utilities incentive on Forms HUD-52723 (Example) .....	02/05/2015		X
37. EDSC Guidance .....	02/05/2015	X	
38. Explanation of February Obligations .....	01/29/2015		X
39. CY 2015 PHA HUD-52723 Excel Tool User Guide .....	01/14/2015		X
40. CY 2015 PHA HUD-52722 Excel Tool User Guide .....	01/14/2015		X
41. Explanation of January Obligations .....	12/24/2014		X
42. 2015 Operating Fund Submission Schedule v1.4 .....	11/03/2014		X
43. Explanation of Final Obligations and Proration (October through December) for CY 2014 .....	09/29/2014		X
44. CY 2015 UEL Inflation Factor Calculation .....	09/12/2014		X
45. CY 2014 PHA HUD-52722 Excel Tools Version 1.13.1 (New Projects 5) .....	08/13/2014		X
46. CY 2014 PHA HUD-52723 Excel Tools Version 1.6.1 (New Projects 5) .....	08/11/2014		X
47. CY 2014 PHA HUD-52723 Technical Notes .....	08/11/2014		X
48. CY 2014 PHA HUD-52722 Technical Notes .....	08/11/2014		X
49. Explanation of August and September Obligations .....	07/29/2014		X
50. CY 2014 PHA HUD-52723 Excel Tools Version 1.6 (New Projects 4) .....	07/24/2014		X
51. CY 2014 PHA HUD-52722 Excel Tools Version 1.13 (New Projects 4) .....	07/23/2014		X
52. Explanation of June and July Obligations .....	05/29/2014		X
53. CY 2014 PHA HUD-52723 Excel Tools Version 1.5 (New Projects 3) .....	04/29/2014		X
54. CY 2014 PHA HUD-52722 Excel Tools Version 1.12 (New Projects 3) .....	04/29/2014		X
55. CY 2014 PHA HUD-52722 Excel Tools Version 1.11.1 (New Projects 2) .....	04/03/2014		X
56. Explanation of April and May Obligations .....	03/28/2014		X
57. CY 2014 PHA HUD-52723 Excel Tools Version 1.4 (New Projects 2) .....	03/19/2014		X
58. Explanation of October thru December Final Obligations .....	03/11/14		X
59. CY 2014 Final Eligibility Report considering Flat Rents .....	03/10/2014		X
60. CY 2014 PHA HUD-52723 Excel Tools Version 1.3.1 (New and Revised PELs) .....	03/04/2014		X
61. Explanation of March Obligations .....	02/27/2014		X
62. CY 2014 PHA HUD-52722 Excel Tools Version 1.10 (New and Revised PELs) .....	02/20/2014		X
63. CY14 Project Inventory .....	02/05/2014		X
64. Asset Repositioning Fee (ARF)—PHA Guidance .....	02/05/2014		X
65. CY 2014 Formula Income Methodology .....	02/05/2014		X
66. Appeals for Changing Market Conditions .....	02/05/2014		X
67. Asset Management Fees for PHAs with One Project .....	02/05/2014		X
68. Guidance to Assist PHAs in Completing SF-424 .....	02/05/2014		X
69. CY 2014 EDSC Program .....	02/05/2014	X	
70. EPCs: Processing COCC Adjustments for an Existing Energy Performance Contract .....	02/05/2014		X
71. EPCs: Capturing the resident-paid utilities incentive on Forms HUD-52723 (Example) .....	02/05/2014		X
72. FAQs related to Subsidy Processing .....	02/05/2014		X

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Name of document	Date	Remove	Arch.
73. Explanation of January and February Obligations	12/31/2013		X
74. CY 2014 PHA HUD–52722 Excel Tools Version 1.9 (New Projects 1)	12/19/2013		X
75. CY 2014 PHA HUD–52722 Excel Tools Version 1.8	12/18/2013		X
76. CY 2014 PHA HUD–52723 Excel Tools Version 1.2 (New Projects 1)	12/17/2013		X
77. New Projects/Units	12/13/2013		X
78. CY 2013 Formula Income Methodology	12/05/2013		X
79. CY 2014 PHA HUD–52723 Excel Tool User Guide	12/03/2013		X
80. Operating Subsidy Forms Submission Schedule for CY2014	11/14/2013		X
81. CY 2014 PHA HUD–52723 Excel Tools Version 1.1	11/14/2013		X
82. CY 2014 PHA HUD–52722 Excel Tools Version 1.7	11/08/2013		X
83. CY 2014 PHA HUD–52722 Excel Tool User Guide	11/08/2013		X
84. CY 2014 UEL Inflation Factor	11/05/2013		X
85. Technical Notes for HUD–52722 and 52723 (082213) (New Projects 5)	09/05/2013		X
86. Explanation of September Obligations	08/27/2013		X
87. Final Operating Fund PIC Unit Status Report for CY 2014 (July 2012 to June 2013)	06/30/2013		X
88. New Project/Units Guidance	06/06/2013		X
89. Explanation of June thru Aug Obligations	05/28/2013		X
90. Explanation of May Obligations	04/27/2013		X
91. Explanation of April Obligations	04/01/2013		X
92. Explanation of March Obligations	02/27/2013		X
93. CY 2013 EDSC Program	02/06/2013	X	
94. Appeals for Changing Market Conditions	02/05/2013		X
95. Asset Management Fees for PHAs with One Project	02/05/2013		X
96. Guidance to Assist PHAs in Completing SF–424	02/05/2013		X
97. EPCs: Processing COCC Adjustments for an Existing Energy Performance Contract	02/05/2013		X
98. CY 2013 PHA HUD–52723 Excel Tools (Version 2.6) (New Projects 5)	01/05/2013		X
99. Explanation of Initial Calendar Year (Jan. and Feb.) (CY) 2013 Obligations	12/20/2012		X
100. Technical Notes for HUD–52722 and 52723	12/20/2012		X
101. CY 2013 PHA HUD–52723 Excel Tools (Version 2.5) (New Projects 4)	12/20/2012		X
102. CY 2013 PHA HUD–52722 Excel Tools (Version 1.6) (New Projects 4)	12/20/2012		X
103. CY 2013 PHA HUD–52722 Excel Tools (Version 1.7) (New Projects 5)	12/20/2012		X
104. CY 2013 Interim Eligibility Notes and Report	12/10/2012		X
105. CY 2013 UEL Inflation Factor	12/05/2012		X
106. Technical Notes for HUD–52722 and 52723	11/29/2012		X
107. CY 2013 PHA HUD–52723 Excel Tools (Version 2.4) (New Projects 4)	11/29/2012		X
108. CY 2013 PHA HUD–52722 Excel Tools (Version 1.5) (New Projects 4)	11/29/2012		X
109. Technical Notes for HUD–52722 and 52723	10/18/2012		X
110. CY 2013 PHA HUD–52723 Excel Tools (Version 2.3)	10/18/2012		X
111. CY 2013 PHA HUD–52722 Excel Tools (Version 1.4)	10/18/2012		X
112. Operating Subsidy Forms Submission Schedule for CY2012	10/03/2012		X
113. CY 2012 PHA HUD–52723 Excel Tool Version 1.2	10/03/2012		X
114. Carryover Funding 2012/2013 Obligations Explanation	09/30/2012		X
115. Explanation of October through December Final Obligations	09/25/2012		X
116. CY 2013 PHA HUD–52722 Excel Tool User Guide	09/20/2012		X
117. Technical Notes for HUD–52722 and 52723	09/20/2012		X
118. CY 2013 PHA HUD–52723 Excel Tools (Version 2.2)	09/20/2012		X
119. CY 2013 PHA HUD–52722 Excel Tools (Version 1.3)	09/20/2012		X
120. Data to be used for completing CY 2013 operating subsidy submissions	09/11/2012		X
121. CY 2013 PHA HUD–52723 Excel Tool User Guide	08/27/2012		X
122. Technical Notes HUD–52723 ver. 082212—New Projects	08/22/2012		X
123. EPCs: Processing COCC Adjustments for an Existing Energy Performance Contract	07/21/2012		X
124. EPCs: Capturing the resident-paid utilities incentive on Forms HUD–52723 (Example)	07/21/2012		X
125. Technical Notes HUD–52723 ver. 062712—New Projects—Version 1.9	07/20/2012		X
126. Explanation of July through September Obligations	06/27/2012		X
127. Technical Notes HUD–51723 ver. 062712—New Projects	06/27/2012		X
128. Operating Subsidy Forms Submission Schedule for CY2013	06/10/2012		X
129. CY 2013 PHA HUD–52722 Excel Tools (Version 1.1)	06/06/2012		X
130. CY 2012 PHA HUD–52722 UEL Excel Tools Version 1.8—for New Projects	06/06/2012		X
131. Technical Notes HUD–52723—New Projects	05/09/2012		X
132. CY 2012 PHA HUD–52722 UEL Excel Tools Version 1.7	05/06/2012		X
133. CY 2012 PHA HUD–52723 Excel Tools Version 1.10—for New Projects	05/06/2012		X
134. Explanation of April through June Obligations	03/26/2012		X
135. CY 2012 PHA HUD–52723 Excel Tools Version 1.8—for New Projects and Regrouped Projects	03/09/2012		X
136. Technical Notes HUD–52723—New Projects	03/09/2012		X
137. CY 2012 PHA HUD–52722 UEL Excel Tools Version 1	03/09/2012		X
138. CY 2012 PHA HUD–52722 Excel Tools Version 1.2 New Projects and Existing Projects	03/09/2012		X
139. CY 2012 PHA HUD–52723 Excel Tools Version 1.11	03/05/2012		X
140. Implementation of the Public Housing Assessment System (PHAS) Interim Rule	02/22/2012		X
141. Allocation Adjustment and Hardship Set-Aside Funding	02/05/2012		X
142. CY 2012 PHA HUD–52722 UEL Excel Tools	02/05/2012		X
143. CY 2012 PHA HUD–52723 Excel Tools Version 1.12—for New Projects	02/05/2012		X

## APPENDIX B—PUBLIC AND INDIAN HOUSING—OTHER GUIDANCE—Continued

Name of document	Date	Remove	Arch.
144. Guidance: CY 2012 Formula Income Methodology and Guidance .....	02/05/2012	.....	X
145. Guidance to Assist PHAs in Completing SF-424 .....	02/05/2012	.....	X
146. Guidance: CY 2012 EDSC Program .....	02/05/2012	X	.....
147. Explanation of February and March Obligations .....	01/31/2012	.....	X
148. Technical Notes HUD-52723—New Projects .....	01/12/2012	.....	X
149. CY 2012 PHA HUD-52722 UEL Excel Tools Version 1.5 .....	01/12/2012	.....	X
150. Explanation of Initial Calendar Year (CY) 2012 Obligations .....	12/29/2011	.....	X
151. Technical Notes HUD-52723—New Projects .....	12/01/2011	.....	X
152. CY 2012 PHA HUD-52723 Excel Tools Version 1.7—for New Projects and Regrouped Projects .....	12/01/2011	.....	X
153. CY 2012 PHA HUD-52722 UEL Excel Tools Version 1.3 Existing Projects, New Projects and Regrouped Projects .....	12/01/2011	.....	X
154. CY 2012 PHA HUD-52722 UEL Excel Tools Version 1. Existing Projects, New Projects and Regrouped Projects .....	12/01/2011	.....	X
155. CY 2012 PHA HUD-52723 Excel Tools Version 1.9—for New Projects .....	12/01/2011	.....	X
156. CY 2012 PHA HUD-52723 Excel Tools Version 1.3—for New Projects .....	11/18/2011	.....	X
157. CY 2012 PHA HUD-52723 Excel Tools Version 1.4—for New Projects and Regrouped Projects .....	11/18/2011	.....	X
158. Technical Notes HUD-52723—New Projects .....	11/18/2011	.....	X
159. CY 2012 PHA HUD-52723 Excel Tools Version 1.5—for New Projects and Regrouped Projects .....	11/18/2011	.....	X
160. CY 2012 PHA HUD-52723 Excel Tools Version 1.6—for New Projects and Regrouped Projects .....	11/18/2011	.....	X
161. Forms 52723 & 52722 submission schedule .....	11/10/2011	.....	X
162. CY 2012 PHA HUD-52723 Excel Tool User Guide .....	10/06/2011	.....	X
163. CY 2012 PHA HUD-52722 UEL Excel Tools Version 1.10 .....	10/06/2011	.....	X
164. Data to be used for completing CY 2012 operating subsidy submissions .....	10/05/2011	.....	X
165. CY 2012 PHA HUD-52722 Excel Tool User Guide .....	10/04/2011	.....	X
166. Explanation of October through December Final CY 2011 Obligations .....	09/21/2011	.....	X
167. CY 2011 PHA HUD-52722 Excel Tools .....	08/02/2011	.....	X
168. CY 2011 Technical Notes on HUD-52722 and 52723 .....	08/02/2011	.....	X
169. REAC Inspection Checklist Version 1 ( <i>not available on HUD's website</i> ) .....	08/2011	.....	X
170. Data to be used for completing CY 2011 operating subsidy submissions Part 2 .....	07/28/2011	.....	X
171. UEL Inflation Factor .....	07/22/2011	.....	X
172. CY 2011 PHA HUD-52722 Excel Tool User Guide .....	07/21/2011	.....	X
173. Data to be used for completing CY 2011 operating subsidy submissions .....	07/21/2011	.....	X
174. Methodology for determining CY 2011 Formula income .....	07/01/2011	.....	X
175. Explanation of July through Sep. 2011 Obligations .....	06/29/2011	.....	X
176. CY 2011 PHA HUD-52723 Excel Tools .....	06/10/2011	.....	X
177. CY 2011 PHA HUD-52723 Excel Tool User Guide .....	06/10/2011	.....	X
178. EPCs: Capturing the resident-paid utilities incentive on Forms HUD-52723 (Example) ...	06/09/2011	.....	X
179. Operating Subsidy Forms Submission Schedule for CY2011 .....	06/06/2011	.....	X
180. UEL Inflation Factor .....	06/06/2011	.....	X
181. CY 2011 Guidance: Asset Management Fees for PHAs with One Project .....	05/09/2011	.....	X
182. Explanation of May and June 2011 Obligations .....	04/29/2011	.....	X
183. Explanation of April Calendar Year (CY) 2011 Obligations .....	03/17/2011	.....	X
184. Operating Subsidy Calculation for Mixed Finance Projects Briefing .....	02/11/2011	.....	X
185. Explanation of February and March Calendar Year (CY) 2011 Obligations .....	02/07/2011	.....	X
186. Guidance to Assist PHAs in Completing SF-424 .....	02/07/2011	.....	X
187. CY 2011 PHA Guidance for Appeals for Changing Market Conditions .....	02/05/2011	.....	X
188. CY 2011 EDSC Program .....	02/05/2011	X	.....
189. Explanation of Initial Calendar Year (CY) 2011 Obligation .....	12/22/2010	.....	X
190. Final CY 2010 Explanation of Obligations and Proration .....	11/01/2010	.....	X
191. Final 2010 Funding Reconciliation Methodology .....	09/20/2010	.....	X
192. Explanation of June 2010 Obligation .....	05/25/2010	.....	X
193. Audit and PILOT data .....	04/27/2010	.....	X
194. Data to be used for completing CY 2010 operating subsidy submissions .....	04/23/2010	.....	X
195. FAQs related to CY 2010 Subsidy Processing .....	04/21/2010	.....	X
196. Guidance: Asset Management Fees for PHAs with One Project .....	04/15/2010	.....	X
197. SAGIS and Operating Fund Deadline Extension .....	03/22/2010	.....	X
198. SAGIS Implementation for CY 2010 and important related information .....	03/22/2010	.....	X
199. Rental Income Inflation Factor .....	02/23/2010	.....	X
200. Elderly/Disabled Service Coordinator Program (Forms HUD-52723, Section 3, Line 07, CY 2010) .....	02/05/2010	X	.....
201. Additional Guidance: Asset Management Election and Asset Management Fee Add-on for CY 2010 .....	01/11/2010	.....	X
202. Guidance to Assist PHAs in Completing SF-424 .....	01/05/2010	.....	X
203. EPCs: Capturing the resident-paid utilities incentive on Forms HUD-52723—CY 2010 ...	01/05/2010	.....	X
204. Explanation of Initial CY 2010 Obligation .....	12/28/2009	.....	X
205. 2009-11: Annual Reporting Under the American Recovery and Reinvestment Act .....	12/02/2009	.....	X
206. CY 2009 Submission Schedule and Supplemental Information .....	10/31/2009	.....	X
207. UEL Inflation Factor .....	10/23/2009	.....	X

## APPENDIX B—PUBLIC AND INDIAN HOUSING—OTHER GUIDANCE—Continued

Name of document	Date	Remove	Arch.
208. 2009–9: Reporting Requirements under the American Recovery and Reinvestment Act	09/30/2009	.....	X
209. Final CY 2009 Proration Explanation .....	09/28/2009	.....	X
210. Final 2009 Funding Reconciliation Methodology .....	09/28/2009	.....	X
211. 2009–8: Posting Signs and Recovery Act Project Sites .....	09/09/2009	.....	X
212. 2009–7: Applicability of Buy American and Davis-Bacon Requirements to Recovery Act Programs .....	07/07/2009	.....	X
213. Updated CY 2009 Proration .....	06/08/2009	.....	X
214. Explanation of Second CY 2009 Obligation .....	04/30/2009	.....	X
215. CY 2009 PHA HUD–52723 Excel Tools .....	02/05/2009	.....	X
216. Elderly/Disabled Service Coordinator Program (Forms HUD–52723, Section 3, Line 07, CY 2009) .....	02/05/2009	X	.....
217. CY 2009 PHA HUD–52723 Excel Tool User Guide .....	01/29/2009	.....	X
218. Explanation of Initial CY 2009 Obligation .....	12/23/2008	.....	X
219. UEL Inflation Factor .....	10/30/2008	.....	X
220. Further Information on CY 2008 3rd Quarter Obligation .....	09/27/2008	.....	X
221. Final Calendar Year CY 2008 Operating Subsidy Obligation: Reconciliation Methodology .....	09/25/2008	.....	X
222. Explanation of Fourth and Final Funding Cycle CY 2008 Obligation .....	09/10/2008	.....	X
223. 2008 Operating Subsidy Preliminary Eligibility .....	08/25/2008	.....	X
224. Supplemental Information on CY 2008 3rd Quarter Obligation .....	06/06/2008	.....	X
225. Excel Tool SAGIS Data Validation PHA User Guidance .....	05/01/2008	.....	X
226. Explanation of Third Funding Cycle CY 2008 Obligation for July through September .....	04/05/2008	.....	X
227. Explanation of Second Funding Cycle CY 2008 Obligation for March through June .....	02/05/2008	.....	X
228. Elderly/Disabled Service Coordinator Program (Forms HUD–52723, Section 3, Line 07) .....	02/05/2008	.....	X
229. PHA-wide Calculated PILOT and Audit Cost for 2008 based on FDS .....	02/05/2008	.....	X
230. 2008 Interim Funding FAQs .....	02/04/2008	.....	X
231. Initial Funding for Fiscal Year 2008 and Timing of SAGIS Funding Data Submissions .....	01/05/2008	.....	X
232. Project Level Frozen Formula Income Worksheet .....	01/05/2008	.....	X
233. Utility Expense Level Calculator (“UEL Calculator”) .....	10/05/07	.....	X
234. MTW Expansion FAQs .....	2016–2017	.....	X
235. UPCS–V Presentations .....	2016–2017	.....	X
236. UPCS–V Quarterly Conference Calls (archived) .....	2016–2017	.....	X
237. UPCS–V Protocol v.1.5 .....	2016	.....	X
238. UPCS–V Protocol v. 1.0 .....	2016	.....	X
239. Changes to Inspection Protocol (v. 1.5 to 2.0) .....	2016	.....	X
240. UPCS–V Draft Decision Trees .....	2016	.....	X
241. Rejected financial and management operations submissions .....	2014	.....	X
242. Public Housing SAC Training Materials .....	2013	.....	X
243. Rejected Financial and Management Operations Submissions .....	2013	.....	X
244. Rejected Financial and Management Operations Submissions .....	2013	.....	X
245. PHA Occupancy Percentage Calculations .....	2012	.....	X
246. PHAS Interim Training Guide .....	2011	X	.....
247. Conversion Guide .....	2008	.....	X
248. Conversion Training .....	2008	.....	X
249. Conversion FAQs .....	2008	.....	X

## APPENDIX C—COMMUNITY PLANNING AND DEVELOPMENT

Title	Date	Remove	Arch.
1. HUD Equipment Certification Form: Hurricane Katrina Purchased Equipment: Long-Term Loan Program Form .....	10/14/2008	X	.....
2. HUD Equipment Transfer Form: Hurricane Katrina Purchased Equipment: Long-Term Loan Program .....	10/14/2008	X	.....
3. The Economic Impact of the American Recovery and Reinvestment Act Five Years Later Final Report to Congress .....	02/18/2014	.....	X
4. Guidance on Submitting Consolidated Plans and Annual Action Plans for Fiscal Year (FY) 2016 .....	01/28/2016	.....	X
5. Timely Distribution of State CDBG Funds .....	06/22/2015	.....	X
6. Instructions for Urban County Qualification for Participation in the Community Development Block Grant (CDBG) Program for Fiscal Years (FYs) 2016–2018 .....	04/17/2015	.....	X
7. Guidance on Submitting Consolidated Plans and Annual Action Plans for Fiscal Year (FY) 2015 .....	10/21/2014	.....	X
8. Instructions for Urban County Qualification for Participation in the Community Development Block Grant (CDBG) Program for Fiscal Years (FYs) 2015–2017 .....	04/01/2014	.....	X
9. Timely Distribution of State CDBG Funds .....	06/10/2015	.....	X
10. Guidance on submitting Consolidated Plans and Annual Action Plans for Fiscal Year (FY) 2014 .....	12/13/2013	.....	X
11. Implementing Risk Analyses for Monitoring Community Planning and Development Grant Programs in FY 2014 .....	10/25/2013	.....	X
12. Instructions for Urban County Qualification for Participation in the CDBG Program for FYs 2014–2016 .....	5/15/2014	.....	X

## APPENDIX C—COMMUNITY PLANNING AND DEVELOPMENT—Continued

Title	Date	Remove	Arch.
13. Timely Distribution of State CDBG Funds .....	4/29/2013 .....		X
14. Timely Distribution of State CDBG Funds .....	05/08/2012 .....		X
15. Instructions for Urban County Qualification for Participation in the CDBG Program for FYs 2013–15 .....	03/15/2013 .....		X
16. Closeout Instructions for Community Development Block Grant (CDBG) Programs Grants .....	02/13/2013 .....		X
17. Implementing Risk Analyses for Monitoring Community Planning and Development Grant Programs in FY 2012 and 2013 .....	01/2012 .....		X
18. Timely Distribution of State CDBG Funds .....	7/28/2011 .....		X
19. Reporting Requirements for the State Performance and Evaluation Report (PER) .....	6/1/2011 .....		X
20. Instructions for Urban County Qualification for Participation in the Community Development Block Grant (CDBG) Program for FYs 2012–2014 .....	3/25/1999 .....		X
21. Guidelines for Administering the State Community Development Block Grant (CDBG) Colonias Set-Aside .....	02/08/2011 .....		X
22. Timely Distribution of State CDBG Funds .....	09/24/2010 .....		X
23. Instructions for Urban County Qualification for Participation in the (CDBG) Program for FYs 2011–2013 .....	04/16/2010 .....		X
24. Timely Distribution of State CDBG Funds .....	04/15/2010 .....		X
25. CPD Guidance for Buy American Requirement of the American Recovery and Reinvestment Act of 2009 .....	10/07/2010 .....		X
26. Implementing Risk Analyses for Monitoring CPD Grant Programs in FY 2010 and 2011 ...	8/24/2009 .....		X
27. Instructions for Urban County Qualification for Participation in CDBG for FYs 2010–2012 .....	04/24/2009 .....		X
28. Implementing Risk Analyses for Monitoring Community Planning and Development Grant Programs in FY 2009 .....	10/20/2008 .....	X	
29. Instructions for Urban County Qualification for Participation in CDBG for FYs 2009–2011 .....	5/2/2008 .....		X
30. Guidance for HTF Grantees on Fiscal Year 2017 Housing Trust Fund (HTF) Allocation Plans .....	5/31/2017 .....		X
31. Guidance for HTF Grantees on Fiscal Year 2016 Housing Trust Fund (HTF) Allocation Plans .....	4/26/2016 .....		X
32. Closeout Instructions for Tax Credit Assistance Program (TCAP) Grants .....	10/16/2015 .....		X
33. Operating Guidance for Implementing FY 2012 and FY 2013 HOME Appropriations Requirements .....	4/18/2014 .....		X
34. Summary of Significant Changes Contained in HUD Notice CPD 13–002: Procedures for Designation of Consortia as a Participating Jurisdiction for the HOME Program .....	3/7/2014 .....		X
35. Operating Guidance for Implementing FY 2012 HOME Appropriation Requirements .....	5/8/2012 .....		X
36. Relocation and Real Property Acquisition Requirements To Assist With Recovery and Relief for Presidentially Declared Disaster Areas .....	2/26/2008 .....		X
37. Procedures for Designation of Consortia as a Participating Jurisdiction for the HOME Program (Supersedes CPD Notice 07–04) .....	2/11/2008 .....		X
38. Environmental Review Processing for Emergency Solutions Grants (ESG) Programs FY 2012 .....	6/15/2012 .....	X	
39. Procedural Guidance for Fiscal Year 2017 HOPWA Permanent Supportive Housing Renewal Grant Applications .....	2/16/2017 .....		X
40. Implementation of the Housing Opportunity Through Modernization Act Changes to the Housing Opportunities for Persons With AIDS Program .....	11/1/2016 .....		X
41. Procedural Guidance for Fiscal Year 2016 HOPWA Permanent Supportive Housing Renewal Grant Applications .....	3/21/2016 .....		X
42. Appropriate Placement for Transgender Persons in Single-Sex Emergency Shelters and Other Facilities .....	2/20/2015 .....	X	
43. Standards for Fiscal Year 2015 HOPWA Permanent Supportive Housing Renewal Grant Applications .....	1/20/2015 .....		X
44. Notice on Appeals for the FY 2013–FY 2014 Continuum of Care (CoC) Program Competition .....	1/28/2014 .....	X	
45. Notice on Appeals for the FY2012 Continuum of Care (CoC) Program Competition .....	1/18/2013 .....	X	
46. Closeout Instructions for HPRP Grants (HPRP Closeout Notice) .....	7/13/2012 .....	X	
47. Notice on Limitation on Use of Funds To Serve Persons Defined as Homeless Under Other Federal Laws .....	1/17/2012 .....	X	
48. Standards for FY 2010 HOPWA Permanent Supportive Housing Renewal Grant Applications .....	12/23/2009 .....		X
49. Standards for FY 2009 HOPWA Permanent Supportive Housing Renewal Grant Applications .....	1/27/2009 .....		X
50. Standards for FY 2008 HOPWA Permanent Supportive Housing Renewal Grant Applications .....	2/28/2008 .....		X
51. Implementing Risk Analysis for Monitoring Community Planning and Development Grant Programs in FY 2008 .....	10/19/2007 .....		X
52. Implementing Risk Analysis for Monitoring Community Planning and Development Grant Programs in FY 2007 .....	10/23/2006 .....		X
53. Implementing Risk Analysis for Monitoring Community Planning and Development Grant Programs in FY 2006 .....	9/12/2005 .....		X
54. Implementing Risk Analysis for Monitoring Community Planning and Development Grant Programs in FY 2005 .....	10/28/2004 .....		X

## APPENDIX C—COMMUNITY PLANNING AND DEVELOPMENT—Continued

Title	Date	Remove	Arch.
55. Implementing Risk Analysis for Monitoring Community Planning and Development Grant Programs in FY 2003 .....	12/19/2002	.....	X

## APPENDIX D—SPECIAL NEEDS ASSISTANCE PROGRAM

Name of document	Date	Remove	Arch.
1. Permanent Housing Placement Services Fact Sheet .....	4/1/2008	X	.....
2. Short-Term Rent, Mortgage, and Utility (STRMU) Assistance Fact Sheet .....	10/2008	X	.....
3. 2007 CoC Debriefing Score Summary .....	3/18/2009	X	.....
4. 2008 HOPWA Formula Performance Grant Agreement Operating Instructions .....	6/1/2009	X	.....
5. Notice PIH 2008–37: Reporting Requirements for HUD VASH .....	6/16/2009	X	.....
6. HPRP Fund Formula Allocations .....	6/17/2010	X	.....
7. HPRP Substantial Amendment Form (HUD–40119) .....	7/14/2010	X	.....
8. HPRP Certifications .....	7/22/2010	X	.....
9. Homelessness Prevention and Rapid Re-Housing Program (HPRP) Opportunities for HOPWA Grantees & Sponsors .....	9/30/2010	X	.....
10. New HPRP Fact Sheet for HOPWA Grantees .....	10/1/2010	X	.....
11. HPRP QPR Questions Template .....	10/1/2010	X	.....
12. Rural CoC Guidebook .....	10/1/2010	X	.....
13. HPRP QPR Data Elements—OMB-Approved .....	10/5/2010	X	.....
14. First Quarter 2009 Homelessness Pulse Project Report .....	10/26/2010	X	.....
15. HMIS Recipient Reporting Data Model v.3 .....	10/27/2010	X	.....
16. Second Quarter 2009 Homelessness Pulse Project Report .....	10/27/2010	X	.....
17. 2009 HOPWA Formula Performance Grant Agreement Operating Instructions .....	2/1/2011	X	.....
18. HPRP IPR/QPR Supplemental Guidance—Avoiding Common Errors in e-snaps .....	8/22/2011	X	.....
19. Third Quarter 2009 Homelessness Pulse Project Report .....	9/1/2011	X	.....
20. Using IDIS OnLine for the Emergency Shelter Grants Program (Part 1: Setting Up Projects and Activities, Funding Activities) .....	9/1/2011	X	.....
21. Strategies for Improving Homeless People's Access to Mainstream Benefits and Services .....	9/30/2011	X	.....
22. Staff Certification of Eligibility for HPRP Assistance .....	10/11/2011	X	.....
23. Announcement of Funding Awards for the HUD–VASH Program for FY 2008 and 2009 ...	11/2011	X	.....
24. 2010 HOPWA Formula Operating Instructions .....	11/1/2011	X	.....
25. e-snaps Training Guide: HPRP Quarterly Performance Reporting .....	11/18/2011	X	.....
26. IDIS Instructions for HPRP Grantees .....	11/18/2011	X	.....
27. HPRP Area Median Income (AMI) Limits—Changes Between 2009 and 2010 .....	2/3/2012	X	.....
28. HUD–HHS Joint Letter on Recovery Act Funds—HPRP and TANF .....	3/5/2012	X	.....
29. Notice of FY 2009 Implementation of the Veterans Homelessness Prevention Demonstration Program .....	5/21/2012	X	.....
30. HUD Press Release: HUD and VA Launch \$15 Million Demonstration Program to Prevent Veterans Homelessness .....	6/8/2012	X	.....
31. HPRP QPR Instructions .....	8/2/2012	X	.....
32. e-snaps APR Help: For Organizations Using e-snaps for the First Time .....	8/6/2012	X	.....
33. e-snaps APR Help: Instructions for Adding/Deleting Users .....	8/6/2012	X	.....
34. HUD–VASH Notice to Continuums of Care .....	8/20/2012	X	.....
35. HPRP QPR Reporting Updates—Q5 .....	10/1/2012	X	.....
36. Measuring Performance of Homeless Systems Workshop 2011 .....	10/26/2012	X	.....
37. HEARTH Amendments to McKinney-Vento Act—The Transition Issues Workshop .....	10/26/2012	X	.....
38. HEARTH Amendments to McKinney-Vento Act—The Transition Issues Workshop Exercise 2 .....	10/29/2012	X	.....
39. HMIS Informed Consent Statement .....	12/3/2012	X	.....
40. Rural Governance and Management Handout 1 .....	2/14/2013	X	.....
41. Rural Governance and Management Handout 2 .....	3/2013	X	.....
42. Self Sufficiency Outcomes Matrix .....	4/2014	X	.....
43. Ladder of Inference and Protocols for Skillful Inquiry .....	5/2014	X	.....
44. e-snaps APR Help: Authorized Representative Changes .....	7/18/2014	X	.....
45. APR Guidance for CoC Grants with DV Providers .....	3/16/2015	X	.....
46. 2011 HOPWA Formula Operating Instructions .....	4/2015	X	.....
47. Post-Award Operating Instructions for the FY 2011 HOPWA Renewal Grant Awards—Performance Grant Agreement .....	5/22/2015	X	.....
48. IDIS Online Reports: Tools for HPRP Financial Management .....	6/29/2016	X	.....
49. Geographic Assignments of HPRP Desk Officers .....	8/15/2017	X	.....
50. Guidance on HPRP Subgrantee Data Collection and Reporting for Victim Service Providers .....	9/1/2017	X	.....
51. HPRP Eligibility Determination and Documentation Guidance .....	2011–2017	X	.....
52. Status Report on HPRP Spending Toward 2-Year Expenditure Deadline Sorted by Grantee State and by Percent of Funds Drawn .....	1/2008	X	.....
53. Status Report on HPRP Spending Toward 2-Year Expenditure Deadline Sorted by Percent of Funds Drawn .....	1/2008	X	.....
54. Status Report on HPRP Spending Toward 2-Year Expenditure Deadline Sorted by Projected Gap .....	2/26/2008	X	.....

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Name of document	Date	Remove	Arch.
55. Notice PIH 2011–53: Reporting and Portability Requirements for the HUD–VASH Program .....	3/1/2008	X	.....
56. Notice PIH 2011–50: Project Basing HUD VASH .....	7/1/2008	X	.....
57. HPRP APR Questions Template .....	7/1/2008	X	.....
58. Post-Award Operating Instructions for the FY 2011 HOPWA New Projects Competitive Awards .....	10/2008	X	.....
59. e-snaps HPRP APR Guidebook .....	7/1/2009	X	.....
60. HOPWA Financial Management Online Training Overview Webinar .....	11/2009	X	.....
61. 2012 CoC Check-up Self Assessment Surveys .....	11/2009	X	.....
62. HPRP APR Aggregation Tool .....	3/29/2010	X	.....
63. Instructions for the Continuum of Care (CoC) Lead .....	8/2010	X	.....
64. Guidance on Pulse Project .....	10/26/2010	X	.....
65. Calculating Unmet Need for Homeless Individuals and Families .....	10/27/2010	X	.....
66. FY 2012 HOPWA Formula Operating Instructions .....	10/27/2010	X	.....
67. Notice on Limitation on Use of Funds to Serve Persons Defined as Homeless Under Other Federal Laws .....	10/27/2010	X	.....
68. Video Message from HUD Secretary Donovan Message to HUD’s Emergency Solutions Grants (ESG) Recipients on the Importance of Rapid Re-Housing .....	10/27/2010	X	.....
69. FY 2012 SNAPS Programs Updates .....	3/17/2011	X	.....
70. Checklist of Requirements for the ESG Substantial Amendment to the FY 2011 Annual Action Plan (Appendix B) .....	3/27/2011	X	.....
71. Post-Award Operating Instructions for the Fiscal Year (FY) 2012 HOPWA Renewal Grant Awards—Performance Grant Agreement .....	6/24/2011	X	.....
72. The Homeless Definition and Eligibility for SHP, SPC, and ESG .....	11/18/2011	X	.....
73. Using IDIS for Emergency Shelter Grants Program and ESG Program .....	11/18/2011	X	.....
74. Submitting a Final HPRP Report in <i>FederalReporting.gov</i> and e-snaps .....	12/1/2011	X	.....
75. HEARTH Act Implementation Updates .....	1/5/2012	X	.....
76. FY 2012 Grant Inventory Worksheet (GIW) Instructions and Rental Assistance Budget Worksheet .....	1/17/2012	X	.....
77. CoC Grant Inventory Worksheet (GIW) Instructional Guide .....	2/13/2012	X	.....
78. Programmatic Crosswalk of Changes: CoC, SHP, SPC Program Regulations .....	3/2/2012	X	.....
79. FY 2012 Geo Codes and Preliminary Pro Rata Need Amounts .....	4/4/2012	X	.....
80. Leasing and Rental Assistance Tool: Transition Guidance for Existing SHP Grantees Using Leasing Funds for Transitional or Permanent Housing .....	7/2012	X	.....
81. Homelessness Prevention and Rapid Re-Housing Assistance: A Comparison of HPRP and ESG Requirements .....	7/27/2012	X	.....
82. Continuum of Care Check-up: 2012 Participation Summary .....	8/2012	X	.....
83. FY 2013 Transportation, Housing and Urban Development Funding Bill Appropriations Report .....	8/2012	X	.....
84. HPRP Reporting Periods and Deadlines .....	11/27/2012	X	.....
85. Status Report on HPRP Spending Toward 3-Year Expenditure Deadline Sorted by Projected Gap .....	11/27/2012	X	.....
86. Status Report on HPRP Spending Toward 3-Year Expenditure Deadline Sorted by Percent of Funds Drawn .....	12/5/2012	X	.....
87. Status Report on HPRP Spending Toward 3-Year Expenditure Deadline Sorted by Grantee State and by Percent of Funds Drawn .....	12/10/2012	X	.....
88. Fair Market Rent and Income Limits Lookup Mobile Application .....	12/12/2012	X	.....
89. CoC Governance Crosswalk of Changes: CoC Program, SHP, and S+C Program Regulations .....	12/31/2012	X	.....
90. FY 2012 CoC Program Competition CoC Ranking Tool .....	2/7/2013	X	.....
91. 2013 PIT Count Poster .....	6/23/2013	X	.....
92. RAD Mod Rehab—PBRA HAP Part I .....	7/15/2013	X	.....
93. HOPWA Financial Management Training for HOPWA Grantees .....	9/1/2013	X	.....
94. HPRP Grantee Contact Information .....	1/6/2014	X	.....
95. Rural Housing Stability Assistance Program Fact Sheet .....	4/2/2014	X	.....
96. HPRP Frequently Asked Questions (FAQs) .....	7/22/2014	X	.....
97. ESG CAPER Aggregation Tool .....	9/26/2014	X	.....
98. FY 2013 Geo Codes and Preliminary Pro Rata Need Amounts .....	11/6/2014	X	.....
99. FY 2013 CoC Program Competition CoC Ranking Tool .....	3/6/2015	X	.....
100. FY 2013 Continuum of Care (CoC) Program Competition: CoC Annual Renewal Demand (ARD) and ARD Less 5 Percent .....	3/6/2015	X	.....
101. Changes in ESG Recipient Funding Status Between FY 2012 and FY 2015 .....	4/24/2015	X	.....
102. FY 2013–FY 2014 Continuum of Care Application: Additional Guidance for Questions 3A, Objectives 1 through 4 .....	5/5/2015	X	.....
103. Approved PIT Count Data for the FY 2013–FY 2014 NOFA .....	5/8/2015	X	.....
104. CoC Program SSO/Housing Component Decision Tool .....	9/3/2015	X	.....
105. Letter from Ann Oliva to Grant Recipients, CoC Leaders and Stakeholders .....	9/3/2015	X	.....
106. FY 2014 Geo Codes and Preliminary Pro Rata Need Amounts .....	9/10/2015	X	.....
107. FY 2014 CoC Program Competition CoC Ranking Tool .....	11/2015	X	.....
108. 2015 PIT Count Poster .....	11/2015	X	.....
109. FY 2014 CoC Preliminary Pro Rata Need (PPRN), Annual Renewal Demand (ARD), and ARD Less 2 Percent Amounts .....	11/10/2015	X	.....

APPENDIX D—SPECIAL NEEDS ASSISTANCE PROGRAM—Continued

Name of document	Date	Remove	Arch.
110. FY 2015 Geo Codes and Preliminary Pro Rata Need Amounts .....	4/21/2016	X	.....
111. FY 2015 CoC Merger Financial Worksheet .....	4/27/2016	X	.....
112. FY 2015 Geo Codes Claimed and Un-claimed .....	5/2016	X	.....
113. Letter from HUD to PHA Executive Directors on Increasing HUD-VASH Utilization .....	8/18/2016	X	.....
114. Memo: Use of HOPWA Funds for Participation at 2015 HIV/AIDS Conferences .....	7/20/2016	X	.....
115. FY 2013 CoC Start Up Trainings: Trainers Guide .....	7/22/2016	X	.....
116. ESG-CAPER CSV Requirements .....	7/29/2016	X	.....
117. Letter from HUD to PHA Executive Directors on HUD-VASH Extraordinary Administrative Fees .....	8/18/2016	X	.....
118. APR Generation Tool Version 3.7 .....	12/15/2016	X	.....
119. Memo: Use of HOPWA Grant Funds for Participation at the 2016 National Conference on Social Work and HIV/AIDS .....	12/15/2016	X	.....
120. eCart CSV Export Submission Steps for Subrecipients .....	7/5/2017	X	.....
121. eCart (ESG-CAPER Annual Reporting Tool) FAQs .....	7/13/2017	X	.....
122. Memo: Use of HOPWA Grant Funds for Participation at the HOPWA Affinity Listening Session in Conjunction with the 2016 National Ryan White Conference on Care and Treatment .....	7/14/2017	X	.....
123. Memo: Use of HOPWA Grant Funds for Participation at the 2016 United States Conference on AIDS .....	7/21/2017	X	.....
124. APR Generation Tool Version 4.1 .....	8/25/2017	X	.....
125. eCart (ESG-CAPER Annual Reporting Tool) and Guide—Version 5 .....	9/20/2017	X	.....
126. Memo: Use of HOPWA Grant Funds for Participation at the 2017 National Conference on Social Work and HIV/AIDS .....	5/08/2017	X	.....
127. FY 2017 CoC Competition Project Application Templates .....	5/1/2017	X	.....
128. CPD Memo: Use of HOPWA Grant Funds for Participation at the 2017 United States Conference on AIDS .....	9/1/2017	X	.....

APPENDIX E—HOUSING/FHA MORTGAGEE LETTERS

Name of document	Date	Remove	Arch.
1. 2017-02, Annual Base City High Cost Percentage and High Cost Area Revisions for 2016 .....	01/11/2017	.....	X
2. 2015-28, Annual Base City High Cost Percentage and High Cost Area Revisions for 2015 .....	11/18/2015	.....	X
3. 2014-14, Annual Base City High Cost Percentage and High Cost Area Revisions for 2014 .....	07/07/2014	.....	X
4. 2013-30, Annual Base City High Cost Percentage and High Cost Area Revisions for 2013 .....	09/09/2013	.....	X
5. 2012-09, Annual Base City High Cost Percentage and High Cost Area Revisions for 2012 .....	04/26/2012	.....	X
6. 2011-24, Annual Base City High Cost Percentage and High Cost Area Revisions for 2011 .....	07/22/2011	.....	X
7. 2010-31, Annual Base City High Cost Percentage and High Cost Area Revisions for 2010 .....	09/02/2010	.....	X
8. 2009-33, Annual Base City High Cost Percentage Revisions Effective January 1, 2009 .....	09/18/2009	.....	X
9. 2008-04, FHA Multifamily Statutory Loan Limit Adjustments and Changes in Annual Base City High Cost Percentage for FHA-Insured Multifamily Housing in High-Cost Areas .....	02/11/2008	.....	X
10. 87-2 Supplemental, Corrections Needed for Errors in Reporting on the 90 or More Days Delinquent Loan Report, Single Family Default Monitoring System (SFDMS) .....	07/27/1987	.....	X
11. 80-33, Housing and Community Development Amendments of 1979—Section 245 ..	08/07/1980	.....	X
12. 79-15, Single Family Coinsurance .....	08/01/1979	.....	X
13. 78-8, Amendatory Clause for Sales Contracts .....	06/12/1978	.....	X

APPENDIX F—HOUSING/FHA NOTICES AND OTHER GUIDANCE

Name of document	Date	Remove	Arch.
1. 2017-06 Annual Revisions to Base City High Cost Percentage, High Cost Area and Per Unit Substantial Rehabilitation Threshold for 2017 .....	08/31/2017	.....	X
2. 2017-02 Annual Base City High Cost Percentage and High Cost Area Revisions for 2016 .....	01/11/2017	.....	X
3. H 2016-07/PIH 2016-12 Funding Availability for Tenant-Protection Vouchers for Certain at Risk Households in Low-Vacancy Areas—FY16 .....	08/18/2016	.....	X
4. 2015-11 Annual Base City High Cost Percentage and High Cost Area Revisions for 2015 .....	11/18/2015	.....	X
5. 2015-07 Funding Availability for Tenant-Protection Vouchers for Certain At-Risk Households in Low-Vacancy Areas—Fiscal Year 2015 .....	04/23/2015	.....	X
6. 2014-15 Passbook Savings Rate Effective February 1, 2015 and Establishing Future Passbook Savings Rates .....	10/31/2014	.....	X

## APPENDIX F—HOUSING/FHA NOTICES AND OTHER GUIDANCE—Continued

Name of document	Date	Remove	Arch.
7. 2014–08 Annual Base City High Cost Percentage and High Cost Area Revisions for 2014	07/07/2014	.....	X
8. 2014–07 Funding for Tenant-Protection Vouchers for Certain At-Risk Households in Low-Vacancy Areas—2014 Appropriations Act	05/20/2014	.....	X
9. 2014–04 Funding for Tenant-Protection Vouchers for Certain At-Risk Households in Low-Vacancy Areas—Revision	02/04/2014	.....	X
10. 2013–27 Annual Base City High Cost Percentage and High Cost Area Revisions for 2013	09/09/2013	.....	X
11. 2013–04 Fiscal Year 2013 Interest Rate for Section 202 and Section 811 Capital Advance Projects	02/06/2013	.....	X
12. 2012–15 Funding for Tenant-Protection Vouchers for Certain At-Risk Households in Low-Vacancy Areas—Request for Comments	09/05/2012	.....	X
13. 2012–07 Annual Base City High Cost Percentage and High Cost Area Revisions for 2012	04/24/2012	.....	X
14. 2011–28 Fiscal Year 2010 Annual Operating Cost Standards—Section 202 Supportive Housing for the Elderly and Section 811 Supportive Housing for Persons with Disabilities Programs	10/04/2011	.....	X
15. 2011–18 Updated Processing Guidance for the Section 202 Supportive Housing for the Elderly and Section 811 Supportive Housing for Persons with Disabilities Programs	08/15/2011	.....	X
16. 2011–13 Annual Base City High Cost Percentage and High Cost Area Revisions for 2011	07/22/2011	.....	X
17. 2010–23 Extension of Housing Notice H 09–15, Implementation of the Violence Against Women and Justice Department Reauthorization Act of 2005 for the Multifamily Project-Based Section 8 Housing Assistance Payments Program	11/09/2010	.....	X
18. 2010–22 Guidelines for Assumption, Subordination, or Assignment of Mark to- Market (M2M) Program Loans in Transfer of Physical Assets (TPA) and Refinance Transactions ...	09/30/2010	.....	X
19. 2010–20 Annual Base City High Cost Percentage and High Cost Area Revisions for 2010	09/02/2010	.....	X
20. 2010–03 Fiscal Year 2009 Annual Operating Cost Standards—Section 202 Supportive Housing for the Elderly and Section 811 Supportive Housing for Persons with Disabilities Programs	01/11/2010	.....	X
21. 2009–19 Fiscal Year 2009 Policy for Capital Advance Authority Assignments, Instructions and Program Requirements for the Section 202 and Section 811 Capital Advance Programs, Application Processing and Selection Instructions, and Processing Schedule	12/07/2009	.....	X
22. 2009–15 Implementation of the Violence Against Women and Justice Department Reauthorization Act of 2005 for the Multifamily Project-Based Section 8 Housing Assistance Payments Program	10/01/2009	.....	X
23. 2009–14 Multifamily Housing Accelerated Processing Guide: Chapter 9, Environmental Review	09/18/2009	.....	X
24. 2008–08 Fiscal Year 2008 Annual Operating Cost Standards—Section 202 Supportive Housing for the Elderly and Section 811 Supportive Housing for Persons with Disabilities Programs	10/02/2008	.....	X
25. 2008–07 Implementation of the Violence Against Women and Justice Department Reauthorization Act of 2005 for the Multifamily Project-Based Section 8 Housing Assistance Payments Program	09/30/2008	.....	X
26. 2008–06 Fiscal Year 2008 Policy for Capital Advance Authority Assignments, Instructions and Program Requirements for the Section 202 and Section 811 Capital Advance Programs, Application Processing and Selection Instructions, and Processing Schedule	09/23/2008	.....	X
27. 2008–02 FY 2008 Grant Extension Procedures for Service Coordinator and Congregate Housing Services Program Grantees	05/12/2008	.....	X
28. 2008–01 Fiscal Year 2008 Interest Rate for Section 202 and Section 811 Capital Advance Projects	04/29/2008	.....	X

## APPENDIX F—HOUSING/FHA NOTICES AND OTHER GUIDANCE

Name of document	Date	Remove	Arch.
1. "The Facts" newsletter, June 2017—Issue 13	6/2017	X	.....
2. "The Facts" newsletter, March 2017—Issue 12	3/2017	X	.....
3. "The Facts" newsletter, September 2016—Issue 11	9/2016	X	.....
4. "The Facts" newsletter, April 2016—Issue 10: Volume 7	4/2016	X	.....
5. "The Facts" newsletter, November 2015—Issue 9: Volume 6	11/2015	X	.....
6. "The Facts" newsletter, May 2015—Issue 8: Volume 5	5/2015	X	.....
7. "The Facts" newsletter, February 2015—Issue 7: Volume 4	2/2015	X	.....
8. "The Facts" newsletter, November 2014—Issue 6: Volume 3	11/2014	X	.....
9. "The Facts" newsletter, July 2014—Issue 5: Volume 2	7/2014	X	.....
10. "The Facts" newsletter, April 2014—Issue 4: Volume 1	4/2014	X	.....
11. "The Facts" newsletter, April 2013—Issue 3: Volume 1	4/2013	X	.....
12. "The Facts" newsletter, June 2011—Issue 2: Volume 1	6/2011	X	.....
13. "The Facts" newsletter, February 2011—Issue 1: Volume 1	2/2011	X	.....

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-7016-N-01]

**60-Day Notice of Proposed Information Collection: Data Collection for the HUD Secretary's Awards Including The Secretary's Award for Public-Philanthropic Partnerships—Housing and Community Development in Action, The Secretary's Award for Healthy Homes, ACHP/HUD Secretary's Award for Excellence in Historic Preservation, American Planning Association—Opportunity and Empowerment, and American Institute of Architects—Housing and Community Design**

**AGENCY:** Office of Policy Development and Research, HUD.

**ACTION:** Notice.

**SUMMARY:** The Department of Housing and Urban Development (HUD) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comments from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* June 4, 2019.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410-5000; telephone 202-402-5534 (this is not a toll-free number) or by email at [Anna.P.Guido@hud.gov](mailto:Anna.P.Guido@hud.gov) for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

**FOR FURTHER INFORMATION CONTACT:** Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410-5000; email Anna P. Guido at [Anna.P.Guido@hud.gov](mailto:Anna.P.Guido@hud.gov) or telephone 202-402-5535 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the proposed collection of information described in Section A.

**A. Overview of Information Collection**

*Title of Information Collection:* Data Collection for the HUD Secretary's Awards including The Secretary's Award for Public-Philanthropic Partnerships—Housing and Community Development in Action, The Secretary's Award for Healthy Homes, ACHP—HUD Secretary's Award for Excellence in Historic Preservation, American Planning Association—Opportunity and Empowerment, and American Institute of Architects—Housing and Community Design.

*OMB Approval Number:* Pending.

*Type of Request:* New.

*Form Number:* TBD

*Description of the need for the information and proposed use:* HUD seeks to collect information that will be used to make the following HUD Secretary's Awards: (a) The Secretary's Award for Public-Philanthropic Partnerships—Housing and Community Development in Action, (b) the Secretary's Award for Healthy Homes, (c) the ACHP/HUD Secretary's Award for Excellence in Historic Preservation, (d) American Planning Association—Opportunity and Empowerment, and American Institute of Architects—Housing and Community Design.

On an annual basis, HUD accepts nominations for the above listed awards. A common application form containing general information will streamline information collection across these five award programs. Each non-monetary award recognizes awardees for their innovation and commitment to raising industry standards in Housing and Community Development. Below is a brief description of each of the five awards programs.

*The Secretary's Award for Public-Philanthropic Partnerships—Housing and Community Development in Action*

HUD, in partnership with the Council on Foundations, announces the HUD's Secretary's Awards for Public-Philanthropic Partnerships which recognize excellence in partnerships that have both transformed the relationships between the sectors and led to measurable benefits in terms of increased economic development, health, safety, education, disaster resilience, inclusivity and cultural opportunities, and/or housing access for low- and moderate-income families. By strengthening the connection between the HUD and philanthropy, these

awards highlight the power of collective impact that can be achieved through public-philanthropic partnerships between government entities and foundations.

*The Secretary's Award for Healthy Homes*

HUD, through its Office of Lead Hazard Control and Healthy Homes (OLHCHH), and in partnership with the National Environmental Health Association (NEHA), recognizes excellence in making indoor environments healthier through healthy homes research, education, and through program delivery, especially in diverse, low to moderate income communities.

*ACHP/HUD Secretary's Award for Excellence in Historic Preservation*

HUD, through its Office of Policy Development and Research and in partnership with The Advisory Council on Historic Preservation (ACHP) recognizes developers, organizations and agencies for their success in advancing the goals of historic preservation while providing affordable housing and/or expanded economic opportunities for low- and moderate-income families and individuals.

*American Planning Association—Opportunity and Empowerment*

HUD, through its Office of Policy Development and Research, and in partnership with the American Planning Association, honors excellence in community planning that has led to measurable benefits in terms of increased economic development, employment, education, or housing choice and mobility for low- and moderate-income residents. The award stresses tangible results and recognizes the planning discipline as an important community resource. The award emphasizes how creative housing, economic development, and private investments are used in, or in tandem with, a comprehensive community development plan.

*American Institute of Architects—Housing and Community Design*

HUD, through its Office of Policy Development and Research, and in conjunction with the Residential Knowledge Community of The American Institute of Architects (AIA), recognizes excellence in affordable housing, community-based design, participatory design, and accessibility. These awards demonstrate that design

matters and provide examples of important benchmarks in the housing industry. Awards are offered in four categories: Community—Informed Design, Creating Community Connection, Excellence in Affordable Housing Design, and Housing Accessibility—Alan J. Rothman.

*Members of affected public:* Organizations.

*Estimated Number of Respondents:* 230.

*Estimated Time per Response:* 3 hours.

*Frequency of Response:* Once annually.

*Estimated Total Annual Burden Hours:* 690 hours.

*Estimated Total Annual Cost:* The cost to respondents to complete a

nomination is estimated at the social and human service assistant wage rate for 3 hours of work. The total estimated cost is \$10,984.80.

*Respondent's Obligation:* Voluntary.

*Legal Authority:* This application form is conducted under Title 12, U.S.C., Section 1701z-1 *et seq.*

*Respondents (i.e., affected public):* Organizations.

Respondent	Occupation	SOC code	Median hourly wage rate
Secretary's Award Nominee .....	Social and Human Service Assistant .....	21-1093	\$15.92

Source: Bureau of Labor Statistics, Occupational Employment Statistics (May 2017), <https://www.bls.gov/oes/current/oes211093.htm>.

Information collection	Number of respondents	Response frequency	Burden hours per response	Annual burden hours	Hourly cost per response	Total cost
<i>The Secretary's Award for Public—Philanthropic Partnerships—Housing and Community Development in Action .....</i>	50	1	3	150	\$15.92	\$2,388.00
<i>The Secretary's Award for Healthy Homes .....</i>	30	1	3	90	15.92	1,432.80
<i>ACHP/HUD Secretary's Award for Excellence in Historic Preservation .....</i>	50	1	3	150	15.92	2,388.00
<i>American Planning Association—Opportunity and Empowerment .....</i>	50	1	3	150	15.92	2,388.00
<i>American Institute of Architects—Housing and Community Design .....</i>	50	1	3	150	15.92	2,388.00
<b>Total .....</b>	<b>230</b>	<b>.....</b>	<b>.....</b>	<b>690</b>	<b>.....</b>	<b>10,984.80</b>

**B. Solicitation of Public Comment**

This notice solicits comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

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

(4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Dated: March 27, 2019.

**Todd M. Richardson,**

*General Deputy Assistant, Secretary for Policy Development and Research.*

[FR Doc. 2019-06761 Filed 4-4-19; 8:45 am]

**BILLING CODE 4210-67-P**

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**[LLWY920000. L51040000.FI0000. 19XL5017AR]**

**Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW173785, Wyoming**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** As provided for under the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement of competitive oil and gas lease WYW173785 from Maurice W. Brown O&G, LLC, for land in Converse County, Wyoming. The lessee filed the petition on time, along with all rentals due since the lease terminated under the law. No leases affecting this land were issued before the petition was filed.

**FOR FURTHER INFORMATION CONTACT:**

Chris Hite, Branch Chief for Fluid Minerals Adjudication, Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming, 82003; phone 307-775-6176; email [chite@blm.gov](mailto:chite@blm.gov).

Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact Mr. Hite during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. A reply will be sent during normal business hours.

**SUPPLEMENTARY INFORMATION:** The lessee agreed to the amended lease terms for rentals and royalties at rates of \$10 per acre, or fraction thereof, per year and 1/3 percent, respectively and additional lease stipulations. The lessee has paid the required \$500 administrative fee and the \$159 cost of publishing this notice. The lessee met the requirements for reinstatement of the lease per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). The BLM proposes to reinstate the lease effective February 1, 2017, under the amended terms and conditions of the lease and the increased rental and royalty rates cited above.

**Authority:** 30 U.S.C. 188(e)(4) and 43 CFR 3108.2-3(b)(2)(v).

**Chris Hite,**

*Chief, Branch of Fluid Minerals Adjudication.*

[FR Doc. 2019-06753 Filed 4-4-19; 8:45 am]

**BILLING CODE 4310-22-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[LLWY920000.L51040000.FI0000.19XL5017AR]

#### Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW185474, Wyoming

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** As provided for under the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement of competitive oil and gas lease WYW185474 from Renos Land & Minerals Company for land in Converse County, Wyoming. The lessee filed the petition on time, along with all rentals due since the lease terminated under the law. No leases affecting this land were issued before the petition was filed.

**FOR FURTHER INFORMATION CONTACT:**

Chris Hite, Branch Chief for Fluid Minerals Adjudication, Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming, 82003; phone 307-775-6176; email [chite@blm.gov](mailto:chite@blm.gov).

Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact Mr. Hite during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. A reply will be sent during normal business hours.

**SUPPLEMENTARY INFORMATION:** The lessee agreed to the amended lease terms for rentals and royalties at rates of \$10 per acre, or fraction thereof, per year and 16⅔ percent, respectively and additional lease stipulations. The lessee has paid the required \$500 administrative fee and the \$159 cost of publishing this notice. The lessee met the requirements for reinstatement of the lease per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). The BLM proposes to reinstate the lease effective February 1, 2017, under the amended terms and conditions of the lease and the increased rental and royalty rates cited above.

**Authority:** 30 U.S.C. 188(e)(4) and 43 CFR 3108.2-3(b)(2)(v).

**Chris Hite,**

*Chief, Branch of Fluid Minerals Adjudication.*

[FR Doc. 2019-06741 Filed 4-4-19; 8:45 am]

**BILLING CODE 4310-22-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[LLCAN03000.L16100000.DO0000.18X; BLM-CA MO# 4500129257]

#### Notice of Termination of a Resource Management Plan for the Redding and Arcata Field Offices and Associated Environmental Impact Statement, California

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of termination.

**SUMMARY:** The Bureau of Land Management (BLM) has cancelled its planning process for the Redding and Arcata Field Offices and the associated Environmental Impact Statement (EIS).

**DATES:** The planning process is terminated as of the date of publication of this Notice.

**FOR FURTHER INFORMATION CONTACT:**

Alan Bittner, BLM Northern California District Manager, telephone 530-224-2160; address Bureau of Land Management, 6640 Lockheed Drive, Redding, California 96002; email [abittner@blm.gov](mailto:abittner@blm.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact Mr. Bittner during normal business hours. FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** Pursuant to the National Environmental Policy Act (NEPA) and its implementing regulations (40 CFR parts 1500-1508 and 43 CFR part 46), the BLM published a Notice of Intent to prepare an EIS in the **Federal Register** on November 7, 2016 (81 FR 78182). Due to recent catastrophic wildfires that damaged a significant portion of the planning area, the BLM has chosen to focus on fire recovery efforts at this time. The BLM has now terminated the planning process and the associated NEPA process. No EIS or Record of Decision will be issued.

(Authority: 40 CFR 1506.6)

**Joe Stout,**

*Acting BLM California State Director.*

[FR Doc. 2019-06744 Filed 4-4-19; 8:45 am]

**BILLING CODE 4310-40-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS-WASO-NAGPRA-27480; PPWOCRADN0-PCU00RP16.R50000]

#### Native American Graves Protection and Repatriation Review Committee; Notice of Public Meeting

**AGENCY:** National Park Service, Interior.

**ACTION:** Meeting notice.

**SUMMARY:** The National Park Service is hereby giving notice that the Native American Graves Protection and Repatriation Review Committee (Review Committee) will hold one meeting via teleconference. All meetings are open to the public.

**DATES:** The Review Committee will meet via teleconference on April 22, 2019, from 2:00 p.m. until approximately 4:00 p.m. (Eastern). Related deadlines for participating in the meeting are detailed in this notice.

**FOR FURTHER INFORMATION CONTACT:**

Melanie O'Brien, Designated Federal Officer, National Native American Graves Protection and Repatriation Act Program (2253), National Park Service, telephone (202) 354-2201, or email [nagpra\\_info@nps.gov](mailto:nagpra_info@nps.gov).

**SUPPLEMENTARY INFORMATION:** The Review Committee was established in section 8 of the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA).

*Purpose of the Meeting:* The agenda will include the discussion of the Review Committee Report to Congress. Information on joining the teleconference and the final agenda will be available on the National NAGPRA Program website at <https://www.nps.gov/nagpra>. The meeting is open to the public and there will be time for public comment.

#### General Information

Information about NAGPRA, the Review Committee, and Review Committee meetings is available on the National NAGPRA Program website at <https://www.nps.gov/nagpra>.

Review Committee members are appointed by the Secretary of the Interior. The Review Committee is responsible for monitoring the NAGPRA inventory and identification process; reviewing and making findings related

to the identity or cultural affiliation of cultural items, or the return of such items; facilitating the resolution of disputes; compiling an inventory of culturally unidentifiable human remains that are in the possession or control of each Federal agency and museum, and recommending specific actions for developing a process for disposition of such human remains; consulting with Indian tribes and Native Hawaiian organizations and museums on matters affecting such tribes or organizations lying within the scope of work of the Review Committee; consulting with the Secretary of the Interior on the development of regulations to carry out NAGPRA; and making recommendations regarding future care of repatriated cultural items. The Review Committee's work is carried out during the course of meetings that are open to the public.

**Public Disclosure of Comments:** Before including your address, telephone number, email address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Authority:** 5 U.S.C. Appendix 2; 25 U.S.C. 3006.

**Alma Rippes,**

*Chief, Office of Policy.*

[FR Doc. 2019-06646 Filed 4-4-19; 8:45 am]

**BILLING CODE 4312-52-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS-WASO-NRNL-DTS#-27568;  
PPWOCRADIO, PCU00RP14.R50000]

### National Register of Historic Places; Notification of Pending Nominations and Related Actions

**AGENCY:** National Park Service, Interior.  
**ACTION:** Notice.

**SUMMARY:** The National Park Service is soliciting comments on the significance of properties nominated before March 23, 2019, for listing or related actions in the National Register of Historic Places.

**DATES:** Comments should be submitted by April 22, 2019.

**ADDRESSES:** Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic

Places, National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.

**SUPPLEMENTARY INFORMATION:** The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before March 23, 2019. Pursuant to Section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State Historic Preservation Officers:

### COLORADO

#### La Plata County

Animas City School, 3065 W 2nd Ave., Durango, SG100003687

### DISTRICT OF COLUMBIA

#### District of Columbia

Harewood Lodge, 3600 Harewood Rd. NE, Washington, SG100003672

### KENTUCKY

#### Boone County

Johnson, Captain Benjamin, River House (Boone County, Kentucky MPS), 9260 River Rd., Hebron, MP100003682

#### Letcher County

Back, David, Log House and Farm, Address Restricted, Blackley vicinity, SG100003680

#### McCracken County

Pettit Building, 1135 Park Ave., Paducah, SG100003681

#### Whitley County

Williamsburg Historic District, Main & Main Cross Sts., Williamsburg, SG100003683

### NEW JERSEY

#### Mercer County

Princeton Battlefield (Boundary Increase), Princeton Battlefield State Park, Princeton, BC100003698

### NEW MEXICO

#### Bernalillo County

Congregation B'nai Israel, 4401 Indian School Rd., Albuquerque, SG100003674

### Valencia County

Belen City Hall (New Deal in New Mexico MPS), 503 Becker Ave., Belen, MP100003676

### PUERTO RICO

#### Caguas Municipality

Carretera Central, PR 1 from km. 40 to 55.4, PR 735 from km. 0.0 to 2.5 & PR 14 from km. 10.0 to 74.0, Caguas, SG100003686

### SOUTH CAROLINA

#### Beaufort County

Campbell Chapel AME Church, 23 Boundary St., Bluffton, SG100003688

#### Charleston County

Faber House, 635 E Bay St., Charleston, SG100003689  
Sottile, Giovanni, House, 81 Rutledge Ave., Charleston, SG100003690

A request for removal has been made for the following resource:

### ALASKA

#### Valdez-Cordova Borough

Reception Building, 2nd and B Sts., Cordova, OT80004566

Additional documentation has been received for the following resources:

### NEW JERSEY

#### Mercer County

Princeton Battlefield, Princeton Battlefield State Park, Princeton, AD66000466

### NEW MEXICO

#### Santa Fe County

Fairview Cemetery, 1134 Cerrillos Rd., Santa Fe, AD04001517

### NEW YORK

#### Onondaga County

North Salina Street Historic District, 517-519 to 947-951 & 522-524 to 850-854 N Salina St., 1121 N Townsend St. & 504-518 Prospect Ave., Syracuse, AD85002441

### VIRGINIA

#### Northampton County

Cape Charles Historic District, Roughly bounded by Washington, Bay & Mason Aves. & Fig St., Cape Charles, AD90002122

#### Prince Edward County

Hampden-Sydney College Historic District, Bounded approximately by the Hampden-Sydney College campus, Hampden-Sydney, AD70000822

Nominations submitted by Federal Preservation Officers:

The State Historic Preservation Officer reviewed the following nomination(s) and responded to the Federal Preservation Officer within 45 days of receipt of the nomination(s) and supports listing the properties in the National Register of Historic Places.







42GR3651 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003867

42GR3658 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003868

42GR3659 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003869

42GR3660 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003870

42GR3661 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003871

42GR3662 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003872

42GR3663 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003873

42GR3664 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003874

42GR3665 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003875

42GR3794 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003876

42GR3848 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003877

42GR3849 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003878

42GR3850 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003879

42GR3851 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003880

42GR3852 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003881

42GR4177 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003882

42GR4365 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003883

42GR4379 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003884

42GR4380 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003885

42GR4466 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003886

42GR4467 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003887

42GR4468 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003888

42GR4830 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003889

42GR4832 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003890

42GR4833 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003891

42GR4837 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003892

42GR4844 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003893

42GR5421 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003894

42GR5422 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003895

42GR5423 (Rock Art and Archaeology of Moab's Colorado River System MPS), Address Restricted, Moab vicinity, MP100003896

**Authority:** Section 60.13 of 36 CFR part 60.

Dated: March 27, 2019.

**Kathryn G. Smith,**

*Acting Chief, National Register of Historic Places/National Historic Landmarks Program.*

[FR Doc. 2019-06675 Filed 4-4-19; 8:45 am]

**BILLING CODE 4312-52-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1150]

### Certain Data Transmission Devices, Components Thereof, Associated Software, and Products Containing the Same; Institution of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 28, 2019, under section 337 of the Tariff Act of 1930, as amended, on behalf of Data Scape Limited of

Sandyford, Ireland, and C-Scape Consulting Corp. of Rockville Centre, New York. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain data transmission devices, components thereof, associated software, and products containing the same by reason of infringement of certain claims of U.S. Patent No. 7,720,929 ("the '929 patent"); U.S. Patent No. 7,617,537 ("the '537 patent"); and U.S. Patent No. 8,386,581 ("the '581 patent"). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

**ADDRESSES:** The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Room 112, Washington, DC 20436, telephone (202) 205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Pathenia M. Proctor, Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

### SUPPLEMENTARY INFORMATION:

**Authority:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2018).

**Scope of Investigation:** Having considered the complaint, the U.S. International Trade Commission, on April 1, 2019, *Ordered That*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted

to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1, 2, 8–12, 17, 19, 24, 29, 33–36, 38, 43–45, 47, 52, 53, 58–60, 66, 67, 72, 77, 79, and 80 of the '929 patent; claims 1–8, 12, 15–18, 22, 25–27, 31, 34–36, 40, 43–50, and 54 of the '537 patent; and claims 1–3, 6–8, 12–17, 20–22, 26–31, 34–36, and 40–42 of the '581 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is "smart phones, mobile devices, tablets, notebooks, laptops, desktops, computers, and associated data transmission components and software thereof";

(3) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties or other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. 1337(d)(1), (f)(1), (g)(1);

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Data Scape Limited, Office 115, 4–5  
Burton Hall Road, Sandyford, Dublin  
18, Ireland  
C-Scape Consulting Corp., 371 Merrick  
Road, Suite 406, Rockville Centre, NY  
11570

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Apple Inc., One Apple Park Way,  
Cupertino, CA 95014  
Amazon.com, Inc., 410 Terry Avenue  
North, Seattle, WA 98109  
Amazon Digital Services, LLC, 410  
Terry Avenue North, Seattle, WA  
98109  
Verizon Communications Inc., 1095  
Avenue of the Americas, New York,  
NY 10036

Cellco Partnership d/b/a/Verizon  
Wireless, 1 Verizon Way, Basking  
Ridge, NJ 07920

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(5) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the Administrative Law Judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: April 2, 2019.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2019–06725 Filed 4–4–19; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

[OMB Number 1110–0043]

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement, Without Change, of a Previously Approved Collection for Which Approval Has Expired: The National Instant Criminal Background Check System (NICS) Voluntary Appeal File (VAF) Brochure and the Online Application Process

**AGENCY:** Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) Division, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

**DATES:** The Department of Justice encourages public comment and will accept input until June 4, 2019.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact the Federal Bureau of Investigation, Criminal Justice Information Services Division, National Instant Criminal Background Check System Section, Module A–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, or email [NICS@fbi.gov](mailto:NICS@fbi.gov) Attention: OMB PRA 1110–0043. Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted via email to [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

### Overview of This Information Collection

(1) *Type of Information Collection:* Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) *Title of the Form/Collection:* The National Instant Criminal Background Check System (NICS) Voluntary Appeal File (VAF) Brochure and the online application process.

(3) *Agency form number:* 1110-0043.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

*Primary:* Potential firearm purchasers. If a potential purchaser is delayed or denied a firearm and successfully appeals the decision, the NICS Section cannot retain a record of the overturned appeal or the supporting documentation. If the record is not able to be updated or the fingerprints are non-identical to a disqualifying record used in the evaluation, the purchaser continues to be delayed or denied, and if that individual appeals the decision, the documentation/information (e.g., fingerprint cards, court records, pardons, etc.) must be resubmitted for every subsequent purchase. The VAF was established per 28 CFR, Part 25.10(g), for this reason. By this process, applicants can voluntarily request the NICS Section maintain information about themselves in the VAF to prevent future extended delays or denials of a firearm transfer.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated the time it takes to read, complete, and upload documents is 30 minutes. Travel time to the fingerprinting facility and post office

is not factored in the time estimate. The NICS Section estimates 4,000 respondents yearly.

(6) *An estimate of the total public burden (in hours) associated with the collection:* With 4,000 applicants responding, the formula for applicant burden hours would be as follows: (4,000 respondents  $\times$  .5 hours) = 2,000 hours.

*If additional information is required contact:* Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Suite 3E.405B, Washington, DC 20530.

Dated: April 2, 2019.

**Melody Braswell,**

*Department Clearance Officer, PRA, U.S. Department of Justice.*

[FR Doc. 2019-06743 Filed 4-4-19; 8:45 am]

**BILLING CODE 4410-02-P**

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

#### Notice of Availability, Request for Comments

**AGENCY:** Employee Benefits Security Administration, Department of Labor.

**ACTION:** Notice of availability, request for comments.

**SUMMARY:** The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995, provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Employee Benefits Security Administration (EBSA) is soliciting comments on the proposed renewal of the information collection requests (ICRs) contained in the documents described below. A copy of the ICRs may be obtained by contacting the office listed in the **ADDRESSES** section of this notice. ICRs also are available at [reginfo.gov](http://www.reginfo.gov) (<http://www.reginfo.gov/public/do/PRAMain>).

**DATES:** Written comments must be submitted to the office shown in the Addresses section on or before June 4, 2019.

**ADDRESSES:** G. Christopher Cosby, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, Room N-5718, Washington, DC 20210, [ebbsa.opr@dol.gov](mailto:ebbsa.opr@dol.gov), (202) 693-8410, FAX (202) 219-4745 (these are not toll-free numbers).

**SUPPLEMENTARY INFORMATION:** This notice requests public comment on the Department's request for the Office of Management and Budget's (OMB) approval of the ICRs contained in Prohibited Transaction Exemptions (PTEs) 1975-1, 1984-24, and 1986-128. The PTEs provide exemptions from the prohibited transaction provisions of the Employee Retirement Income Security Act of 1974 (ERISA), and the Internal Revenue Code of 1986 (Code) for specified types of transactions.<sup>1</sup> The Department is proposing to renew the requirements of the ICRs contained in PTEs 75-1, 84-24, and 86-128 in place prior to 2016.

The Department notes that an agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICRs and the current burden estimates follows:

*Agency:* Employee Benefits Security Administration, Department of Labor.

*Title:* Prohibited Transaction Exemption 1975-1, Exemptions from Prohibitions Respecting Certain Classes of Transactions Involving Employee Benefit Plans and Certain Broker-Dealers, Reporting Dealers, and Banks.

*OMB Number:* 1210-0092.

*Affected Public:* Businesses or other for-profits, Not-for-profit institutions.

*Respondents:* 6,116.

*Responses:* 6,116.

*Estimated Total Burden Hours:* 1,019.

*Estimated Total Burden Cost*

*(Operating and Maintenance):* \$0.

*Description:* PTE 1975-1 provides exemptions for transactions between employee benefit plans and individual retirement accounts (IRAs) and broker-dealers, reporting dealers and banks, relating to securities purchases and sales, provided specified conditions are met. The exempted transactions include an employee benefit plan or IRA's purchase of securities from broker-dealers' inventories of stocks, from underwriting syndicates in which a fiduciary is a member, from banks, from

<sup>1</sup> They were amended as part of the Department's 2016 final rule defining who is a "fiduciary" under ERISA and the Code, which was published in the **Federal Register** on April 8, 2016. The final rule and PTE amendments were vacated by the Fifth Circuit Court of Appeal's decision in *Chamber of Commerce v. Department of Labor*, 885 F.3d 360 (5th Cir. 2018).

reporting dealers, and from a market-maker that is a fiduciary. The exempted transactions also include, under certain conditions, a plan's or IRA's accepting an extension of credit from a broker-dealer for the purpose of facilitating settlement of a securities transaction. Among other conditions, PTE 1975-1 requires plans and IRAs involved in the transactions to maintain adequate records of the transactions for a period of six years. The Department previously submitted an ICR to OMB for approval of this information collection and received OMB approval under OMB Control No. 1210-0092. The current approval is scheduled to expire on June 30, 2019.

*Agency:* Employee Benefits Security Administration, Department of Labor.

*Title:* Prohibited Transaction Exemption 84-24 for Certain Transactions Involving Insurance Agents and Brokers, Pension Consultants, Insurance Companies, Investment Companies and Investment Company Principal Underwriters.

*OMB Number:* 1210-0158.

*Affected Public:* Businesses or other for-profits, Not-for-profit institutions.

*Respondents:* 2,789.

*Responses:* 227,068.

*Estimated Total Burden Hours:* 19,194.

*Estimated Total Burden Cost (Operating and Maintenance):* \$98,115.

*Description:* PTE 1984-24, as amended, provides an exemption for insurance agents, insurance brokers and pension consultants to receive a sales commission from an insurance company in connection with the purchase, with plan or IRA assets, of an insurance or annuity contract. Relief is also provided for a principal underwriter for an investment company registered under the Investment Company Act of 1940 to receive a sales commission in connection with the purchase, with plan or IRA assets, of securities issued by the investment company.

The PTE requires the insurance agents, insurance brokers, pension consultants and investment company principal underwriters relying on the exemption to obtain authorization from an independent plan fiduciary, provide certain disclosures, including disclosure of the commission payment, necessary for the independent plan fiduciary to evaluate whether or not to grant authorization, and maintain records necessary to demonstrate that the conditions of the exemption have been met. The Department previously submitted an ICR to OMB for approval of this information collection and received OMB approval under OMB

Control No. 1210-0158. The current approval is scheduled to expire on June 30, 2019.

*Agency:* Employee Benefits Security Administration, Department of Labor.

*Title:* Prohibited Transaction Exemption 1986-128 for Securities Transactions Involving Employee Benefit Plans and Broker-Dealers.

*OMB Number:* 1210-0059.

*Affected Public:* Businesses or other for-profits, Not-for-profit institutions.

*Respondents:* 11,894.

*Responses:* 819,448.

*Estimated Total Burden Hours:* 57,443.

*Estimated Total Burden Cost (Operating and Maintenance):* \$661,045.

*Description:* PTE 1986-128, as amended, permits persons who serve as fiduciaries for employee benefit plans and IRAs to effect or execute securities transactions on behalf of the plans and IRAs. The exemption also allows a fiduciary to act as an agent in an agency cross transaction for an employee benefit plan or IRA and one or more other parties to the transaction and receive reasonable compensation from the other party.

The PTE requires the fiduciary relying on the exemption to obtain written authorization executed in advance by an independent fiduciary of the employee benefit plan whose assets are involved in the transaction. Within three months prior to the authorization, the fiduciary must furnish the independent fiduciary with any reasonably available information necessary for the independent fiduciary to determine whether an authorization should be made. The information must include a copy of the exemption, a form for termination, and a description of the fiduciary's brokerage placement practices. The fiduciary must also provide a termination form to the independent fiduciary annually so that the independent fiduciary may terminate the authorization without penalty to the plan; failure to return the form constitutes continuing authorization. The fiduciary must report all transactions to the independent fiduciary, either by confirmation slips or through quarterly reports. Finally, the fiduciary must provide an annual summary of the transactions to the independent fiduciary. The annual summary must contain all security transaction-related charges incurred by the plan, the brokerage placement practices (if changed), and a portfolio turnover ratio. The Department previously submitted an ICR to OMB for approval of this information collection and received OMB approval under OMB

Control No. 1210-0059. The current approval is scheduled to expire on June 30, 2019.

## II. Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the collections of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICRs for OMB approval of the information collections; they will also become a matter of public record.

**Joseph S. Piacentini,**

*Director, Office of Policy and Research,  
Employee Benefits Security Administration.*

[FR Doc. 2019-06667 Filed 4-4-19; 8:45 am]

**BILLING CODE 4510-29-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Agency Information Collection Activities; Comment Request; Required Elements of an Unemployment Insurance (UI) Reemployment Services and Eligibility Assessment (RESEA) Grant State Plan

**ACTION:** Notice.

**SUMMARY:** The Department of Labor's (DOL's), Employment and Training Administration (ETA) is soliciting comments concerning a proposed information collection request (ICR) titled, "Required Elements of an Unemployment Insurance (UI) Reemployment Services and Eligibility Assessment (RESEA) Grant State Plan." This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

**DATES:** Consideration will be given to all written comments received by June 4, 2019.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Lawrence Burns by telephone at 202-693-3141 (this is not a toll-free number), TTY 1-877-889-5627 (this is not a toll-free number), or by email at [Burns.Lawrence@dol.gov](mailto:Burns.Lawrence@dol.gov).

Submit written comments about, or requests for a copy, of this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance Room S-4520, 200 Constitution Avenue NW, Washington, DC 20210, Attention: Lawrence Burns, by email at [DOL-ETA-UI-FRN@dol.gov](mailto:DOL-ETA-UI-FRN@dol.gov), or by Fax at 202-693-3975.

**SUPPLEMENTARY INFORMATION:** As part of continuing efforts to reduce paperwork and respondent burden, DOL conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure requested data is provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

The federal-state UI program is a required partner in the comprehensive, integrated workforce system. Individuals who have lost employment due to lack of suitable work and have earned sufficient wage credits may receive UI benefits if they meet initial and continuing eligibility requirements. Since fiscal year 2005, DOL and participating state UI agencies have been addressing individual reemployment needs of UI claimants and working to prevent and detect UI improper payments through the voluntary UI Reemployment and Eligibility Assessment (REA) program and, beginning in fiscal year 2015, through the voluntary RESEA program. Because there is strong evidence that these programs and service delivery strategies work, they have been a high priority for ETA.

On February 9, 2018, the President signed the Bipartisan Budget Act of 2018, Public Law 115-123 (BBA), which included amendments to the Social

Security Act (SSA) that create a permanent authorization for the RESEA program. The RESEA provisions are contained in Section 30206 of the BBA, enacting new Section 306 of the SSA. The recently enacted Section 306, SSA, introduced several new program requirements, including the requirement that states must submit a state plan to be eligible for funding. Section 306(e), SSA, provides the authorization and specific requirements of the state plan including:

- Assurances and a description of how the state's program will provide proper notification to participating individuals of the program's eligibility conditions, requirements, and benefits;
- Assurance and a description of how the state's program will provide reasonable scheduling accommodations to maximize participation for eligible individuals;
- Assurances and a description of how the state's program will conform with the purposes of RESEA that include: improving employment outcome and reducing duration of receipt of unemployment compensation through employment; strengthening program integrity and reducing improper payments, promoting alignment with the vision of the Workforce Innovation and Opportunity Act; and establishing RESEA as an entry point to other workforce system partners;

- Assurances and a description of how the state's program will satisfy the requirement to use evidence-based standards including: a description of the evidence-based interventions the State plans to use to speed reemployment; an explanation of how such interventions are appropriate to the population served; and, if applicable, a description of the evaluation structure the state plans to use for interventions that do not meet evidence-based standards; and
- Information about reemployment activities and evaluations that the state conducted in the prior fiscal year including any data collected on characteristics of program participants, the number of weeks for which program participants receive unemployment compensation, and employment and other outcomes.

In addition to the statutorily required elements listed above, the requested ICR includes routine administrative and logistical elements that ETA identified as necessary for the grant review and approval process. These elements were previously collected under the ICR titled, "DOL Generic Solution for Solicitations for Grant Applications," OMB Control No. 1225-0086, expiration date 05/31/2019. The consolidation of

this information into the proposed annual plan reduced burden and streamlined the application process for states requesting RESEA funding. Section 306(e), SSA, authorizes this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be in writing to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention Required Elements of an Unemployment Insurance (UI) Reemployment Services and Eligibility Assessment (RESEA) Grant State Plan, OMB Control Number 1205-0NEW.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- Enhance the quality, utility, and clarity of the information to be collected; and

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL-ETA.

*Type of Review:* New.

*Title of Collection:* Required Elements of an Unemployment Insurance (UI) Reemployment Services and Eligibility Assessment (RESEA) Grant State Plan.

*Form:* RESEA Annual Report.

*OMB Control Number:* 1205-0NEW.

*Affected Public:* State Workforce Agencies.

*Estimated Number of Respondents:* 53.

*Frequency:* Annual.

*Total Estimated Annual Responses:* 53.

*Estimated Average Time per Response:* 40 hours.

*Estimated Total Annual Burden Hours:* 2,120 hours.

*Total Estimated Annual Other Cost Burden:* \$0.

*Authority:* 44 U.S.C. 3506(c)(2)(A).

**Molly E. Conway,**

*Acting Assistant Secretary for Employment and Training, Labor.*

[FR Doc. 2019-05307 Filed 4-4-19; 8:45 am]

**BILLING CODE 4510-FW-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Agency Information Collection Activities; Comment Request; Trade Adjustment Assistance (TAA) State Survey

**ACTION:** Notice.

**SUMMARY:** The Department of Labor's (DOL's) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, "TAA State Survey." This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

**DATES:** Consideration will be given to all written comments received by June 4, 2019.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Robert Hoekstra by telephone at 608-354-8301 (this is not a toll-free number), TTY 1-877-889-5627 (this is not a toll-free number), or by email at [hoekstra.robert@dol.gov](mailto:hoekstra.robert@dol.gov).

Submit written comments about or requests for a copy of this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Trade Adjustment Assistance, 200 Constitution Avenue NW, Room N-5428, Washington, DC 20210; by email: [taa.reports@dol.gov](mailto:taa.reports@dol.gov); or by Fax 202-693-3584.

**FOR FURTHER INFORMATION CONTACT:** Robert Hoekstra by telephone at 608-354-8301 (this is not a toll-free number) or by email at [hoekstra.robert@dol.gov](mailto:hoekstra.robert@dol.gov).

**Authority:** 44 U.S.C. 3506(c)(2)(A).

**SUPPLEMENTARY INFORMATION:** DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

The Office of Trade Adjustment Assistance (OTAA) is seeking to establish the TAA State Survey to collect discrete data on how State Workforce Agencies (SWAs) organize the TAA program across eight (8) distinct categories. This data will allow OTAA to analyze which practices are best supporting TAA participants, identify areas where more technical assistance is needed, and determine opportunities for greater program integration. Section 239(c) of Title II, Chapter 2 of the Trade Act of 1974, as amended (19 U.S.C. 2271 *et seq.*), authorizes this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive

consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB Number 1205-0NEW.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, (e.g., permitting electronic submission of responses).

*Agency:* DOL-ETA.

*Type of Review:* NEW.

*Title of Collection:* TAA State Survey.

*Form:* TAA State Survey (New).

*OMB Control Number:* 1205-0NEW.

*Affected Public:* State Workforce Agencies.

*Estimated Number of Respondents:* 52.

*Frequency:* Annually.

*Total Estimated Annual Responses:* 52.

*Estimated Average Time per Response:* 5 hours.

*Estimated Total Annual Burden Hours:* 260 hours.

*Total Estimated Annual Other Cost Burden:* \$7,956.00.

**Molly E. Conway,**

*Acting Assistant Secretary for Employment and Training, Labor.*

[FR Doc. 2019-06660 Filed 4-4-19; 8:45 am]

**BILLING CODE 4510-FN-P**

**DEPARTMENT OF LABOR****Veterans Employment and Training Service****Advisory Committee on Veterans' Employment, Training and Employer Outreach (ACVETEO): Meeting**

**AGENCY:** Veterans' Employment and Training Service (VETS), Department of Labor (DOL).

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the ACVETEO. The ACVETEO will discuss the DOL core programs and services that assist veterans seeking employment and raise employer awareness as to the advantages of hiring veterans. There will be an opportunity for individuals or organizations to address the committee. Any individual or organization that wishes to do so should contact Mr. Gregory Green at 202-693-4734.

Individuals who will need accommodations for a disability in order to attend the meeting (*e.g.*, interpreting services, assistive listening devices, and/or materials in alternative format) should notify the Advisory Committee no later than Wednesday, April 17, 2019 by contacting Mr. Gregory Green at 202-693-4734. Requests made after this date will be reviewed, but availability of the requested accommodations cannot be guaranteed. The meeting site is accessible to individuals with disabilities. This Notice also describes the functions of the ACVETEO. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public.

**Date and Time:** Wednesday, May 1, 2019 beginning at 9:00 a.m. and ending at approximately 4:30 p.m. (EST).

**ADDRESSES:** The meeting will take place at the U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue NW, Washington, DC 20210, Conference Room C5320 Room 6. Members of the public are encouraged to arrive early to allow for security clearance into the Frances Perkins Building.

**Security Instructions:** Meeting participants should use the visitor's entrance to access the Frances Perkins Building, one block north of Constitution Avenue at 3rd and C Streets NW. For security purposes meeting participants must:

1. Present a valid photo ID to receive a visitor badge.
2. Know the name of the event being attended: The meeting event is the

Advisory Committee on Veterans' Employment, Training and Employer Outreach (ACVETEO).

3. Visitor badges are issued by the security officer at the Visitor Entrance located at 3rd and C Streets NW. When receiving a visitor badge, the security officer will retain the visitor's photo ID until the visitor badge is returned to the security desk.

4. Laptops and other electronic devices may be inspected and logged for identification purposes.

5. Due to limited parking options, Metro's Judiciary Square station is the easiest way to access the Frances Perkins Building.

**Notice of Intent to Attend the Meeting:** All meeting participants should submit a notice of intent to attend by Friday, April 19, 2019, via email to Mr. Gregory Green at [green.gregory.b@dol.gov](mailto:green.gregory.b@dol.gov), subject line "Ma5 2019 ACVETEO Meeting."

**FOR FURTHER INFORMATION CONTACT:** Mr. Gregory Green, Designated Federal Official for the ACVETEO, (202) 693-4734.

**SUPPLEMENTARY INFORMATION:** The ACVETEO is a Congressionally mandated advisory committee authorized under Title 38, U.S. Code, Section 4110 and subject to the Federal Advisory Committee Act, 5 U.S.C. App. 2, as amended. The ACVETEO is responsible for: Assessing employment and training needs of veterans; determining the extent to which the programs and activities of the U.S. Department of Labor meet these needs; assisting to conduct outreach to employers seeking to hire veterans; making recommendations to the Secretary, through the Assistant Secretary for VETS, with respect to outreach activities and employment and training needs of veterans; and carrying out such other activities necessary to make required reports and recommendations. The ACVETEO meets at least quarterly.

**Agenda**

- 9:00 a.m. Welcome and remarks, Sam Shellenberger, Deputy Assistant Secretary, Veterans' Employment and Training Service
- 9:15 a.m. Administrative Business, Gregory Green, Designated Federal Official
- 9:30 a.m. Briefing on Ethics while serving as a Special Government Employee on a Federal Advisory Committee
- 10:00 a.m. Briefing on FY18 Report, Eric Eversole, Committee Chairman
- 10:45 p.m. Break
- 11:10 p.m. Briefing on Transition Assistance Program (TAP)

11:30 p.m. Briefing on Uniformed Services Employment and Reemployment Rights Act (USERRA)

12:00 p.m. Lunch

1:00 p.m. Briefing on Military Spouses

1:30 p.m. Briefing on Hire Vets Medallion Program

2:00 p.m. Briefing on Jobs for Veterans State Grants (JVSG) and Homeless Veterans' Reintegration Program (HVRP)

2:30 p.m. Break

2:45 p.m. Subcommittee Discussion/Assignments, Eric Eversole, Committee Chairman

4:00 p.m. Public Forum, Gregory Green, Designated Federal Official

4:30 p.m. Adjourn

Signed in Washington, DC, this 1st day of April 2019.

**Joseph S. Shellenberger,**

*Deputy Assistant Secretary, Veterans' Employment and Training Service.*

[FR Doc. 2019-06658 Filed 4-4-19; 8:45 am]

**BILLING CODE 4510-79-P**

**DEPARTMENT OF LABOR****Veterans' Employment and Training Service**

**Agency Information Collection Activities; Comment Request: Jobs for Veterans State Grant Budget Information Summary; Jobs for Veterans State Grant Expenditure Detail Report; Jobs for Veterans State Grant Staffing Directory**

**AGENCY:** Veterans' Employment and Training Service, Labor.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** VETS is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on four (4) separate collections of information: VETS 401 entitled Jobs for Veterans State Grant Budget Information Summary, VETS 402A or VETS 402B entitled Jobs for Veterans State Grant Expenditure Detail Report, VETS 403 entitled Jobs for Veterans State Grant Technical Performance Narrative, and VETS 501 entitled Jobs for Veterans State Grant Staffing Directory. The information collection contained in this notice is an extension with revisions.

VETS is soliciting comments on the continuation of the approved information collections.

**DATES:** Consideration will be given to all written comments received by June 4, 2019.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained for free by contacting Michael Long by telephone at (202) 693-4700 (not a toll-free number) or by email at [Long.Michael.J@dol.gov](mailto:Long.Michael.J@dol.gov).

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Veterans' Employment and Training Service, Room S1325, 200 Constitution Avenue NW, Washington, DC 20210 or by email: [Long.Michael.J@dol.gov](mailto:Long.Michael.J@dol.gov).

**FOR FURTHER INFORMATION CONTACT:** Michael Long, by telephone at (202) 693-4700 (not a toll-free number) or by email at [Long.Michael.J@dol.gov](mailto:Long.Michael.J@dol.gov).

**SUPPLEMENTARY INFORMATION:** The Department of Labor, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

The Department of Labor's VETS administers funds for the Jobs for Veterans State Grant (JVSG) to each State, the District of Columbia, Puerto Rico and the Virgin Islands on an annual fiscal year basis. These non-competitive, formula-driven grants are codified under Title 38, United States Code, (38 U.S.C.) Section 4102A(b)(5):

"Subject to subsection (c) make available for use in each State by grant or contract such funds as may be necessary to support—(A) disabled veterans' outreach program specialists appointed under section 4103A(a)(1) of this title, (B) local veterans' employment representatives assigned under section 4104(b) of this title, and (C) the reasonable expenses of such specialists and representatives described in subparagraphs (A) and (B), respectively, for training, travel, supplies, and other business expenses . . ."

VETS provides funds to States in accordance with an allocation formula required by 38 U.S.C. 4102A(c)(2)(B) and as published in regulation at Title 20, Part 1001, Subpart F of the Code of Federal Regulations (CFR). The Assistant Secretary for Veterans' Employment and Training monitors and supervises the distribution and use of those funds as required by 38 U.S.C. 4102A(b)(6). Additionally, and in accordance with 38 U.S.C. 4107(b), the Secretary reviews performance and provides an annual report to Congress that includes:

A characterization of the quality and character of priority of services provided to veterans (38 U.S.C. 4215 and 20 CFR 1010.320, 1010.330);

Efforts to coordinate with the Veterans Administration in accordance with 38 U.S.C. 4102A(b)(3) and 4109; and

Incentive fund usage as described in 38 U.S.C. 4112.

VETS is requesting continued approval for the information collection that streamlines the annual funding request process for grantees, reports the use of grantee funds in sufficient detail to allow interim adjustments that ensure all appropriated funding is expended properly, and provides data needed for VETS' Annual Report to Congress.

The forms and reports collect required programmatic and financial data from States requesting and obligating grant funds. The continued use of standardized formats for collecting this information helps to ensure that requested data is provided in a uniform way, reporting burdens are minimized, the impact of collection requirements on respondents are properly assessed, collection instruments are clearly understood by respondents, and the information is easily consolidated for posting in accordance with statutory requirements.

With respect to the continuation of the approved collection of information, VETS is particularly interested in comments on these topics:

(1) Whether the continued collection of information is necessary for the proper performance and oversight of the Jobs for Veterans State Grant, including whether the information will have practical utility;

(2) The accuracy of the VETS' estimate of the burden of the proposed collection of information;

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

(4) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques,

when appropriate and other forms of information technology.

*Agency:* Veterans' Employment and Training Service, U.S. Department of Labor.

*Type of Review:* Revision.

*Title of Collection:* VETS' Jobs for Veterans State Grant Program Reporting Forms:

1. VETS-401, JVSG Budget Information Summary; and
  2. VETS-402A; or
  3. VETS-402B JVSG Expenditure Detail Report (EDR); and
  4. VETS-501, JVSG Staffing Directory; and
  5. VETS-403, JVSG Technical Performance Narrative (TPN)
- OMB Control Number:* 1293-0009.  
*Affected Public:* State, Local and Tribal Governments.  
*Estimated Number of Respondents:* 54.  
*Frequency:* On occasion.  
*Total Estimated Annual Responses:* 540.  
*Estimated Total Annual Burden Hours:* 1,053.  
*Total Estimated Annual Other Cost Burden:* \$0.

**Authority:** 44 U.S.C. 3506(c)(2)(A).

Dated: Signed in Washington, DC, this 1st day of April, 2019.

**Joseph S. Shellenberger,**  
*Deputy Assistant Secretary for Veterans' Employment and Training Service.*

[FR Doc. 2019-06659 Filed 4-4-19; 8:45 am]

**BILLING CODE 4510-79-P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (19-011)]

### NASA Aerospace Safety Advisory Panel; Meeting

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel.

**DATES:** Thursday, April 25, 2019, 9:30 a.m. to 10:45 a.m., Central Time.

**ADDRESSES:** NASA Marshall Space Flight Center, Building 4220, Room 1103, Huntsville, Alabama 35812.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carol J. Hamilton, Executive Director, Aerospace Safety Advisory Panel, NASA Headquarters, Washington, DC 20546, (202) 358-1857, or email at [carol.j.hamilton@nasa.gov](mailto:carol.j.hamilton@nasa.gov)

**SUPPLEMENTARY INFORMATION:** The Aerospace Safety Advisory Panel (ASAP) will hold its Second Quarterly Meeting for 2019. This discussion is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of human flight. The agenda will include:

- Updates on the Exploration Systems Development
- Updates on the Commercial Crew Program
- Updates on the International Space Station Program

The meeting will be open to the public up to the seating capacity of the room. Seating will be on a first-come, first-served basis. This meeting is also available telephonically. Any interested person may call the USA toll free conference call number (888) 972-6716; pass code 4630012 and then the # sign. Attendees will be required to sign a visitor's register and to comply with NASA Marshall Space Flight Center security requirements, including the presentation of a valid picture ID and a secondary form of ID, before receiving an access badge. All U.S. citizens desiring to attend the ASAP meeting at the Marshall Space Flight Center must provide their full name, company affiliation (if applicable), driver's license number and state, citizenship, social security number; place of birth, and date of birth to the Marshall Space Flight Center Protective Services and Export Control Office no later than close of business on April 15, 2019. All non-U.S. citizens must submit their name; current address; driver's license number and state (if applicable); citizenship; company affiliation (if applicable) to include address, telephone number, and title; place of birth; date of birth; U.S. visa information to include type, number, and expiration date; U.S. social security number (if applicable); Permanent Resident (green card holder) number and expiration date (if applicable); place and date of entry into the U.S.; and passport information to include country of issue, number, and expiration date to the Marshall Space Flight Center Protective Services and Export Control Office no later than close of business on April 10, 2019. If the above information is not received by the noted dates, attendees should expect a minimum delay of four (4) hours. All visitors to this meeting will be required to process in through the Redstone Arsenal/Marshall Space Flight Center

Joint Visitor Control Center located on Rideout Road, north of Gate 9, prior to entering Marshall Space Flight Center. Please provide the appropriate data, via fax at (256) 544-2101, noting at the top of the page "Public Admission to the ASAP Meeting at MSFC." For security questions, please call Ms. Becky Hopson at (256) 544-4541.

At the beginning of the meeting, members of the public may make a verbal presentation to the Panel on the subject of safety in NASA, not to exceed 5 minutes in length. To do so, members of the public must contact Ms. Carol Hamilton at [carol.j.hamilton@nasa.gov](mailto:carol.j.hamilton@nasa.gov) or at (202) 358-1857 at least 48 hours in advance. Any member of the public is permitted to file a written statement with the Panel at the time of the meeting. Verbal presentations and written comments should be limited to the subject of safety in NASA. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

**Patricia Rausch,**

*Advisory Committee Management Officer,  
National Aeronautics and Space  
Administration.*

[FR Doc. 2019-06729 Filed 4-4-19; 8:45 am]

**BILLING CODE 7510-13-P**

## **NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**[Notice: (19-008)]**

### **Notice of Intent for a Supplemental Environmental Impact Statement for NASA Soil Cleanup Activities at the Santa Susana Field Laboratory**

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of intent to prepare a Supplemental Environmental Impact Statement (SEIS) to the March 2014 Final Environmental Impact Statement (FEIS) for Demolition and Environmental Cleanup Activities for the NASA-administered portion of the Santa Susana Field Laboratory (SSFL), Ventura County, California. This SEIS will cover the soil cleanup activities at NASA's portion of SSFL.

**SUMMARY:** Pursuant to the National Environmental Policy Act (NEPA), as amended, the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA, and NASA's NEPA policy and procedures, NASA intends to prepare an SEIS for soil cleanup activities at SSFL in Ventura County, California. An SEIS is being prepared because there are

significant new circumstances relevant to environmental concerns bearing on the proposed action and its impacts. Specifically, the estimated quantity of soil required to be removed has increased substantially since the publication of the 2014 FEIS. This increase has the potential to alter the environmental impacts that were evaluated in the 2014 FEIS. For this reason, NASA has determined it is appropriate to prepare a supplement to the 2014 FEIS.

The purpose of this notice is to apprise interested agencies, organizations, tribal governments, and individuals of NASA's intent to prepare the SEIS.

**FOR FURTHER INFORMATION CONTACT:**

Peter Zorba, SSFL Project Director, by email at [msfc-ssfl-eis@mail.nasa.gov](mailto:msfc-ssfl-eis@mail.nasa.gov), 202-714-0496. Additional information about the SSFL site, NASA's demolition and proposed cleanup activities at SSFL, and the associated SEIS planning process and documentation (as available) may be found on the internet at <https://ssfl.msfc.nasa.gov> or on the California Department of Toxic Substances Control (DTSC) website at [http://www.dtsc.ca.gov/SiteCleanup/Santa\\_Susana\\_Field\\_Lab/](http://www.dtsc.ca.gov/SiteCleanup/Santa_Susana_Field_Lab/).

**SUPPLEMENTARY INFORMATION:** The SSFL site is 2,850 acres located in Ventura County, California, approximately seven miles northwest of Canoga Park and approximately 30 miles northwest of downtown Los Angeles. SSFL is located near the crest of the Simi Hills, which are part of the Santa Monica Mountains running east-west across Southern California. The diverse terrain consists of ridges, canyons, and sandstone rock outcrops. SSFL is composed of four administrative areas known as Areas I, II, III, and IV and two "undeveloped" areas. NASA administers 41.7 acres within Area I and all 409.5 acres of Area II. The Boeing Company (Boeing) owns the remaining 2,398.8 acres within Areas I, III, IV, and the two undeveloped areas. The Department of Energy (DOE) does not own any land at SSFL but is responsible for building demolition and cleanup of soils and groundwater in Area IV and the Northern Buffer Zone.

Since the mid-1950s, when SSFL was administered by the U.S. Air Force, this site has been used for developing and testing rocket engines. Four test stand complexes were constructed in Area II between 1954 and 1957 named Alfa, Bravo, Coca, and Delta. These test stand areas along with the Liquid Oxygen (LOX) Plant portion of Area I were acquired by NASA from the U.S. Air Force in the 1970s.

The NASA-administered areas of SSFL contain cultural resources associated with rocket engine development, along with several significant archeological sites. NASA has conducted several surveys to locate archeological and architectural resources within its administered portion of SSFL. NASA has identified the Burro Flats Site, which is listed on the National Register of Historic Places (NRHP), as well as various archeological sites, buildings, and structures that are either individually eligible for listing on the NRHP or are elements of NRHP-eligible historic districts containing multiple architectural resources. In 2014, NASA entered into a Programmatic Agreement with the California State Historic Preservation Officer, the Advisory Council for Historic Preservation, and the Santa Ynez Band of Chumash Indians. The Programmatic Agreement stipulates the cultural resource management measures that must be implemented before, during, and after all cleanup activities. Previous environmental sampling on the NASA-administered property indicates that contaminants are present in the soil and groundwater at the site.

*Environmental Commitments and Associated Environmental Review:* Rocket engine testing has been discontinued at these sites and the property has been excessed to the General Services Administration (GSA). GSA has conditionally accepted the Report of Excess pending certain environmental cleanup requirements are met.

In 2007, a Consent Order among NASA, Boeing, the U.S. Department of Energy, and DTSC was signed addressing demolition of certain infrastructure and environmental cleanup of SSFL. NASA entered into an Administrative Order on Consent (AOC) for Remedial Action with DTSC on December 6, 2010, “to further define and make more specific NASA’s obligations with respect to the cleanup of soils at the Site.” Based on the 2010 Order, NASA is required to complete a federal environmental review pursuant to NEPA and NASA Procedural Requirement (NPR) 8580.1.

NASA published an FEIS for demolition of site infrastructure, soil cleanup pursuant to the AOC, and groundwater remediation within Area II and a portion of Area I (former LOX Plant) of SSFL on March 14, 2014 (79 FR 14545). NASA subsequently issued a Record of Decision (ROD) for building demolition on April 23, 2014. A ROD for groundwater cleanup was published in the **Federal Register** on October 19, 2018. A SEIS is being prepared by

NASA for soil cleanup within Area II and a portion of Area I (former LOX Plant) of SSFL.

NASA anticipates that the potential environmental impacts of the soil cleanup of most interest to the public are likely public health; soil removal/erosion; soil transportation and disposal; threatened, endangered, and sensitive species; habitat and wetlands; cultural and historic resources; air quality and greenhouse gas emissions; and groundwater, surface water, or geologic structures.

During the SEIS process, the public will be provided an opportunity for involvement at the publication of the Draft SEIS. The Notice of Availability for the Draft SEIS, Final SEIS, and ROD will be published in the **Federal Register** and through local news media to ensure that all members of the public have the ability to actively participate in the NEPA process.

**Cheryl E. Parker,**  
*Federal Register Liaison Officer.*

[FR Doc. 2019–06332 Filed 4–4–19; 8:45 am]

**BILLING CODE 7510–13–P**

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## NATIONAL SCIENCE FOUNDATION

### Sunshine Act Meeting; National Science Board

The National Science Board’s Executive Committee (EC), pursuant to National Science Foundation regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business, as follows:

**TIME AND DATE:** Wednesday, April 10, 2019, from 2:00–3:00 p.m. EDT.

**PLACE:** This meeting will be held by teleconference at the National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314. An audio link will be available for the public. Members of the public must contact the Board Office to request the public audio link by sending an email to [nationalsciencebrd@nsf.gov](mailto:nationalsciencebrd@nsf.gov) at least 24 hours prior to the teleconference.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Committee Chair’s opening remarks; approval of Executive Committee minutes of October 29, 2018; approval of Annual Report of the Executive Committee; and discuss issues and topics for an agenda of the NSB meeting scheduled for May 14–15, 2019.

**CONTACT PERSON FOR MORE INFORMATION:** Point of contact for this meeting is: James Hamos, 2415 Eisenhower Avenue, Alexandria, VA 22314. Telephone: 703/292–8000. Meeting information and updates may be found at <https://www.nsf.gov/nsb/meetings/notices.jsp#sunshine>. Please refer to the National Science Board website at [www.nsf.gov/nsb](http://www.nsf.gov/nsb) for general information.

**Chris Blair,**  
*Executive Assistant to the National Science Board Office.*

[FR Doc. 2019–06812 Filed 4–3–19; 11:15 am]

**BILLING CODE 7555–01–P**

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## NUCLEAR REGULATORY COMMISSION

### Meeting of the Advisory Committee on Reactor Safeguards (ACRS) Subcommittee on Digital Instrumentation and Control (I&C) Systems

The ACRS Subcommittee on Digital I&C Systems will hold a meeting on April 16, 2019, at 11545 Rockville Pike, Room T–2D10, Rockville, Maryland 20852.

The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

*Tuesday, April 16, 2019—8:30 a.m. until 5:00 p.m.*

The Subcommittee will review and discuss Nuclear Energy Institute (NEI) NEI 96–07, Appendix D, “Supplemental Guidance for Application of 10 CFR 50.59 to Digital Modifications.” The Subcommittee will hear presentations by and hold discussions with the NRC staff, representatives from NEI, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Kathy Weaver (Telephone 301–415–6236 or Email: [Kathy.Weaver@nrc.gov](mailto:Kathy.Weaver@nrc.gov)) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day

before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. The public bridgeline number for the meeting is 866-822-3032, passcode 8272423. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on December 7, 2018 (83 FR 26506).

Detailed meeting agendas and meeting transcripts are available on the NRC website at <http://www.nrc.gov/reading-rm/doc-collections/acrs>. Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the website cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, Maryland. After registering with Security, please contact Paula Dorm (Telephone 301-415-7799) to be escorted to the meeting room.

Dated: April 1, 2019.

**Lawrence Burkhardt,**

*Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.*

[FR Doc. 2019-06666 Filed 4-4-19; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

### **Meeting of the Advisory Committee on Reactor Safeguards (ACRS) Subcommittee on Planning and Procedures**

The ACRS Subcommittee on Planning and Procedures will hold a meeting on April 4, 2019, at the U.S. Nuclear Regulatory Commission, Two White Flint North, Conference Room T3D50, 11545 Rockville Pike, Rockville, MD 20852.

The meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, April 4, 2019—12:00 a.m. until 1:00 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Quynh Nguyen (Telephone 301-415-5844 or Email: [Quynh.Nguyen@nrc.gov](mailto:Quynh.Nguyen@nrc.gov)) five days prior to the meeting, if possible, so that arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. The public bridgeline number for the meeting is 866-822-3032, passcode 8272423. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on December 7, 2018 (83 FR 26506).

Information regarding changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the DFO if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, Maryland. After registering with Security, please contact Paula Dorm (Telephone 301-415-7799) to be escorted to the meeting room.

Dated: April 1, 2019.

**Lawrence Burkhardt,**

*Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.*

[FR Doc. 2019-06664 Filed 4-4-19; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

### **Meeting of the Advisory Committee on Reactor Safeguards (ACRS) Subcommittee on NuScale**

The ACRS Subcommittee on NuScale will hold a meeting on April 17, 2019, at U.S. Nuclear Regulatory Commission, Two White Flint North, Conference Room T2D10, 11545 Rockville Pike, Rockville, MD 20852.

The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows: Wednesday, April 17, 2019—8:30 a.m. until 5:00 p.m.

The Subcommittee will review the staff's evaluation of Chapters 4, "Reactor," and Chapter 5, "Reactor Coolant System and Connecting Systems" of the NuScale design certification application. The Subcommittee will hear presentations by and hold discussions with the NRC staff, NuScale and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Michael Snodderly (Telephone 301-415-2241 or Email: [Michael.Snodderly@nrc.gov](mailto:Michael.Snodderly@nrc.gov)) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. The public bridgeline number for the meeting is 866-822-3032, passcode 8272423. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on December 7, 2018 (83 FR 26506).

Detailed meeting agendas and meeting transcripts are available on the NRC website at <http://www.nrc.gov/reading-rm/doc-collections/acrs>. Information

regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the website cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, Maryland. After registering with Security, please contact Paula Dorm (Telephone 301-415-7799) to be escorted to the meeting room.

Dated: April 1, 2019.

**Lawrence Burkhardt,**

*Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.*

[FR Doc. 2019-06665 Filed 4-4-19; 8:45 am]

**BILLING CODE 7590-01-P**

## POSTAL REGULATORY COMMISSION

**[Docket Nos. MC2019-114 and CP2019-123; MC2019-115 and CP2019-124]**

### New Postal Products

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* April 8, 2019.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

**SUPPLEMENTARY INFORMATION:**

### Table of Contents

- I. Introduction
- II. Docketed Proceeding(s)

## I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.<sup>1</sup>

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

## II. Docketed Proceeding(s)

1. *Docket No(s):* MC2019-114 and CP2019-123; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 98 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 29, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5;

<sup>1</sup> See Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19-22 (Order No. 4679).

*Public Representative:* Gregory Stanton; *Comments Due:* April 8, 2019.

2. *Docket No(s):* MC2019-115 and CP2019-124; *Filing Title:* USPS Request to Add Priority Mail Contract 518 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 29, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5; *Public Representative:* Gregory Stanton; *Comments Due:* April 8, 2019.

This Notice will be published in the **Federal Register**.

**Stacy L. Ruble,**

*Secretary.*

[FR Doc. 2019-06619 Filed 4-4-19; 8:45 am]

**BILLING CODE 7710-FW-P**

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request Copies Available*

*From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

*Extension:*

Form S-8, SEC File No. 270-66, OMB Control No. 3235-0066

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form S-8 (17 CFR 239.16b) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) is the primary registration statement used by eligible registrants to register securities to be issued in connection with an employee benefit plan. We estimate that Form S-8 takes approximately 24 hours per response to prepare and is filed by approximately 2,059 respondents. In addition, we estimate that 50% of the preparation time (12 hours) is completed in-house by the filer for a total annual reporting burden of 24,708 (12 hours per response × 2,059 responses).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection

of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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 control number.

Please direct your written comments to Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: April 2, 2019.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019-06679 Filed 4-4-19; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85482; File No. SR-CboeEDGX-2019-012]

### Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Introduce Retail Priority

April 2, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 18, 2019, Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) 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

Cboe EDGX Exchange, Inc. (“EDGX” or the “Exchange”) is filing with the Securities and Exchange Commission (the “Commission”) a proposed rule change to introduce order book priority for equity orders submitted on behalf of

retail investors. The text of the proposed rule change is attached as Exhibit 5 [sic].

The text of the proposed rule change is also available on the Exchange’s website ([http://markets.cboe.com/us/options/regulation/rule\\_filings/edgx/](http://markets.cboe.com/us/options/regulation/rule_filings/edgx/)), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The purpose of the proposed rule change is to introduce order book priority for equity orders submitted on behalf of retail investors. Forty three million U.S. households hold a retirement or brokerage account,<sup>3</sup> and these investors are increasingly turning to the equities markets to fund important life goals. It is therefore critical that our markets are sensitive to the needs of the investing public. The Exchange continuously strives to innovate and improve market structure in ways that facilitate ordinary investors achieving their investment goals. The proposed introduction of retail priority is designed with this objective in mind. The Exchange believes that introducing retail priority may provide retail investors with better execution quality and better position the Exchange as the “home” for retail limit orders. This, in turn, will further allow retail liquidity to contribute to overall price formation and attract more market participants to the Exchange, creating a richer and more diverse ecosystem with deeper liquidity. Retail priority would therefore be consistent with the goals of the

<sup>3</sup> See The Evolving Market for Retail Investment Services and Forward-Looking Regulation—Adding Clarity and Investor Protection while Ensuring Access and Choice, Chairman Jay Clayton, Commission (May 2, 2018), available at <https://www.sec.gov/news/speech/speech-clayton-2018-05-02>.

Commission to encourage markets that are structured to benefit ordinary investors,<sup>4</sup> while facilitating order interaction and price discovery to the benefit of all market participants.

#### Background

As defined in EDGX Rule 11.21, a “Retail Order” is an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03<sup>5</sup> that originates from a natural person and is submitted to the Exchange by a Retail Member Organization, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology.<sup>6</sup> A “Retail Member Organization” or “RMO” is a Member (or a division thereof) that has been approved by the Exchange under EDGX Rule 11.21 to submit Retail Orders. Pursuant to EDGX Rule 11.21(b), which describes the qualification and application process for becoming a Retail Member Organization, any member may qualify as a Retail Member Organization if it conducts a retail business or routes retail orders on behalf of another broker-dealer.

Today, the Exchange operates based on a price/display/time priority execution algorithm that is similar to those employed by most other U.S. equities exchanges.<sup>7</sup> As such, the first Displayed<sup>8</sup> order resting on the EDGX Book<sup>9</sup> at a particular price has priority over the next order and so on based on the time of order entry. Non-

<sup>4</sup> See e.g., U.S. Securities and Exchange Commission, Strategic Plan, Fiscal Years 2018–2022, available at [https://www.sec.gov/files/SEC\\_Strategic\\_Plan\\_FY18-FY22\\_FINAL\\_0.pdf](https://www.sec.gov/files/SEC_Strategic_Plan_FY18-FY22_FINAL_0.pdf) (“Commission Strategic Plan”).

<sup>5</sup> FINRA Rule 5320.03 clarifies that an RMO may enter Retail Orders on a riskless principal basis, provided that (i) the entry of such riskless principal orders meet the requirements of FINRA Rule 5320.03, including that the RMO maintains supervisory systems to reconstruct, in a time-sequenced manner, all Retail Orders that are entered on a riskless principal basis; and (ii) the RMO submits a report, contemporaneously with the execution of the facilitated order, that identifies the trade as riskless principal.

<sup>6</sup> Retail Member Organizations will only be able to designate their orders as Retail Orders on either an order-by-order basis using FIX ports or by designating certain of their FIX ports at the Exchange as “Retail Order Ports.” Unless otherwise instructed by the Retail Member Organization, a Retail Order will be identified as Retail when routed to an away Trading Center. See EDGX Rule 11.21(d).

<sup>7</sup> See EDGX Rule 11.12.

<sup>8</sup> “Displayed” is an instruction the User may attach to an order stating that the order is to be displayed by the System on the EDGX Book. See EDGX Rule 11.6(e)(1).

<sup>9</sup> “EDGX Book” means the System’s electronic file of orders. See EDGX Rule 1.5(d).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

Displayed<sup>10</sup> orders at that price are further categorized into a number of priority bands, with orders within each priority band prioritized again based on the time of order entry, as provided in EDGX Rule 11.9. The generally applicable allocation bands for orders executed on the Exchange are described in EDGX Rule 11.9(a)(2)(A), and similar allocation bands applicable to orders executed at the midpoint of the NBBO are described in EDGX Rule 11.9(a)(2)(B).<sup>11</sup> The price time allocation model has provided significant benefits to the equities markets as it encourages increased efficiency by rewarding market participants that are the first to provide liquidity at a particular price. At the same time, because this allocation methodology preferences speed, retail investors may have a more limited ability to secure an execution for their non-marketable orders under this model. The Exchange believes that retail priority would improve trading outcomes for Retail Orders and could perhaps encourage even more retail order flow to be entered into the displayed market.

#### Retail Priority Proposal

The Exchange proposes to introduce retail priority in order to ensure that non-marketable orders submitted on behalf of retail investors can more readily compete for execution with orders entered by sophisticated market participants that may be better equipped to optimize their place in the intermarket queue. Retail priority would be in place during all trading sessions, and would also be available to orders entered for participation in the Exchange's opening process and the re-opening process following a halt.

As proposed, the portion of a Retail Order with a Displayed instruction would be given allocation priority ahead of all other available interest on the EDGX Book. This would be true of both orders executed pursuant to the regular priority bands described in EDGX Rule 11.9(a)(2)(A), and orders priced at the midpoint of the NBBO pursuant to EDGX Rule 11.9(a)(2)(B) where Retail Orders subject to Display-Price Sliding<sup>12</sup> would have priority ahead of limit orders entered with such an instruction as well as any other orders

<sup>10</sup> "Non-Displayed" is an instruction the User may attach to an order stating that the order is not to be displayed by the System on the EDGX Book. See EDGX Rule 11.6(e)(2).

<sup>11</sup> In addition, EDGX Rule 11.9(a)(2)(C) describes the sequence in which orders are timestamped when re-ranked by the System upon clearance of a locking quotation.

<sup>12</sup> Display-Price Sliding is an order instruction provided for compliance with Rule 610(d) of Regulation NMS. See EDGX Rule 11.6(l)(B).

resting at the midpoint of the NBBO.<sup>13</sup> In addition, since Reserve Orders contain a Displayed instruction but include both Displayed and Non-Displayed shares, the Reserve Quantity<sup>14</sup> of Retail Orders would be given priority ahead of the Reserve Quantity of other limit orders on the EDGX Book.

Retail Orders that are not willing to be displayed, or are only willing to be displayed at a less aggressive price than the execution price, would not receive any special priority. For example, a Retail Order that is entered as a MidPoint Peg Order,<sup>15</sup> which by definition is Non-Displayed, would be prioritized along with all other MidPoint Peg Orders notwithstanding the fact that it is a Retail Order. Similarly, a MidPoint Discretionary Order ("MDO")<sup>16</sup> executed within its Discretionary Range would receive the same priority as other orders entered with a Discretionary Range instruction, regardless of whether the MDO is displayed at its pegged price.

The following examples illustrate the proposed implementation of retail priority:<sup>17</sup>

*Example 1: Displayed Retail Order has Priority at a Given Price.*

NBBO: \$10.00 × \$10.10

Order 1: Buy 100 shares @ \$10.00—

Displayed, Non-Retail Order

Order 2: Buy 100 shares @ \$10.00—

Displayed, Retail Order

Order 3: Sell 100 shares @ \$10.00

A Retail Order entered with a Displayed instruction would have priority over Non-Retail Orders at the same price. As a result, Order 3 would trade with Order 2 for 100 shares @ \$10.00, securing a timely execution for the retail investor.

*Example 2: Better Priced Non-Retail Order has Priority.*

<sup>13</sup> The midpoint of the NBBO is a non-displayed price, and therefore orders entered with Display-Price Sliding, which are willing to be displayed at the applicable locking or crossing price are given priority pursuant to current EDGX Rule 11.9(a)(2)(B).

<sup>14</sup> "Reserve Quantity" is the portion of an order that includes a Non-Displayed instruction in which a portion of that order is also displayed on the EDGX Book. See EDGX Rule 11.6(m).

<sup>15</sup> A "MidPoint Peg Order" is a non-displayed Market Order or Limit Order with an instruction to execute at the midpoint of the NBBO, or, alternatively, pegged to the less aggressive of the midpoint of the NBBO or one minimum price variation inside the same side of the NBBO as the order. See EDGX Rule 11.8(d).

<sup>16</sup> A "MidPoint Discretionary Order" is a Limit Order that is executable at the NBB for an order to buy or the NBO for an order to sell while resting on the EDGX Book, with discretion to execute at prices to and including the midpoint of the NBBO. See EDGX Rule 11.8(g).

<sup>17</sup> In each example, orders are shown in the order in which they are entered.

NBBO: \$10.00 × \$10.10

Order 1: Buy 100 shares @ \$10.00—  
Retail Order

Order 2: Buy 100 shares @ \$10.01—Non-  
Retail Order

Order 3: Sell 100 shares @ \$10.00

Allocations would continue to be prioritized based on price. Although Retail Orders entered with a Displayed instruction would have priority over Non-Retail Orders at the same price, they would not have priority over Non-Retail Orders at a better price. As a result, Order 3 would trade with the better priced Order 2 for 100 shares @ \$10.01.

*Example 3: No Retail Priority for Non-Displayed Orders.*

NBBO: \$10.00 × \$10.10

Order 1: Buy 100 shares @ \$10.01—Non-  
Displayed, Non-Retail Order

Order 2: Buy 100 shares @ \$10.01—Non-  
Displayed, Retail Order

Order 3: Sell 100 shares @ \$10.00

A Retail Order entered with a Non-Displayed instruction is not eligible for retail priority. As a result, Order 3 trades with Order 1 for 100 shares @ \$10.01 based on time priority. Retail Orders would need to be submitted with a Displayed or Reserve instruction to qualify for the benefits of retail priority, which should encourage displayed retail liquidity.

*Example 4: No Retail Priority in Discretionary Range.*

NBBO: \$10.00 × \$10.10

Order 1: Buy 100 shares @ \$10.00 +  
\$0.03 Discretion—Non-Retail Order

Order 2: Buy 100 shares @ \$10.00 +  
\$0.03 Discretion—Retail Order

Order 3: Sell 100 shares @ \$10.02

Retail Orders would only have priority if willing to be displayed at the execution price. Although orders entered with a Discretionary Range instruction may be displayed at their ranked price, the execution would occur at a non-displayed price within the Discretionary Range. As a result, Order 3 trades with Order 1 for 100 shares @ \$10.02 based on time priority.<sup>18</sup>

*Example 5: Retail Reserve Order has Displayed and Non-Displayed Priority.*

NBBO: \$10.00 × \$10.10

Order 1: Buy 500 @ \$10.00—Non-Retail  
Reserve Order, 100 shares displayed

Order 2: Buy 500 @ \$10.00—Retail  
Reserve Order, 100 shares displayed

Order 3: Sell 300 @ \$10.00

<sup>18</sup> If Order 3 was to sell 100 shares @ \$10.00 then retail priority would be observed at the displayed price and Order 3 would trade with Order 2 for 100 shares @ \$10.00.

A Retail Order entered as a Reserve Order would have retail priority for both displayed and non-displayed size. However, any Reserve Quantity would be executed after other orders with a higher priority, including the displayed size available from Non-Retail Orders. As a result, Order 3 would trade 100 shares @ \$10.00 with Order 2 based on retail priority, then would trade 100 shares @ \$10.00 with Order 1. After exhausting the available displayed size, Order 3 would trade the remaining 100 shares @ \$10.00 with Order 2 based on retail priority.

*Example 6: Display-Price Sliding Retail Orders are Eligible for Priority at Midpoint.*

NBBO: \$10.00 × \$10.01

EDGX BBO: \$10.00 × \$10.02

Order 1: Buy 100 shares @ \$10.01—Book Only, Display-Price Sliding, Non-Retail Order

Order 2: Buy 100 shares @ \$10.01—Book Only, Display-Price Sliding, Retail Order

Order 3: Sell 100 shares @ \$10.01—Post Only

Order 4: Sell 100 shares @ \$10.00

Due to the Display-Price Sliding instruction, both Order 1 and Order 2 are originally ranked at \$10.01 and displayed at \$10.00 to avoid locking the National Best Offer at \$10.01.<sup>19</sup> Then, because of the Post Only instruction, Order 3 posts and displays on the EDGX Book at \$10.01. Since there is displayed interest now resting on the same side of the order book, Order 4 is eligible for execution on entry at the midpoint price of \$10.005—*i.e.*, one-half minimum price variation better than Order 3.<sup>20</sup> At the midpoint of the NBBO, a Retail Order subject to Display-Price Sliding that is willing but unable to display at or better than the execution price would have priority over other orders. As a result, Order 4 would trade with Order 2 for 100 shares @ \$10.005, securing a timely execution for the retail investor.

#### Retail Attribution

A Retail Member Organization on EDGX has the option of designating Retail Orders to be identified as such on the EDGX Book Feed,<sup>21</sup> which may increase potential execution opportunities for that order. Today, pursuant to EDGX Rule 11.21(f), this designation may be made on either an

order-by-order or port-by-port basis,<sup>22</sup> thereby giving members flexibility in how they would like their Retail Orders attributed on the Exchange. To support the introduction of retail priority, the Exchange proposes to instead provide that Retail Orders will always be designated as such on the EDGX Book Feed.<sup>23</sup> Although Retail Member Organizations have the choice today to determine which Retail Orders would be marked as such on market data, the Exchange believes that it is important to ensure that orders given retail priority would be considered attributable. Designating Retail Orders on the EDGX Book Feed will increase transparency by informing market participants when there is retail investor interest available to trade on the Exchange, thereby allowing market participants to make informed routing decisions, including the decision to route contra-side interest to trade with such Retail Orders. Although the Exchange would remove the optionality previously available under EDGX Rule 11.21(f), based on the Exchange's experience with attribution, this approach has the potential to increase execution opportunities for Retail Orders (and other non-marketable orders) by encouraging additional order flow to be routed to the Exchange to trade with resting Retail Orders.<sup>24</sup>

#### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,<sup>25</sup> in general, and Section 6(b)(5) of the Act,<sup>26</sup> in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and not to permit unfair discrimination

<sup>22</sup> A Retail Member Organization that instructs the Exchange to identify all its Retail Orders as Retail on a Retail Order Port is able to override such setting and designate any individual Retail Order from that port as Attributable or as Non-Attributable, as set forth in Rule 11.6(a). See EDGX Rule 11.21(f).

<sup>23</sup> The retail indicator on the EDGX Book Feed would indicate that the order is a Retail Order and would not provide the market participant identifier ("MPID") of the entering firm. Members may separately include an Attributable instruction on their orders pursuant to Rule 11.6(a) if they would also like MPID attribution.

<sup>24</sup> Prior to the original introduction of retail attribution, the Exchange conducted a study that found that Retail Orders received an 18% higher execution rate when members used Attributable Orders to include their MPID in the published quote on the EDGX Book Feed. See Securities Exchange Act Release No. 72016 (April 24, 2014), 79 FR 24463 (April 30, 2014) (SR-EDGX-2014-13).

<sup>25</sup> 15 U.S.C. 78f(b).

<sup>26</sup> 15 U.S.C. 78f(b)(5).

between customers, issuers, brokers, or dealers.

The Commission has consistently emphasized the need to ensure that the U.S. capital markets are structured with the interests of retail investors in mind, and recently highlighted its focus on the "long-term interest of Main Street Investors" as the agency's number one strategic goal for fiscal years 2018 to 2022.<sup>27</sup> The Exchange believes that retail priority is consistent with the goals of the Commission to ensure that the equities markets continue to serve the needs of the investing public. Specifically, introducing retail priority would protect investors and the public interest by giving retail investors the tools needed to compete for executions on non-marketable order flow submitted to a national securities exchange. The Exchange is committed to innovation that improves the quality of the equities markets, and believes that retail priority may increase the attractiveness of the Exchange for the execution of Retail Orders submitted on behalf of the millions of ordinary investors that rely on these markets for their investment needs.

Although the Commission has approved other allocation methodologies for equities trading,<sup>28</sup> most equities exchanges, including EDGX, continue to determine priority based on a price/display/time allocation model today. This has contributed to deep and liquid markets for equity securities as liquidity providers compete to be the first to establish a particular price. At the same time, ordinary investors may not be able to compete with market makers and other automated liquidity providers to be the first to set a new price. Importantly, retail investors, in contrast to their professional counterparts, tend to have longer investment time horizons and are not in the business of optimizing queue placement under a time based allocation model. Thus, in order to facilitate the needs of these ordinary investors, the Exchange believes that an alternative approach is needed.

The proposed introduction of retail priority is designed, first and foremost, to benefit retail investors by increasing both the likelihood and speed with which their non-marketable orders are executed. Unlike marketable retail order flow that is routinely executed in full on

<sup>27</sup> See Commission Strategic Plan, *supra* note 4.

<sup>28</sup> Nasdaq PSX, for example, operates with a price setter pro rata model that rewards liquidity providers that set the best price and then rewards other market participants that enter larger sized orders. See Securities Exchange Act Release No. 72250 (May 23, 2014), 79 FR 31147 (May 30, 2014) (SR-Phlx-2014-24).

<sup>19</sup> An order with a Display-Price Sliding instruction that would be a locking quotation on entry is instead ranked at the locking price and displayed at a price that is one minimum price variation less aggressive than the locking price. See EDGX Rule 11.6(l)(B).

<sup>20</sup> See EDGX Rule 11.6(l)(1)(B)(v); EDGX Rule 11.10(a)(4)(D).

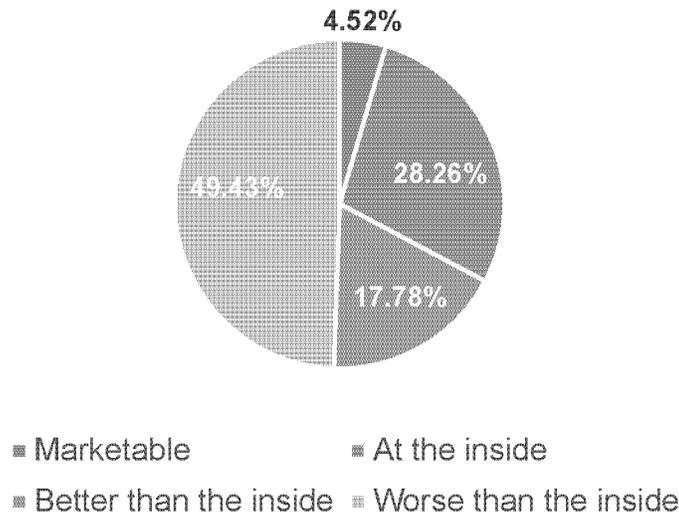
<sup>21</sup> See EDGX Rule 13.8.

entry at the national best bid or offer or better, non-marketable retail order flow has to compete for execution with orders entered by sophisticated market participants that may be quicker to

establish a new price. As shown in the chart below,<sup>29</sup> the Exchange has found that in 2018, of volume executed from retail limit orders, 28.3% joined the national best bid or offer (“NBBO”) on

entry, 17.8% were priced better than the inside, and 49.4% were priced worse than the inside.

## EDGX Retail Limit Order Volume by Marketability



Although potentially beneficial for all Retail Orders that do not trade immediately on entry, the Exchange believes that retail priority would be particularly beneficial to Retail Orders that join the NBBO, as there would often already be a queue at this price. Introducing retail priority would thus give retail investors the ability to compete for an execution for these orders, and may therefore improve trading outcomes. As such, the Exchange believes that the proposed rule change is consistent with the goals of the Exchange, and of the Commission, to ensure that market structure evolves in ways that protect ordinary investors that participate in the capital markets. Furthermore, since retail priority is designed to improve trading outcomes for ordinary investors, the Exchange also believes that it may encourage retail brokers to route additional non-marketable retail order flow to the EDGX Book, which may broaden execution opportunities for other market participants. If successful in attracting retail order flow to the Exchange, the proposed rule change

would benefit market participants by increasing the diversity of order flow with which other they can interact on a national securities exchange, thereby increasing order interaction and contributing to price formation.

Giving queue priority to ordinary investors is not a novel concept in the securities markets. In fact, customer priority has a long tradition in the options market where orders entered on behalf of non-broker dealer public customers have historically been afforded priority over orders submitted by registered broker dealers. Today, most options exchanges, including the Exchange’s equity options platform (“EDGX Options”),<sup>30</sup> employ a customer priority execution algorithm where orders submitted by a subset of public customers with more limited trading activity (*i.e.*, “Priority Customers”)<sup>31</sup> are provided order book priority ahead of orders submitted by broker-dealers or other market professionals at the same price. This allocation model, which was first introduced by the International Securities Exchange LLC (“ISE”) in its current retail focused form a decade

ago,<sup>32</sup> ensures that orders from Priority Customers are executed ahead of similarly priced interest from sophisticated market participants. The Exchange believes that the time has come to introduce a similar concept for the equities market in order to facilitate the needs of retail investors that increasingly rely on these markets.

The Commission has approved other equities proposals to introduce meaningful market structure benefits for retail investors in recent years. For example, in 2012, the Commission approved proposals filed by the New York Stock Exchange LLC (“NYSE”) and its affiliate NYSE Amex LLC (“Amex”) to introduce retail price improvement programs.<sup>33</sup> Those programs were designed to provide price improvement opportunities for retail investors on a national securities exchange by allowing liquidity providers to give sub-penny price improvement to their orders pursuant to an exemption granted from Rule 612 of Regulation NMS. Similar programs now exist on a number of exchanges, including the Exchange’s affiliate, Cboe BYX Exchange, Inc.

<sup>29</sup> Based on Retail Orders entered by members that have completed a retail attestation.

<sup>30</sup> See EDGX Rule 21.8(d)(1).

<sup>31</sup> The term “Priority Customer” refers to any person or entity that is not a broker or dealer in securities and does not otherwise qualify as a

“Professional” by virtue of placing more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See *e.g.*, EDGX Rules 16.1(a)(46),(47).

<sup>32</sup> See Securities Exchange Act Release No. 59287 (January 23, 2009), 74 FR 5694 (January 30, 2009) (SR-ISE-2006-26).

<sup>33</sup> See Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40673 (July 10, 2012) (SR-NYSE-2011-55; SR-NYSEAmex-2011-84).

(“BYX”),<sup>34</sup> and have provided millions of dollars of price improvement to ordinary investors.<sup>35</sup> When approving such retail price improvement programs on a pilot basis, the Commission consistently found that the pilots were consistent with the Act because they were “reasonably designed to benefit retail investors” and could “promote competition for retail order flow among execution venues.” The benefits to retail investors in the form of meaningful price improvement opportunities similarly animated the Commission’s recent approval of the NYSE retail liquidity program on a permanent basis.<sup>36</sup> Although retail priority is designed to increase fill rates and speed of execution rather than price improvement, the Exchange believes that it could have a similarly meaningful impact on execution quality for ordinary investors that trade in the public market. Furthermore, retail priority would complement existing retail price improvement programs by offering market structure benefits to non-marketable retail order flow that cannot participate in those programs.

Similarly, in 2017, the Commission approved a proposed rule change by The Nasdaq Stock Market LLC (“Nasdaq”) to introduce the “Extended Life Priority Order Attribute” for Retail Orders that were willing to remain on the book unaltered for a period of one second (“Retail Extended Life Order” or “Retail ELO”).<sup>37</sup> As proposed, displayed orders entered on Nasdaq with the Retail ELO attribute were to be provided a higher priority than other orders resting on the Nasdaq order book. When the Commission approved this proposed rule change, it opined that the proposal “should benefit retail investors by providing enhanced order book priority to retail order flow that is not marketable upon entry,” and that “[s]uch enhanced order book priority could result in additional or more immediate execution opportunities on

the [e]xchange for resting retail orders that otherwise would be farther down in the order book queue, and thereby enhance execution opportunities for retail investors.”<sup>38</sup> The same is true of the Exchange’s retail priority proposal, which would provide similar benefits to retail investors without the additional complexity of requiring that the order be willing to exist unaltered on the order book for a specified period of time. While the Exchange believes that the majority of retail investors have a longer investment time horizon and therefore do not actively manage their trading interest at sub-second time intervals, the Exchange believes that a broader principle of retail priority may be more effective in encouraging retail brokers to route order flow to the Exchange.

The Exchange also believes that it is appropriate and not unfairly discriminatory to provide enhanced priority benefits solely to Retail Orders as the proposal is designed specifically to ensure that retail investors can compete for executions with sophisticated market participants. In today’s highly automated and efficient market, retail investors have a more limited opportunity to compete for an execution based purely on the time an order is placed. While sophisticated, latency sensitive market participants can compete to be the first at any particular price, retail investors with longer investment horizons cannot compete in the same fashion. The proposed introduction of retail priority would ensure that non-marketable Retail Orders get filled first when there is available contra-side interest, and thereby improve investment outcomes for ordinary investors. The Commission has consistently held that it is consistent with the Act to offer certain advantages to retail customers,<sup>39</sup> and the proposal follows a line of other initiatives to improve the retail investor experience in the public markets. The Exchange believes that it is an important goal of both the Exchange and the Commission to ensure that our market structure continues to benefit retail investors by providing the tools that they need to invest in the capital markets. Although there are many ways to achieve that goal, the Exchange believes that doing so requires

innovation in how Retail Orders are handled on the national securities exchanges in order to attract that order flow back to the displayed market.

The Exchange also believes that it is consistent with the public interest and the protection of investors to provide retail priority exclusively to those orders that contain a Displayed or Reserve instruction. The goals of the proposed rule change are twofold. First, the proposed change is designed to facilitate better trading outcomes for retail investors, which may encourage retail brokers to send additional retail order flow to the Exchange. Second, the proposed change is designed to encourage additional displayed retail liquidity, which could contribute to price discovery and encourage additional order flow and liquidity from other market participants. Although the first purpose could be achieved without limiting retail priority to orders that contain a Displayed component at a particular price, the second is only achieved when such orders are displayed to the broader market. For that reason, recent priority enhancements for retail investors, such as Nasdaq’s Retail ELO, have also focused on displayed interest that could improve quote quality and contribute to a vibrant market.

Finally, the Exchange believes that it is consistent with just and equitable principles of trade to require that all Retail Orders that are eligible for retail priority be considered retail attributable as this would allow other market participants to gauge the available size in orders that would be eligible for retail priority. Today, Retail Member Organizations are given the choice as to whether to designate an order on the EDGX Book Feed as attributable to a retail investor, which may improve the chance of securing an execution. Although Retail Member Organizations would no longer have the option to submit eligible Retail Orders as non-attributable, the transparency achieved by so designating these orders is important to the proper functioning of a market where such orders would be eligible for priority. Furthermore, members would ultimately be able to decide which orders to designate into the EDGX Book as Retail Orders, thereby retaining the ability to control which orders are publicly attributed to retail investors. Priority Customer orders entered on the EDGX Options platform are similarly designated as such on the Exchange’s market data feeds today, and the Exchange believes that this has contributed positively to the overall market environment.

<sup>34</sup> See Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) (SR-BYX-2012-019). Nasdaq BX Inc. (“BX”) similarly operates its own retail price improvement program. See Securities Exchange Act Release No. 73702 (November 28, 2014), 79 FR 72049 (December 4, 2014) (SR-BX-2014-048).

<sup>35</sup> See e.g. Securities Exchange Act Release No. 83831 (August 13, 2018), 83 FR 41128 (August 17, 2018) (SR-ChoeBYX-2018-014).

<sup>36</sup> See Securities Exchange Act Release No. 85160 (February 15, 2019), 84 FR 5754 (February 22, 2019) (SR-NYSE-2018-28).

<sup>37</sup> See Securities Exchange Act Release No. 81097 (July 7, 2017), 82 FR 32386 (July 13, 2017) (SR-NASDAQ-2016-161) (“Retail ELO Approval”). Nasdaq ultimately decided not to implement Retail ELO following Commission approval, and has since introduced a “Midpoint Extended Life Order” that is not limited to retail participation.

<sup>38</sup> *Id.*

<sup>39</sup> Where the interest of long-term investors, such as the retail investors whose experience this filing is attempting to improve, diverges from that of short-term professional traders, the Commission “repeatedly has emphasized that its duty is to uphold the interests of long-term investors.” See Securities Exchange Act Release No. 61358 (January 14, 2010), 75 FR 3593 (January 21, 2010) (File No. S7-02-10) (“Concept Release on Equity Market Structure”).

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed rule change is designed to increase inter-market competition for retail order flow, and intra-market competition for orders as market participants compete to transact with Retail Orders entered on the EDGX Book. The proposed rule change represents an effort by the Exchange to enhance the ability for retail investors to participate effectively on a national securities exchange without unnecessarily burdening competition. Although retail priority would be limited to retail investors, the Exchange does not believe that this produces an unnecessary burden on competition as these changes are necessary to attract Retail Orders to a national securities exchange where they may interact with a wide range of market participants. If successful, the Exchange believes that retail priority would enhance competition by encouraging retail brokers to route increased order flow to the public markets, creating a more vibrant and competitive trading environment that benefits all market participants.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No comments were solicited or received on the proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be 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](mailto:rule-comments@sec.gov). Please include File Number SR-CboeEDGX-2019-012 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-CboeEDGX-2019-012. 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-CboeEDGX-2019-012 and should be submitted on or before April 26, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>40</sup>

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019-06720 Filed 4-4-19; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>40</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

#### Extension:

Industry Guides, SEC File No. 270-069, OMB Control No. 3235-0069.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Industry Guides are used by registrants in certain industries as disclosure guidelines to be followed in presenting information to investors in Securities Act (15 U.S.C. 77a *et seq.*) and Exchange Act (15 U.S.C. 78a *et seq.*) registration statements and certain other Exchange Act filings. The paperwork burden from the Industry Guides is imposed through the forms that are subject to the disclosure requirements in the Industry Guides and is reflected in the analysis of these documents. To avoid a Paperwork Reduction Act inventory reflecting duplicative burdens, for administrative convenience the Commission estimates the total annual burden imposed by the Industry Guides to be one hour.

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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 control number.

Please direct your written comment to Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA\_Mailbox@sec.gov*.

Dated: April 2, 2019.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019-06680 Filed 4-4-19; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-332, OMB Control No. 3235-0378]

### Proposed Collection; Comment Request

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

*Extension:*  
Form F-8

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form F-8 (17 CFR 239.38) may be used to register securities of certain Canadian issuers under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) that will be used in an exchange offer or business combination. The information collected is intended to ensure that the information required to be filed by the Commission permits verification of compliance with securities law requirements and assures the public availability of such information. We estimate that Form F-8 takes approximately one hour per response to prepare and is filed by approximately 5 respondents. We estimate that 25% of one hour per response (15 minutes) is prepared by the company for a total annual reporting burden of one hour (15 minutes/60 minutes per response × 5 responses = 1.25 hours rounded to the nearest whole number one hour).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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 control number.

Please direct your written comment to Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA\_Mailbox@sec.gov*.

Dated: April 2, 2019.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019-06683 Filed 4-4-19; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

*Extension:*

Rule 13e-1, SEC File No. 270-255, OMB Control No. 3235-0305.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 13e-1 (17 CFR 240.13e-1) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et seq.*) makes it unlawful for an issuer who has received notice that it is the subject of a tender offer made under Section 14(d)(1) of the Exchange Act to purchase any of its equity securities during the tender offer, unless it first files a statement with the Commission containing information required by the rule. This rule is in

keeping with the Commission's statutory responsibility to prescribe rules and regulations that are necessary for the protection of investors. The information filed under Rule 13e-1 must be filed with the Commission and is publicly available. We estimate that it takes approximately 10 burden hours per response to provide the information required under Rule 13e-1 and that the information is filed by approximately 10 respondents. We estimate that 25% of the 10 hours per response (2.5 hours) is prepared by the company for a total annual reporting burden of 25 hours (2.5 hours per response × 10 responses).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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 control number.

Please direct your written comment to Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA\_Mailbox@sec.gov*.

Dated: April 2, 2019.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019-06682 Filed 4-4-19; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

*Extension:*

Schedule 14D-9F, SEC File No. 270-339, OMB Control No. 3235-0382.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Schedule 14D–9F (17 CFR 240.14d–103) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et seq.*) is used by any foreign private issuer incorporated or organized under the laws of Canada or by any director or officer of such issuer, where the issuer is the subject of a cash tender or exchange offer for a class of securities filed on Schedule 14D–1F. The information required to be filed with the Commission is intended to permit verification of compliance with the securities law requirements and assures the public availability of such information. We estimate that Schedule 14D–9F takes approximately 2 hours per response to prepare and is filed by approximately 6 respondents annually for a total reporting burden of 12 hours (2 hours per response × 6 responses).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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 control number.

Please direct your written comment to Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: April 2, 2019.

**Eduardo A. Aleman,**  
Deputy Secretary.

[FR Doc. 2019–06678 Filed 4–4–19; 8:45 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

#### Extension:

Rule 14f–1, SEC File No. 270–127, OMB Control No. 3235–0108.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Under Exchange Act Rule 14f–1 (17 CFR 240.14f–1), if a person or persons have acquired securities of an issuer in a transaction subject to Sections 13(d) or 14(d) of the Exchange Act, and changes a majority of the directors of the issuer otherwise than at a meeting of security holders, then the issuer must file with the Commission and transmit to security holders information related to the change in directors within 10 days prior to the date the new majority takes office as directors. The information filed under Rule 14f–1 must be filed with the Commission and is publicly available. We estimate that it takes approximately 18 burden hours to provide the information required under Rule 14f–1 and that the information is filed by approximately 64 respondents for a total annual reporting burden of 1,152 hours (18 hours per response × 64 responses).

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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 control number.

Please direct your written comment to Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: April 2, 2019.

**Eduardo A. Aleman,**  
Deputy Secretary.

[FR Doc. 2019–06681 Filed 4–4–19; 8:45 am]

BILLING CODE 8011–01–P

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #15921 and #15922; Cahuilla Band of Indians Disaster Number CA–00304]**

### Presidential Declaration of a Major Disaster for Public Assistance Only for the Cahuilla Band of Indians

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the Cahuilla Band of Indians (FEMA–4423–DR), dated 03/28/2019.

*Incident:* Severe Storms and Flooding.  
*Incident Period:* 02/14/2019.

**DATES:** Issued on 03/28/2019.

*Physical Loan Application Deadline Date:* 05/28/2019.

*Economic Injury (EIDL) Loan Application Deadline Date:* 12/30/2019.

**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 03/28/2019, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Area:* Cahuilla Band of Indians.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Non-Profit Organizations with Credit Available Elsewhere ...	2.750
Non-Profit Organizations without Credit Available Elsewhere .....	2.750
<i>For Economic Injury:</i>	
Non-Profit Organizations without Credit Available Elsewhere .....	2.750

The number assigned to this disaster for physical damage is 159216 and for economic injury is 159220.

(Catalog of Federal Domestic Assistance Number 59008)

**James Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2019-06669 Filed 4-4-19; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**Surrender of License of Small Business Investment Company**

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 04/04-0334 issued to Triangle Mezzanine Fund III, LP, said license is hereby declared null and void.

United States Small Business Administration.

Dated: February 5, 2019.

**A. Joseph Shepard,**

*Associate Administrator for Investment and Innovation.*

[FR Doc. 2019-06728 Filed 4-4-19; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #15882 and #15883; TEXAS Disaster Number TX-00513]**

**Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Texas**

**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 Texas (FEMA-4416-DR), dated 02/25/2019.

*Incident:* Severe Storms and Floods. *Incident Period:* 09/10/2018 through 11/02/2018.

**DATES:** Issued on 03/30/2019.

*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 Texas, dated 02/25/2019, is hereby amended to include the following areas as adversely affected by the disaster.

*Primary Counties:* Polk, Schleicher, Walker.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

**James Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2019-06671 Filed 4-4-19; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #15896 and #15897; Nebraska Disaster Number NE-00073]**

**Presidential Declaration Amendment of a Major Disaster for the State of Nebraska**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 1.

**SUMMARY:** This is an amendment 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 03/29/2019.

*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:** The notice of the President's major disaster declaration for the State of Nebraska, dated 03/21/2019, is hereby amended to include the following areas as adversely affected by the disaster:

*Primary Counties (Physical Damage and Economic Injury Loans):* Boone, Buffalo, Custer, Knox, Richardson, Thurston and the Santee Sioux Nation.

*Contiguous Counties (Economic Injury Loans Only):*

Nebraska: Adams, Antelope, Blaine, Boyd, Cedar, Dakota, Dawson, Dixon, Garfield, Greeley, Hall, Holt, Howard, Kearney, Lincoln, Logan, Loup, Madison, Nance, Phelps, Pierce, Sherman, Valley, Wayne, Wheeler.

Iowa: Monona, Woodbury.

Kansas: Brown, Doniphan, Nemaha. South Dakota: Bon Homme, Charles Mix, Yankton.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

**James Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2019-06670 Filed 4-4-19; 8:45 am]

**BILLING CODE 8025-01-P**

**DEPARTMENT OF STATE**

**[Public Notice: 10725]**

**Space Enterprise Summit, June 26-27, 2019**

**ACTION:** Notice of a meeting

**SUMMARY:** The U.S. Department of State announces a joint event with the Department of Commerce to further Space Policy Directive-3 activities, to forge partnerships with the space industry, and to promote U.S. Government and commercial best practices and standards for space safety and the preservation of the global space environment.

**DATES:** Wednesday, 26 June, 2019, from 2:00 p.m. to 5:30 p.m.; and Thursday, 27 June, 2019, from 9:00 a.m. to 5:00 p.m.

**ADDRESSES:** The Loy Henderson Conference Room, Department of State,

2201 C Street Northwest, Washington, District of Columbia 20520.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Wan, Space Enterprise Summit Coordinator, Office for Space and Advanced Technology, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington, DC 20522, phone 202-663-2672, or email [spacesummit@state.gov](mailto:spacesummit@state.gov). For inquiries specifically related to press and/or media, please contact [OES-PA-DG@state.gov](mailto:OES-PA-DG@state.gov).

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public, including the media and members and staff of governmental and nongovernmental organizations, up to the seating capacity of the room; prior registration through the event website is required. Confirmed attendees should plan to arrive at least thirty minutes in advance to check-in at registration desks and allow for a prompt start. For more information on the Space Enterprise Summit, please visit: <https://www.state.gov/e/oes/sat/spacesummit/index.htm>

The agenda for the meeting includes the following topics:

- *U.S. Commercial Space Activities:* Outline innovative commercial space activities, the government role in stimulating such activities, and highlight examples of industry spurring changes in government activity.

- *The International Dimension:* Industry and government to explore the challenges and opportunities of international collaboration and competition resulting from the global nature of the commercial space enterprise.

- *Removing Regulatory Barriers:* Developing a robust commercial space economy through the creation of a more permissive, “light-touch” regulatory regime that accommodates rapid innovation and expansion of commercial markets.

- *Responsible Behavior in Space:* Explore efforts to improve responsible behavior in space. Examine best practices and guidelines in long term sustainability for preserving the outer space environment for future commercial space investment and use.

- *Role of International Institutions:* Impact of UN, international trade, international financial regulation, and other institutions that potentially affect value and access for space products and services.

- *Improving Analysis and Narratives for the Value of Space:* Encouraging a better understanding of the economic value of space activities on earth.

- *Best Practices in Civil SSA/STM and Debris Removal:* The respective

roles of government and commercial actors in protecting the space environment and creating industry standards and best practices regarding civil SSA/STM.

**Kenneth D. Hodgkins,**

*Director, Office of Space and Advance Technology, Department of State.*

[FR Doc. 2019-06726 Filed 4-4-19; 8:45 am]

**BILLING CODE 4710-09-P**

## **SURFACE TRANSPORTATION BOARD**

[Docket No. FD 36276]

### **CWW, LLC—Change in Operator Exemption Assigning Union Pacific Railroad Company Lease With Interchange Commitment—Palouse River & Coulee City Railroad, L.L.C.**

CWW, LLC (CWW), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to assume operation of approximately 55.56 miles of interconnected railroad line owned by the Union Pacific Railroad Company (UP) and currently leased and operated by the Palouse River & Coulee City Railroad, L.L.C. (PCC), located between: (1) Milepost 3.76, at Zangar Jct., Wash., and milepost 33.0 at Walla Walla, Wash.; and (2) milepost 46.8 at Walla Walla and milepost 20.48 at Weston, Or. (the Line).

PCC has been operating over the Line pursuant to a 1992 lease agreement.<sup>1</sup> CWW states that it is entering into an Assignment Agreement with UP and PCC pursuant to which the 1992 lease is being assigned to CWW. Upon consummation of the transaction, CWW will provide common carrier rail service in place of PCC.<sup>2</sup>

CWW notes that the 1992 lease agreement being assigned to it contains an interchange commitment with UP.<sup>3</sup> CWW has provided additional information regarding the interchange

<sup>1</sup> The lease was originally between UP and Blue Mountain Railroad, Inc. (BMR). See *Blue Mountain R.R.—Lease, Acquis. & Operation Exemption—Union Pac. R.R.*, FD 32193 (ICC served Dec. 1, 1992). In 2000, BMR was merged into PCC. See *Watco Co.—Corporate Family Transaction Exemption*, FD 33898 (STB served July 24, 2000).

<sup>2</sup> On December 20, 2018, PCC filed a petition under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 to discontinue its lease operations over the Line in Docket No. AB 570 (Sub-No. 4X). The Board instituted an exemption proceeding in that docket on February 7, 2019. CWW's verified notice here states that PCC has advised CWW that it will withdraw that petition for exemption “upon the Board approving this proceeding and upon CWW and UP consummating their transaction. (CWW Verified Notice 4.)

<sup>3</sup> A copy of the 1992 lease agreement with the interchange commitment was submitted under seal with the verified notice. See 49 CFR 1150.43(h)(1).

commitment as required by 49 CFR 1150.43(h).

CWW certifies that its projected annual revenues as a result of the transaction will not result in the creation of a Class II or Class I carrier and will not exceed \$5 million.

Under 49 CFR 1150.42(b), a change in operator requires that notice be given to shippers. CWW certifies that it has provided notice of the proposed transaction and interchange commitment to shippers that currently use or have used the Line in the last two years.

The earliest this transaction may be consummated is April 19, 2019 (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than April 12, 2019 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36276, must be filed with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001. In addition, one copy of each pleading must be served on CWW's representative, James H. M. Savage, 22 Rockingham Ct., Germantown, MD 20874.

According to CWW, this action is excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b)(1).

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: April 2, 2019.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.

**Raina Contee,**  
*Clearance Clerk.*

[FR Doc. 2019-06755 Filed 4-4-19; 8:45 am]

**BILLING CODE 4915-01-P**

## **SURFACE TRANSPORTATION BOARD**

[Docket No. AB 1237 (Sub-No. 1X)]

### **New Hampshire Department of Transportation—Abandonment Exemption—Between Littleton, N.H., and Bethlehem, N.H.**

New Hampshire Department of Transportation (NHDT) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt*

*Abandonments* to abandon 6.86 miles of rail line located between milepost C113, station 995+66, at Industrial Drive in Littleton, N.H., and milepost C119.86, station 1359+77, a point 3.35 miles east of the Littleton/Bethlehem, N.H., town line (the Line).<sup>1</sup> The Line traverses U.S. Postal Service Zip Codes 03561 and 03574.

NHDOT has certified that: (1) No rail traffic has moved over the Line for at least two years; (2) there is no overhead traffic on this Line; (3) no formal complaint filed by a user of a 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 1105.12 (newspaper publication), 49 CFR 1152.50(d)(1) (notice to governmental agencies), and 49 CFR 1105.7 and 1105.8 (environment and historic report), 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)<sup>2</sup> has been received, this exemption will be effective on May 5, 2019, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>3</sup>

<sup>1</sup> NHDOT filed its verified notice of exemption on January 28, 2019. The verified notice initially did not include a certification that NHDOT had complied with the notice requirements of 49 CFR 1105.11 (environmental report). See 49 CFR 1152.50(d)(2). On March 11, 2019, NHDOT supplemented its verified notice with a certification that it served its environmental report on the agencies identified in 49 CFR 1105.7(b) on February 26, 2019. Accordingly, NHDOT's verified notice is considered to have been filed on March 18, 2019, 20 days after NHDOT served its environmental report on the required agencies.

<sup>2</sup> 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).

<sup>3</sup> 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

formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>4</sup> and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by April 15, 2019. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 25, 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 NHDOT's representatives: Allison B. Greenstein, Assistant Attorney General, Transportation & Construction Bureau, 33 Capitol Street, Concord, NH 03301-6397; and Jack E. Dodd, Rail Business Consultant, 73 Bishop Street, Saint Albans, VT 05478.

If the verified notice contains false or misleading information, the exemption is void ab initio.

NHDOT has filed a combined environmental and historic report that addresses the potential effects of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by April 12, 2019. The EA will be available to interested persons on the Board's website, by writing to OEA, 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), NHDOT 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 NHDOT's filing of a notice of consummation by April 5, 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](http://www.stb.gov).

Decided: April 2, 2019.

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.

<sup>4</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,800. See 49 CFR 1002.2(f)(25).

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.

**Jeffrey Herzig,**  
Clearance Clerk.

[FR Doc. 2019-06748 Filed 4-4-19; 8:45 am]

BILLING CODE 4915-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of Meeting of the National Parks Overflights Advisory Group

**ACTION:** Notice of meeting.

**SUMMARY:** The Federal Aviation Administration (FAA) and the National Park Service (NPS), in accordance with the National Parks Air Tour Management Act of 2000, announce the next meeting of the National Parks Overflights Advisory Group (NPOAG). This notification provides the date, location, and agenda for the meeting.

**DATE AND LOCATION:** The NPOAG will meet on May 14-15, 2019. The meeting will take place in the Director's conference room of the Craig Thomas Discovery and Visitor Center, 1 Teton Park Road, Moose, WY, 83012. The meeting will be held from 8:30 a.m. to 4:00 p.m. on May 14 and from 8:30 a.m. to 11:30 a.m. on May 15, 2019. This NPOAG meeting will be open to the public. Because seating is limited, members of the public wishing to attend will need to contact the person listed under **FOR FURTHER INFORMATION CONTACT** by April 26, 2019 to ensure sufficient meeting space is available to accommodate all attendees.

**FOR FURTHER INFORMATION CONTACT:** Keith Lusk, AWP-1SP, Special Programs Staff, Federal Aviation Administration, Western-Pacific Region Headquarters, 777 South Aviation Boulevard, Suite 150, El Segundo, CA 92045, telephone: (424) 405-7017, email: [Keith.Lusk@faa.gov](mailto:Keith.Lusk@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The National Parks Air Tour Management Act of 2000 (NPATMA), enacted on April 5, 2000, as Public Law 106-181, required the establishment of the NPOAG within one year after its enactment. The Act requires that the NPOAG be a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator of the FAA and the Director of NPS (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve

alternating 1-year terms as chairperson of the advisory group.

The duties of the NPOAG include providing advice, information, and recommendations to the FAA Administrator and the NPS Director on; implementation of Public Law 106-181; quiet aircraft technology; other measures that might accommodate interests to visitors of national parks; and at the request of the Administrator and the Director, on safety, environmental, and other issues related to commercial air tour operations over national parks or tribal lands.

**Agenda for the May 14-15, 2019 NPOAG Meeting**

The agenda for the meeting will include, but is not limited to, an update on ongoing park specific air tour planning projects and commercial air tour reporting.

**Attendance at the Meeting and Submission of Written Comments**

Although this is not a public meeting, interested persons may attend. Because seating is limited, if you plan to attend please contact the person listed under

**FOR FURTHER INFORMATION CONTACT** so that meeting space may be made to accommodate all attendees. Written comments regarding the meeting will be accepted directly from attendees or may be sent to the person listed under **FOR FURTHER INFORMATION CONTACT**.

**Record of the Meeting**

If you cannot attend the NPOAG meeting, a summary record of the meeting will be made available under the NPOAG section of the FAA ATMP website at: [http://www.faa.gov/about/office\\_org/headquarters\\_offices/arc/programs/air\\_tour\\_management\\_plan/parks\\_overflights\\_group/minutes.cfm](http://www.faa.gov/about/office_org/headquarters_offices/arc/programs/air_tour_management_plan/parks_overflights_group/minutes.cfm). or through the Special Programs Staff, Western-Pacific Region, 777 South Aviation Boulevard, Suite 150, El Segundo, CA 90245, telephone: (424) 405-7017.

Issued in El Segundo, CA on March 25, 2019.

**Keith Lusk,**

*Program Manager, Special Programs Staff, Western-Pacific Region.*

[FR Doc. 2019-06763 Filed 4-4-19; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF THE TREASURY**

**Community Development Financial Institutions Fund**

**Funding Opportunity Title: Notice of Funds Availability (NOFA) Inviting Applications for Financial Assistance (FA) Awards or Technical Assistance (TA) Grants Under the Community Development Financial Institutions Program (CDFI Program) Fiscal Year (FY) 2019 Funding Round**

*Announcement Type:* Announcement of funding opportunity.

*Funding Opportunity Number:* CDFI-2019-FATA.

Catalog of Federal Domestic Assistance (CFDA) Number: 21.020.

**DATES:**

**TABLE 1—FY 2019 CDFI PROGRAM FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS**

Description	Deadline	Time (eastern time-ET)	Submission method
Last day to contact Certification, Compliance Monitoring and Evaluation (CCME) staff regarding CDFI Certification.	May 1, 2019 .....	11:59 p.m .....	Service Request via Award Management Information System (AMIS).
CDFI certification applications .....	May 3, 2019 .....	11:59 p.m .....	Electronically via AMIS.
Create AMIS Account (New Applicants) .....	May 3, 2019 .....	11:59 p.m .....	AMIS.
SF-424 (Application for Federal Assistance) .....	May 3, 2019 .....	11:59 p.m .....	Electronically via <i>Grants.gov</i> .
Last day to contact CDFI Program staff .....	June 4, 2019 .....	5:00 p.m .....	Service Request via AMIS Or CDFI Fund Helpdesk: 202-653-0421.
Last day to contact AMIS-IT Help Desk (regarding AMIS technical problems only).	June 6, 2019 .....	5:00 p.m .....	Service Request via AMIS Or 202-653-0422 Or <i>AMIS@cdfi.treas.gov</i> .
CDFI Program Application for Financial Assistance (FA) or Technical Assistance (TA).	June 6, 2019 .....	11:59 p.m .....	AMIS.

*Executive Summary:* Through the CDFI Program, the CDFI Fund provides (i) FA awards of up to \$1 million to Certified Community Development Financial Institutions (CDFIs) to build their financial capacity to lend to Eligible Markets and/or their Target Markets, and (ii) TA grants of up to \$125,000 to build Certified, Certifiable, and Emerging CDFIs' organizational capacity to serve Eligible Markets and/or their Target Markets. All awards provided through this NOFA are subject to funding availability.

**I. Program Description**

*A. History:* The CDFI Fund was established by the Riegle Community Development Banking and Financial Institutions Act of 1994 to promote

economic revitalization and community development through investment in and assistance to CDFIs. Since its creation in 1994, the CDFI Fund has awarded more than \$3 billion to CDFIs, community development organizations, and financial institutions through the Community Development Financial Institutions Program (CDFI Program), the Native American CDFI Assistance Program (NACA Program), the Bank Enterprise Award Program (BEA Program), the Capital Magnet Fund, and the Financial Education and Counseling Pilot Program. In addition, the CDFI Fund has allocated more than \$54 billion in tax credit allocation authority through the New Markets Tax Credit Program (NMTC Program) and has guaranteed more than \$1.5 billion in

bonds for Eligible CDFIs through the CDFI Bond Guarantee Program.

*B. Priorities:* Through the CDFI Program's FA awards and TA grants, the CDFI Fund invests in and builds the capacity of for-profit and non-profit community based lending organizations known as CDFIs. These organizations, certified as CDFIs by the CDFI Fund, serve rural and urban low-income people, and communities across the nation that lack adequate access to affordable financial products and services.

*C. Authorizing Statutes and Regulations:* The CDFI Program is authorized by the Riegle Community Development Banking and Financial Institutions Act of 1994 (Pub. L. 103-325, 12 U.S.C. 4701 *et seq.*) (Authorizing

Statute). The regulations governing the CDFI Program are found at 12 CFR parts 1805 and 1815 (the Regulations) and set forth evaluation criteria and other program requirements. The CDFI Fund encourages Applicants to review the Regulations; this NOFA; the CDFI Program Application for Financial Assistance or Technical Assistance (the Application); all related materials and guidance documents found on the CDFI Fund’s website (Application Materials); and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200; 78 **Federal Register** 78590) (the Uniform Requirements) for a complete understanding of the program. Capitalized terms in this NOFA are defined in the Authorizing Statute, the Regulations, this NOFA, the Application, Application Materials, or

the Uniform Requirements. Details regarding Application content requirements are found in the Application and related Application Materials.

D. *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200)*: The Uniform Requirements codify financial, administrative, procurement, and program management standards that Federal award agencies must follow. When evaluating award Applications, awarding agencies must evaluate the risks to the program posed by each Applicant, and each Applicant’s merits and eligibility. These requirements are designed to ensure that Applicants for Federal assistance receive a fair and consistent review prior to an award decision. This review will assess items such as the Applicant’s

financial stability, quality of management systems, the soundness of its business plan, history of performance, ability to achieve measurable impacts through its products and services, and audit findings. In addition, the Uniform Requirements include guidance on audit requirements and other award compliance requirements for Recipients.

E. *Funding limitations*: The CDFI Fund reserves the right to fund, in whole or in part, any, all, or none of the Applications submitted in response to this NOFA.

**II. Federal Award Information**

A. *Funding Availability*:

1. *FY 2019 Funding Round*: The CDFI Fund expects to award, through this NOFA, approximately \$184 million as indicated in the following table:

TABLE 2—FY 2019 FUNDING ROUND ANTICIPATED CATEGORY AMOUNTS

Funding categories (See definition in Table 7 for TA or Table 8 for FA)	Estimated total amount to be awarded (millions)	Award amount		Estimated number of awards for FY 2019	Estimate average amount awarded in FY 2019	Average amount awarded in FY 2018
		Minimum	Maximum			
Base-FA: Category I/Small and/or Emerging CDFI Assistance (SECA) .....	\$19	\$200,000	\$700,000	58	\$475,000	\$330,000
Base-FA: Category II/Core .....	116.9	500,000	1,000,000	162	735,000	720,000
Persistent Poverty Counties—Financial Assistance (PPC-FA) .....	18.1	100,000	300,000	80	184,000	225,000
Disability Funds—Financial Assistance (DF-FA) * .....	3	100,000	500,000	9	250,000	333,000
TA .....	5	10,000	125,000	42	114,000	119,000
Healthy Food Financing Initiative—Financial Assistance (HFFI-FA) * .....	22	500,000	5,000,000	14	2,200,000	1,571,000
Total .....	184	.....	.....	365	.....	.....

\* DF-FA and HFFI-FA appropriation will be allocated in one competitive round between the NACA and CDFI Program NOFAs.

The CDFI Fund reserves the right to award more or less than the amounts cited above in each category, based upon available funding and other factors, as appropriate.

2. *Funding Availability for the FY 2019 Funding Round*: As of the date of this NOFA, the CDFI Fund is operating under the Consolidated Appropriations Act, 2019 (Pub. L. 116-6).

3. *Anticipated Start Date and Period of Performance*: The Period of Performance for TA grants begins with the date of the notice of the award and includes either (i) an Emerging or Certifiable CDFI Recipient’s three full consecutive fiscal years after the date of the notice of the award or (ii) a Certified CDFI Recipient’s two full consecutive fiscal years after the date of the award announcement, during which the Recipient must meet the performance goals set forth in the Assistance Agreement. The Period of Performance for FA awards begins with the date of

the award announcement and includes a Recipient’s three full consecutive fiscal years after the date of the notice of the award, during which time the Recipient must meet the performance goals set forth in the Assistance Agreement.

B. *Types of Awards*: Through the CDFI Program, the CDFI Fund provides two types of awards: Financial Assistance (FA) and Technical Assistance (TA) awards. An Applicant may submit an Application for a TA grant or an FA award under the CDFI Program, but not both. FA Awards include the Base Financial Assistance (Base-FA) award and the following awards that are provided as a supplement to the Base-FA award: Healthy Food Financing Initiative—Financial Assistance (HFFI-FA), Persistent Poverty Counties—Financial Assistance (PPC-FA), and Disability Funds—Financial Assistance (DF-FA). The HFFI-FA, PPC-FA, and DF-FA

Applications will be evaluated independently from the Base-FA Application, and will not affect the Base-FA Application evaluation or Base-FA award amount.

However, Applicants that qualify for the NACA Program may submit two Applications: One Application—either for a TA grant or an FA award, but not both—through the CDFI Program, and one Application—either for a TA grant or an FA award, but not both—through the NACA Program. NACA qualified Applicants that choose to apply for awards through both the CDFI Program and the NACA Program may either apply for the same type of award under each Program or for a different type of award under each Program. NACA qualified Applicants that choose to apply under both the NACA Program and CDFI Program and are selected for an award under both Programs will be provided the larger of the two awards.

NACA Applicants cannot receive an award under both Programs.

Category II (Core) FA Applicants applying for Base-FA, PPC-FA, and DF-FA must provide evidence of acceptable matching funds. The matching funds requirement for HFFI-FA and SECA FA Applicants was waived in the final FY 2019 appropriations. Therefore, HFFI-FA and SECA FA Applicants are not required to submit matching funds for their award requests. TA Applicants are not required to provide matching funds.

1. *Base-FA Awards*: Base-FA awards can be in the form of loans, grants, Equity Investments, deposits and credit union shares. The form of the Base-FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waived the matching funds requirement. The matching funds requirement was waived for SECA FA Applicants and therefore the Base-FA award will be in the form of a grant for SECA FA Applicants. Matching funds are required for Category II (Core) Applicants applying for Base-FA awards, must be from non-Federal sources, and cannot have been used as matching funds for any other Federal award. The CDFI Fund reserves the right, in its sole discretion, to provide a Base-FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application.

2. *Persistent Poverty Counties—Financial Assistance (PPC-FA) Awards*: PPC-FA awards will be provided as a supplement to Base-FA awards; therefore, only those Applicants that are selected to receive a Base-FA award through the CDFI Program FY 2019 Funding Round will be eligible to receive a PPC-FA award. PPC-FA awards can be in the form of loans, grants, Equity Investment, deposits and credit union shares. The form of the PPC-FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waived the matching funds requirement. The matching funds requirement was waived for SECA FA Applicants and therefore the PPC-FA award will be in the form of a grant for SECA FA Applicants. Matching funds are required for Category II (Core) Applicants applying for PPC-FA awards, must be from non-Federal sources, and cannot have been used as matching funds for any other Federal award. The CDFI Fund reserves the right, in its sole discretion, to provide a PPC-FA award in an amount other than that which the Applicant requests; however, the award amount will not

exceed the Applicant's award request as stated in its Application.

3. *Disability Funds—Financial Assistance (DF-FA) Awards*: DF-FA awards will be provided as a supplement to Base-FA awards; therefore, only those Applicants that have been selected to receive a Base-FA award through the CDFI Program FY 2019 Funding Round will be eligible to receive a DF-FA award. DF-FA awards can be in the form of loans, grants, Equity Investments, deposits and credit union shares. The form of the DF-FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waived the matching funds requirement. The matching funds requirement was waived for SECA FA Applicants and therefore the DF-FA award will be in the form of a grant for SECA FA Applicants. Matching funds are required for Category II (Core) Applicants applying for DF-FA awards, must be from non-Federal sources, and cannot have been used as matching funds for any other Federal award. The CDFI Fund reserves the right, in its sole discretion, to provide a DF-FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application.

4. *Healthy Food Financing Initiative—Financial Assistance (HFFI-FA) Awards*: HFFI-FA awards will be provided as a supplement to Base-FA awards; therefore, only those Applicants that have been selected to receive a Base-FA award through the CDFI Program FY 2019 Funding Round will be eligible to receive an HFFI-FA award. HFFI-FA awards can be in the form of loans, grants, Equity Investments, deposits and credit union shares. The form of the HFFI-FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waived the matching funds requirement. The matching funds requirement was waived for HFFI-FA Applicants and therefore the HFFI-FA awards will be in the form of a grant. The CDFI Fund reserves the right, in its sole discretion, to provide an HFFI-FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application.

5. *TA Grants*: TA is provided in the form of grants. The CDFI Fund reserves the right, in its sole discretion, to provide a TA grant in an amount other than which the Applicant requests; however, the TA grant amount will not

exceed the Applicant's request as stated in its Application.

C. *Eligible Activities*:

1. *FA Awards*: Base-FA, PPC-FA, DF-FA, and HFFI-FA award funds may be expended for activities serving Commercial Real Estate, Small Business, Microenterprise, Community Facilities, Consumer Financial Products, Consumer Financial Services, Commercial Financial Products, Commercial Financial Services, Affordable Housing, Intermediary Lending to Non-Profits and CDFIs, and other lines of business as deemed appropriate by the CDFI Fund in the following five categories: (i) Financial Products; (ii) Financial Services; (iii) Loan Loss Reserves; (iv) Development Services; and (v) Capital Reserves. The FA budget is the amount of the award and must be expended in the five eligible activity categories. Base-FA Recipients must meet performance goals, which will be derived from projections and attestations provided by the Applicant in its Application, to achieve one or more of the following FA Objectives: (i) Increase Volume of Financial Products in an Eligible Market(s) and/or in the Applicant's approved Target Market and/or Increase Volume of Financial Services in an Eligible Market(s) and/or in the Applicant's approved Target Market; (ii) Serve Eligible Market(s) or the Applicant's approved Target Market in New Geographic Area or Areas; (iii) Provide New Financial Products in an Eligible Market(s) and/or in the Applicant's approved Target Market, Provide New Financial Services in an Eligible Market(s) and/or in the Applicant's approved Target Market, or Provide New Development Services in an Eligible Market(s) and/or in the Applicant's approved Target Market; and (iv) Serve New Targeted Population or Populations. FA awards may only be used for Direct Costs associated with an eligible activity; no indirect expenses are allowed. Up to 15 percent of the FA award may be used for Direct Administrative Expenses associated with an eligible FA activity. "Direct Administrative Expenses" shall mean Direct Costs, as described in section 2 CFR 200.413 of the Uniform Requirements, which are incurred by the Recipient to carry out the Financial Assistance. Direct Costs incurred to provide Development Services or Financial Services do not constitute Direct Administrative Expenses.

The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs. For

purposes of this NOFA, the five eligible activity categories are defined below:

TABLE 3—BASE-FA, PPC-FA, DF-FA, AND HFFI-FA ELIGIBLE ACTIVITY CATEGORIES

FA eligible activity	FA eligible activity definition *	Eligible CDFI institution types
i. Financial Products .....	FA expended as loans, Equity Investments and similar financing activities (as determined by the CDFI Fund) including the purchase of loans originated by certified CDFIs and the provision of loan guarantees. In the case of CDFI Intermediaries, Financial Products may also include loans to CDFIs and/or emerging CDFIs, and deposits in Insured Credit Union CDFIs, emerging Insured Credit Union CDFIs, and/or State-Insured Credit Union CDFIs. For HFFI-FA, however, the purchase of loans originated by certified CDFIs, loan refinancing, or any type of financing for prepared food outlets are not eligible activities.	All.
ii. Financial Services .....	FA expended for providing checking, savings accounts, check cashing, money orders, certified checks, automated teller machines, deposit taking, safe deposit box services, and other similar services.	Insured Depository Institutions and Depository Institution Holding Company only. Not applicable for HFFI-FA Recipients.
iii. Loan Loss Reserves .....	FA set aside in the form of cash reserves, or through accounting-based accrual reserves, to cover losses on loans, accounts, and notes receivable or for related purposes that the CDFI Fund deems appropriate.	All.
iv. Development Services .....	FA expended for activities undertaken by a CDFI, its Affiliate or contractor that (i) promote community development and (ii) prepare or assist current or potential borrowers or investees to use the CDFI's Financial Products or Financial Services. For example, such activities include financial or credit counseling; homeownership counseling; business planning; and management assistance.	All.
v. Capital Reserves .....	FA set aside as reserves to support the Applicant's ability to leverage other capital, for such purposes as increasing its net assets or providing financing, or for related purposes as the CDFI Fund deems appropriate.	Insured Depository Institutions and Depository Institution Holding Company only Not applicable for DF-FA.

\* All FA eligible activities must be in an Eligible Market or the Applicant's approved Target Market. Eligible Market is defined as (i) a geographic area meeting the requirements set forth in 12 CFR 1805.201(b)(3)(ii), or (ii) individuals that are Low-Income, African American, Hispanic, Native American, Native Hawaiians residing in Hawaii, Alaska Natives residing in Alaska, or Other Pacific Islanders residing in American Samoa, Guam or the Northern Mariana Islands.

2. *DF-FA Award*: DF-FA award funds may only be expended for eligible FA activities (referenced in Table 3) to directly or indirectly benefit individuals with disabilities. The DF-FA Recipient must close Financial Products for the primary purpose of directly or indirectly benefiting people with disabilities, where the majority of the DF-FA supported loans or investments benefit individuals with disabilities, in an amount equal to or greater than 85 percent of the total DF-FA provided. Eligible DF-FA financing activities may include, among other activities, loans to develop or purchase affordable, accessible, and safe housing; loans to provide or facilitate employment

opportunities; and loans to purchase assistive technology.

For the purposes of DF-FA, a person with a Disability is a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment, as defined by the American Disabilities Act (ADA) at <https://www.ada.gov/cguide.htm>.

3. *TA Grants*: TA grant funds may be expended for the following eight eligible activity categories: (i) Compensation—Personal Services; (ii) Compensation—Fringe Benefits; (iii) Professional Service Costs; (iv) Travel Costs; (v)

Training and Education Costs; (vi) Equipment; (vii) Supplies; and (viii) Incorporation Costs. The TA budget is the amount of the award and must be expended in the eight eligible activity categories. None of the eligible activity categories will be authorized for indirect costs or an associated indirect cost rate. Any expenses that are prohibited by the Uniform Requirements are unallowable and are generally found in Subpart E-Cost Principles. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs. For purposes of this NOFA, the eight eligible activity categories are defined below:

TABLE 4—TA ELIGIBLE ACTIVITY CATEGORIES, SUBJECT TO THE APPLICABLE PROVISIONS OF THE UNIFORM REQUIREMENTS

(i) Compensation—Personal Services.	TA paid to cover all remuneration, paid currently or accrued, for services of Applicant's employees rendered during the Period of Performance under the TA grant in accordance with section 200.430 of the Uniform Requirements. Any work performed directly but unrelated to the purposes of the TA grant may not be paid as Compensation through a TA grant. For example, the salaries for building maintenance would not carry out the purpose of a TA grant and would be deemed unallowable.
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TABLE 4—TA ELIGIBLE ACTIVITY CATEGORIES, SUBJECT TO THE APPLICABLE PROVISIONS OF THE UNIFORM REQUIREMENTS—Continued

(ii) Compensation—fringe benefits	TA paid to cover allowances and services provided by the Applicant to its employees as compensation in addition to regular salaries and wages, in accordance with section 200.431 of the Uniform Requirements. Such expenditures are allowable as long as they are made under formally established and consistently applied organizational policies of the Applicant.
(iii) Professional service costs .....	TA used to pay for professional and consultant services (e.g. such as strategic and marketing plan development), rendered by persons who are members of a particular profession or possess a special skill (e.g., credit analysis, portfolio management), and who are not officers or employees of the Applicant, in accordance with section 200.459 of the Uniform Requirements. Payment for a consultant's services may not exceed the current maximum of the daily equivalent rate paid to an Executive Schedule Level IV Federal employee. Professional and consultant services must build the capacity of the CDFI. For example, professional services that provide direct development services to the customers does not build the capacity of the CDFI to provide those services and would not be eligible.
(iv) Travel costs .....	TA used to pay costs of transportation, lodging, subsistence, and related items incurred by the Applicant's personnel who are on travel status on business related to the TA award, in accordance with section 200.474 of the Uniform Requirements. Travel costs do not include costs incurred by the Applicant's consultants who are on travel status. Any payments for travel expenses incurred by the Applicant's personnel but unrelated to carrying out the purpose of the TA grant would be deemed unallowable. As such, documentation must be maintained that justifies the travel as necessary to the TA grant.
(v) Training and education costs ....	TA used to pay the cost of training and education provided by the Applicant for employees' development in accordance with section 200.472 of the Uniform Requirements. TA can only be used to pay for training costs incurred by the Applicant's employees. Training and education costs may not be incurred by the Applicant's consultants.
(vi) Equipment .....	TA used to pay for tangible personal property, having a useful life of more than one year and a per-unit acquisition cost of at least \$5,000, in accordance with section 200.33 of the Uniform Requirements. For example, items such as office furnishings and information technology systems are allowable as Equipment costs. The Applicant must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 with respect to the purchase of Equipment.
(vii) Supplies .....	TA used to pay for tangible personal property with a per unit acquisition cost of less than \$5,000, in accordance with section 200.94 of the Uniform Requirements. For example, a desktop computer costing \$1,000 is allowable as a Supply cost. The Applicant must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 with respect to the purchase of Supplies.
(viii) Incorporation Costs (Sponsoring Entities only).	TA used to pay for incorporation fees in connection with the establishment or reorganization of an organization as a CDFI, in accordance with section 200.455 of the Uniform Requirements. Incorporation Costs are allowable for NACA Program Sponsoring Entity Applicants only.

4. *HFFI-FA Award*: HFFI-FA award funds may only be expended for eligible FA activities referenced in Table 3. The HFFI-FA investments must comply with the following guidelines:

a. Recipient must close Financial Products for Healthy Food Retail Outlets and Healthy Food Non-Retail Outlets in its approved Target Market in an amount equal to or greater than 100 percent of the total HFFI Financial Assistance provided. Eligible financing activities to Healthy Food Retail Outlets and Healthy Food Non-Retail Outlets require that the majority of the loan or investment be devoted to offering a range of Healthy Food choices, which may include, among other activities, investments supporting an existing retail store or wholesale operation upgrade to offer an expanded range of Healthy Food choices, or supporting a nonprofit organization that expands the availability of Healthy Foods in underserved areas.

b. Recipient must demonstrate that it has closed Financial Products to Healthy Food Retail Outlets located in Food Deserts in the Recipient's approved Target Market in an amount equal to 75 percent of the total HFFI Financial Assistance provided.

*Definitions*

*Healthy Foods*. Healthy Foods include unprepared nutrient-dense foods and beverages as set forth in the USDA Dietary Guidelines for Americans 2015–2020 including whole fruits and vegetables, whole grains, fat free or low-fat dairy foods, lean meats and poultry (fresh, refrigerated, frozen or canned). Healthy Foods should have low or no added sugars, and be low-sodium, reduced sodium, or no-salt-added. (See USDA Dietary Guidelines: <http://www.choosemyplate.gov/dietary-guidelines>).

*Healthy Food Retail Outlets*. Commercial sellers of Healthy Foods including, but not limited to, grocery stores, mobile food retailers, farmers markets, retail cooperatives, corner stores, bodegas, stores that sell other food and non-food items along with a range of Healthy Foods.

*Healthy Food Non-Retail Outlets*. Wholesalers of Healthy Foods including, but not limited to, wholesale food outlets, wholesale cooperatives, or other non-retail food producers that supply for sale a range of Healthy Food options; entities that produce or distribute Healthy Foods for eventual retail sale, and entities that provide

consumer education regarding the consumption of Healthy Foods.

*Food Deserts*. Distressed geographic areas where either a substantial number or share of residents has low access to a supermarket or large grocery store. For the purpose of satisfying this requirement, a Food Desert must either: (1) Be a census tract determined to be a Food Desert by the U.S. Department of Agriculture (USDA), in its USDA Food Access Research Atlas; (2) be a census tract adjacent to a census tract determined to be a Food Desert by the USDA, in its USDA Food Access Research Atlas; which has a median family income less than or equal to 120 percent of the applicable Area Median Family Income; or (3) be a Geographic Unit as defined in 12 CFR part 1805.201(b)(3)(ii)(B), which (i) individually meets at least one of the criteria in 12 CFR part 1805.201(b)(3)(ii)(D), and (ii) has been identified as having low access to a supermarket or grocery store through a methodology that has been adopted for use by another governmental or philanthropic healthy food initiative.

5. *PPC-FA Award*: PPC-FA award funds may only be expended for eligible FA activities referenced in Table 3. The

PPC-FA Recipient must close Financial Products in PPC in an Eligible Market or in the Applicant's approved Target Market in an amount equal to or greater than 100 percent of the total PPC Financial Assistance provided. The specific counties that meet the criteria for "persistent poverty" can be found at:

<https://www.cdfifund.gov/Documents/PPC%20updated%20Oct.2017.xlsx>.

**III. Eligibility Information**

A. *Eligible Applicants:* For the purposes of this NOFA, the following tables set forth the eligibility criteria to receive an award from the CDFI Fund, along with certain definitions of terms.

There are four categories of Applicant eligibility criteria: (1) CDFI certification criteria (Table 5); (2) requirements that apply to all Applicants (Table 6); (3) requirements that apply to TA Applicants (Table 7); and (4) requirements that apply to FA Applicants (Table 8).

TABLE 5—CDFI CERTIFICATION CRITERIA DEFINITIONS

<p>Certified CDFI .....</p> <p>Certifiable CDFI .....</p>	<ul style="list-style-type: none"> <li>• An entity that the CDFI Fund has officially notified that it meets all CDFI certification requirements.</li> <li>• An entity that has submitted a CDFI certification application to the CDFI Fund demonstrating that it meets the CDFI certification requirements but which has not yet been officially certified. (See Table 12 for Application submission deadlines.)</li> <li>• The CDFI Fund will not enter into an Assistance Agreement or make an FA award payment unless and until an Applicant is a Certified CDFI.</li> <li>• The CDFI Fund will enter into an Assistance Agreement if the Applicant is awarded a TA award regardless of the Applicant's certification status.</li> </ul>
<p>Emerging CDFI (TA Applicants) .....</p>	

TABLE 6—ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS

<p>Applicant .....</p>	<ul style="list-style-type: none"> <li>• Only the entity that will carry out the proposed award activities may apply for an award (other than Depository Institution Holding Companies (see below)). Recipients may not create a new legal entity to carry out the proposed award activities.</li> <li>• The information in the Application should only reflect the activities of the Applicant, including the presentation of financial and portfolio information. Do not include financial or portfolio information from parent companies, Affiliates, or Subsidiaries in the Application unless it relates to the provision of Development Services.</li> <li>• An Applicant that applies on behalf of another organization will be rejected without further consideration, other than Depository Institution Holding Companies (see below).</li> <li>• Applicants must submit the Required Application Documents listed in Table 10.</li> <li>• The CDFI Fund will only accept Applications that use the official application templates provided on the <i>Grants.gov</i> and AMIS websites. Applications submitted with alternative or altered templates will not be considered.</li> <li>• Applicants undergo a two-step process that requires the submission of Application documents by two separate deadlines in two different locations: (1) The SF-424 in <i>Grants.gov</i> and (2) all other Required Application Documents in AMIS.</li> <li>• <i>Grants.gov</i> and the SF-424:                         <ul style="list-style-type: none"> <li>○ <i>Grants.gov:</i> Applicants must submit the Office of Management and Budget (OMB) Standard Form (SF) OMB SF-424, Application for Federal Assistance.</li> <li>○ All Applicants must register in the <i>Grants.gov</i> system to successfully submit an Application. The <i>Grants.gov</i> registration process can take 30 days or more to complete. The CDFI Fund strongly encourages Applicants to register as early as possible.</li> <li>○ The CDFI Fund will not extend the SF-424 application deadline for any Applicant that started the <i>Grants.gov</i> registration process on, before, or after the date of the publication of this NOFA, but did not complete it by the deadline except in the case of a Federal government administrative or technological error that directly resulted in a late submission of the SF-424.</li> <li>○ The SF-424 must be submitted in <i>Grants.gov</i> on or before the deadline listed in Table 1 and Table 12. Applicants are strongly encouraged to submit their SF-424 as early as possible in the <i>Grants.gov</i> portal.</li> <li>○ The deadline for the <i>Grants.gov</i> submission is before the AMIS submission deadline.</li> <li>○ The SF-424 must be submitted under the CDFI Program Funding Opportunity Number for the CDFI Program Application. <i>CDFI Program Applicants should be careful to not select the NACA Program Funding Opportunity Number when submitting their SF-424 for the CDFI Program.</i> CDFI Program Applicants that submit their SF-424 for the CDFI Program Application under the NACA Program Funding Opportunity Number will be deemed ineligible for the CDFI Program Application.</li> <li>○ If the SF-424 is not accepted by <i>Grants.gov</i> by the deadline, the CDFI Fund will not review any material submitted in AMIS and the Application will be deemed ineligible.</li> </ul> </li> <li>• AMIS and all other Required Application Documents listed in Table 10:                         <ul style="list-style-type: none"> <li>○ AMIS is an enterprise-wide information technology system that replaced the my CDFI Fund portal. Applicants will use AMIS to submit and store organization and Application information with the CDFI Fund.</li> <li>○ Applicants are only allowed one CDFI Program Application submission in AMIS.</li> <li>○ Each Application in AMIS must be signed by an Authorized Representative.</li> </ul> </li> </ul>
<p>Application type and submission overview through <i>Grants.gov</i> and Awards Management Information System (AMIS).</p>	

TABLE 6—ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS—Continued

	<ul style="list-style-type: none"> <li>○ Applicants must ensure that the Authorized Representative is authorized to sign legal documents on behalf of the organization. <i>Consultants working on behalf of the organization may not be designated as Authorized Representatives.</i></li> <li>○ Only the Authorized Representative or Application Point of Contact, included in the Application, may submit the Application in AMIS.</li> <li>○ All Required Application Documents must be submitted in AMIS on or before the deadline specified in Tables 1 and 12.</li> <li>○ The CDFI Fund will not extend the deadline for any Applicant except in the case of a Federal government administrative or technological error that directly resulted in the late submission of the Application in AMIS.</li> </ul>
Employer Identification Number (EIN).	<ul style="list-style-type: none"> <li>● Applicants must have a unique EIN assigned by the Internal Revenue Service (IRS).</li> <li>● The CDFI Fund will reject an Application submitted with the EIN of a parent or Affiliate organization.</li> <li>● The EIN in the Applicant's AMIS account must match the EIN in the Applicant's <i>Grant.gov</i> and System for Award Management (SAM) accounts. The CDFI Fund will reject an Application if the EIN in the Applicant's AMIS account does not match the EIN in its <i>Grants.gov</i> and SAM accounts.</li> </ul>
Dun & Bradstreet, (DUNS) number	<ul style="list-style-type: none"> <li>● Pursuant to OMB guidance (68 FR 38402), an Applicant must apply using its unique DUNS number in <i>Grants.gov</i>.</li> <li>● The CDFI Fund will reject an Application submitted with the DUNS number of a parent or Affiliate organization.</li> <li>● The DUNS number in the Applicant's AMIS account must match the DUNS number in the Applicant's <i>Grant.gov</i> and SAM accounts. The CDFI Fund will reject an Application if the DUNS number in the Applicant's AMIS account does not match the DUNS number in its <i>Grants.gov</i> and SAM accounts.</li> </ul>
System for Award Management (SAM).	<ul style="list-style-type: none"> <li>● SAM is a web-based, government-wide application that collects, validates, stores, and disseminates business information about the federal government's trading partners in support of the contract awards, grants, and electronic payment processes.</li> <li>● Applicants must register in SAM as part of the <i>Grants.gov</i> registration process.</li> <li>● Applicants must have a DUNS number and an EIN number in order to register in SAM.</li> <li>● Applicants must be registered in SAM in order to submit an SF-424 in <i>Grants.gov</i>.</li> <li>● The CDFI Fund reserves the right to deem an Application ineligible if the Applicant's SAM account expires during the Application evaluation period or is set to expire between September 1, 2019 and December 31, 2019, and the Applicant does not re-activate or renew, as applicable, the account within the deadlines that the CDFI Fund communicates to affected Applicants during the Application evaluation period.</li> </ul>
AMIS Account .....	<ul style="list-style-type: none"> <li>● Each Applicant must register as an organization in AMIS and submit all Required Application Documents listed in Table 10 through the AMIS portal.</li> <li>● The Application of any organization that does not properly register in AMIS by the deadline set forth in Table 1—FY 2019 CDFI Program Funding Round Critical Deadlines for Applicants—will be rejected without further consideration.</li> <li>● The Authorized Representative and/or Application Point of Contact must be included as “users” in the Applicant's AMIS account.</li> <li>● An Applicant that fails to properly register and update its AMIS account may miss important communication from the CDFI Fund and/or not be able to successfully submit an Application.</li> </ul>
501(c)(4) status .....	<ul style="list-style-type: none"> <li>● Pursuant to 2 U.S.C. 1611, any 501(c)(4) organization that engages in lobbying activities is not eligible to receive a CDFI or NACA Program award.</li> </ul>
Compliance with Nondiscrimination and Equal Opportunity Statutes, Regulations, and Executive Orders.	<ul style="list-style-type: none"> <li>● An Applicant may not be eligible to receive an award if proceedings have been instituted against it in, by, or before any court, governmental agency, or administrative body, and a final determination within the last three years indicates the Applicant has violated any of the following laws, including but not limited to: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975, (42 U.S.C. 6101–6107), and Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency.</li> </ul>
Depository Institution Holding Company Applicant.	<ul style="list-style-type: none"> <li>● In the case where a CDFI Depository Institution Holding Company Applicant intends to carry out the activities of an award through its Subsidiary CDFI Insured Depository Institution, the Application must be submitted by the CDFI Depository Institution Holding Company and reflect the activities and financial performance of the Subsidiary CDFI Insured Depository Institution.</li> <li>● Authorized representatives of both the Depository Institution Holding Company and the Subsidiary CDFI Insured Depository Institution must certify that the information included in the Application represents that of the Subsidiary CDFI Insured Depository Institution, and that the award funds will be used to support the Subsidiary CDFI Insured Depository Institution for the eligible activities outlined in the Application.</li> </ul>
Use of award .....	<ul style="list-style-type: none"> <li>● All awards made through this NOFA must be used to support the Applicant's activities in at least one of the FA or TA Eligible Activity Categories (see Section II.(C)).</li> <li>● With the exception of Depository Institution Holding Company Applicants, awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent. The Recipient of any award made through this NOFA must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.</li> </ul>
Requested award amount .....	<ul style="list-style-type: none"> <li>● An Applicant must state its requested award amount in the Application in AMIS. An Applicant that does not include this amount will not be allowed to submit an Application.</li> </ul>
Pending resolution of noncompliance.	<ul style="list-style-type: none"> <li>● The CDFI Fund will consider an Application submitted by an Applicant that has pending noncompliance issues of any of its previously executed award agreement(s), if the CDFI Fund has not yet made a final compliance determination.</li> </ul>

TABLE 6—ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS—Continued

Noncompliance status .....	<ul style="list-style-type: none"> <li>• The CDFI Fund will not consider an Application submitted by an Applicant that has a previously executed award agreement(s) if, as of the date of the Application, (i) the CDFI Fund has made a determination that such entity is noncompliant with a previously executed agreement, and (ii) the CDFI Fund has provided written notification that such entity is ineligible to apply for or receive any future CDFI Fund awards or allocations. Such entities will be ineligible to submit an Application for such time period as specified by the CDFI Fund in writing.</li> <li>• The CDFI Fund will not consider any Applicant that has defaulted on a loan from the CDFI Fund within five years of the Application deadline.</li> </ul>
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TABLE 7—ELIGIBILITY REQUIREMENTS FOR TA APPLICANTS

CDFI certification status .....	<p>(1) Emerging CDFIs (see definition in Table 5), or</p> <p>(2) Certifiable or Certified CDFIs (see Table 5) that meet the following SECA Applicant criteria:</p> <p>(1) Have total assets as of the end of the Applicant’s most recent fiscal year end date (as stated in the Applicant’s AMIS account and verified by internally prepared financial statements and/or audits) in the following amounts:</p> <ul style="list-style-type: none"> <li>• Insured Depository Institutions and Depository Institution Holding Companies: Up to \$250 million;</li> <li>• Insured Credit Unions: Up to \$10 million;</li> <li>• Venture capital funds: Up to \$10 million;</li> <li>• Other CDFIs: Up to \$5 million; OR</li> </ul> <p>(2) Have begun operations (as indicated by the financing activity start date field in the Applicant’s AMIS account) on or after January 1, 2015.</p>
Matching funds .....	<ul style="list-style-type: none"> <li>• Matching funds documentation is not required for TA awards.</li> </ul>
Limitation on Awards .....	<ul style="list-style-type: none"> <li>• An Emerging CDFI may not receive more than three TA awards as an uncertified CDFI.</li> </ul>
Proposed Activities .....	<ul style="list-style-type: none"> <li>• Applicants must propose to directly undertake eligible activities with TA awards. For example, an uncertified CDFI Applicant must propose to become certified as part of its Application and a Certified CDFI Applicant must propose activities that build its capacity to serve its Target Market or an Eligible Market.</li> <li>• Applicants may not propose to use a TA award to create a separate legal entity to become a certified CDFI or otherwise carry out the TA award activities.</li> </ul>
Insured CDFI—Insured Credit Union and Insured Depository Institution.	<ul style="list-style-type: none"> <li>• Each Insured Depository Institution TA Applicant must have a CAMELS/CAMEL rating (rating for banks and credit unions, respectively) or equivalent type of rating by its regulator, collectively referred to as “CAMELS/CAMEL rating” throughout this document, of at least “4”.</li> <li>• TA Applicants with CAMELS/CAMEL ratings of “5” will not be eligible for awards.</li> <li>• The CDFI Fund will also evaluate materials concerns identified by the Appropriate Federal Banking Agency in determining the eligibility of Insured Depository Institution Applicants.</li> </ul>

TABLE 8—ELIGIBILITY REQUIREMENTS FOR FA APPLICANTS

CDFI certification status .....	<ul style="list-style-type: none"> <li>• Each FA Applicant must be a Certified CDFI prior to the date of award announcement.</li> <li>• The CDFI Fund will consider an Application submitted by an Applicant that has pending noncompliance issues with its Annual Certification Report, if the CDFI Fund has not yet made a final compliance determination.</li> </ul>
Matching funds documentation .....	<ul style="list-style-type: none"> <li>• Applicants must submit acceptable documentation attesting that they have received or will receive matching funds. Applicants that do not complete the Matching Funds section in the FA Application in AMIS, documenting the source(s) of their matching funds, will not be evaluated. The matching funds requirements for HFFI-FA and SECA FA Applicants were waived in the final FY 2019 appropriations. Therefore, HFFI-FA and SECA FA Applicants are not required to submit matching funds documentation.</li> <li>• Unless Congress waived the matching funds requirement, Applicants must document their matching funds in the Matching Funds section in the FA Application in AMIS. Matching funds information provided in another format will not be considered.</li> <li>• Unless Congress waived the matching funds requirement, awards will be limited to no more than two times the amount of In-Hand or Committed matching funds documentation provided at the time of Application. See Table 9 for the definitions of Committed and In-Hand.</li> <li>• Unless Congress waived the matching funds requirement, awards will be obligated in like form to the matching funds provided at time of Application. See Table 9. Matching Funds “Determination of Award Form” for additional guidance.</li> <li>• Unless Congress waived the matching funds requirement, award payments from the CDFI Fund will require eligible dollar-for-dollar In-Hand matching funds for the total payment amount. Recipients will not receive a payment until 100 percent of their matching funds are In-Hand.</li> <li>• Unless Congress waived the matching funds requirement, the CDFI Fund will reduce and de-obligate the remaining balance of any Award that does not demonstrate full dollar-for-dollar matching funds equal to the announced award amount by the end of the Matching Funds Window.</li> </ul>
\$5 Million funding cap .....	<ul style="list-style-type: none"> <li>• The CDFI Fund is prohibited from obligating more than \$5 million in CDFI and NACA Program awards, in the aggregate, to any one organization and its Subsidiaries and Affiliates during any three-year period from the announcement date.</li> <li>• For TA Applicants, for purposes of this NOFA and per final FY 2019 appropriations language, the CDFI Fund will include CDFI and NACA Program final awards in the cap calculation that were provided to an Applicant (and/or its Subsidiaries or Affiliates) under the FY 2016, 2017, and 2018 funding rounds, as well as the requested FY 2019 award, excluding DF-FA and HFFI-FA awards.</li> </ul>

TABLE 8—ELIGIBILITY REQUIREMENTS FOR FA APPLICANTS—Continued

<p>FA Category I (SECA) .....</p>	<ul style="list-style-type: none"> <li>• For FA Applicants, for purposes of this NOFA and per final FY 2019 appropriations language, the CDFI Fund will include CDFI and NACA Program final awards in the cap calculation that were provided to an Applicant (and/or its Subsidiaries or Affiliates) under the FY 2017 and 2018 funding rounds, as well as the requested FY 2019 award, excluding DF-FA and HFFI-FA awards.</li> <li>• To be an eligible SECA Applicant, an Applicant must meet the following criteria:             <ol style="list-style-type: none"> <li>(1) Be a Certified or Certifiable CDFI;</li> <li>(2) Request \$700,000 or less in Base-FA funds; AND EITHER</li> <li>(3) Have total assets as of the end of the Applicant’s most recent fiscal year end date (as stated in the Applicant’s AMIS account and verified by internally prepared financial statements and/or audits) in the following amounts:                 <ul style="list-style-type: none"> <li>• Insured Depository Institutions and Depository Institution Holding Companies: Up to \$250 million;</li> <li>• Insured Credit Unions: Up to \$10 million;</li> <li>• Venture capital funds: Up to \$10 million;</li> <li>• Other CDFIs: Up to \$5 million; OR</li> </ul>                 Have begun operations (as indicated by the financing activity start date field in the Applicant’s AMIS account) on or after January 1, 2015.             </li> </ol> </li> </ul>
<p>FA Category II (Core) .....</p>	<ul style="list-style-type: none"> <li>• A Core Applicant must be either a Certified or Certifiable CDFI as defined in Table 5.</li> <li>• An Applicant that meets the SECA requirements stated above, and that requests more than \$700,000 in Base-FA award funds is categorized as an FA Category II (Core) Applicant, regardless of its total assets and/or years in operation.</li> </ul>
<p>FA Applicants with Community Partners.</p>	<ul style="list-style-type: none"> <li>• A CDFI Applicant can apply for assistance jointly with a Community Partner. The CDFI Applicant would complete the CDFI Program Application and would address the Community Partnership in its business plan and other sections of the Application as specified in the Application Materials.</li> <li>• The CDFI Applicant must be either a Certified or Certifiable CDFI as defined in Table 5.</li> <li>• An Application with a Community Partner must:             <ul style="list-style-type: none"> <li>○ Describe how the CDFI Applicant and Community Partner will each participate in the partnership and how the partnership will enhance eligible activities serving the Investment Area and/or Targeted Population.</li> <li>○ Demonstrate that the Community Partnership activities are consistent with the strategic plan submitted by the CDFI Applicant.</li> </ul> </li> <li>• Assistance provided upon approval of an Application with a Community Partner shall only be entrusted to the CDFI Applicant and shall not be used to fund any activity carried out directly by the Community Partner or an Affiliate or Subsidiary thereof.</li> </ul>
<p>Insured CDFI—Insured Credit Union and Insured Depository Institution.</p>	<ul style="list-style-type: none"> <li>• Each Insured Depository Institution FA Applicant must have a CAMELS/CAMEL rating (rating for banks and credit unions, respectively) or equivalent type of rating by its regulator, collectively referred to as “CAMELS/CAMEL rating” throughout this document, of at least “3”.</li> <li>• FA Applicants with CAMELS/CAMEL ratings of “4 or 5” will not be eligible for awards.</li> <li>• The CDFI Fund will also evaluate materials concerns identified by the appropriate regulator in determining eligibility of Insured Depository Institution Applicants.</li> </ul>
<p>PPC-FA .....</p>	<ul style="list-style-type: none"> <li>• All PPC-FA Applicants must:             <ul style="list-style-type: none"> <li>○ Submit a CDFI or NACA Program FA Application;</li> <li>○ Meet all FA award eligibility requirements; and</li> <li>○ Provide a PPC-FA award request amount in AMIS.</li> </ul> </li> </ul>
<p>DF-FA .....</p>	<ul style="list-style-type: none"> <li>• All DF-FA Applicants must:             <ul style="list-style-type: none"> <li>○ Submit a CDFI or NACA Program FA Application;</li> <li>○ Meet all FA award eligibility requirements;</li> <li>○ Submit the DF-FA Application; and</li> <li>○ Provide a DF-FA award request amount in AMIS.</li> </ul> </li> </ul>
<p>HFFI-FA .....</p>	<ul style="list-style-type: none"> <li>• All HFFI-FA Applicants must:             <ul style="list-style-type: none"> <li>○ Submit a CDFI or NACA Program FA Application;</li> <li>○ Meet all FA award eligibility requirements;</li> <li>○ Submit the HFFI-FA Application; and</li> <li>○ Provide a HFFI-FA award request amount in AMIS.</li> </ul> </li> </ul>

*B. Matching Funds Requirements:* In order to receive a Base-FA, PPC-FA, or DF-FA award, an Applicant must provide evidence of eligible dollar-for-dollar matching funds and attest that it can provide acceptable documentation upon the CDFI Fund’s request as part of the Application, unless Congress waived the matching funds requirement. The matching funds requirement for HFFI-FA and SECA FA Applicants was waived in the final FY 2019 appropriations. Therefore, HFFI-FA and SECA FA Applicants are not required to submit matching funds for their award requests. An Applicant that represents

that it has Equity Investments and/or deposits matching funds In-Hand at the time of Application submission must provide documentation of such as part of the Application. An Applicant that uses retained earnings as matching funds must provide supporting documentation of In-Hand and/or Committed matching funds at the time of Application submission. The CDFI Fund will review matching funds information, attestations, and supporting matching funds documentation, if applicable, prior to award payment and will disburse funds based upon eligible In-Hand matching

funds. The CDFI Fund encourages Applicants to review the Regulations, the Uniform Requirements, and the matching funds guidance materials available on the CDFI Fund’s website. Table 9 provides a summary of the matching funds requirements for Category II (Core) FA Applicants applying for Base-FA, PPC-FA, and DF-FA. The matching funds requirement for HFFI-FA and SECA FA Applicants were waived in the final FY 2019 appropriations. Additional details are set forth in the Application Materials.

TABLE 9—MATCHING FUNDS REQUIREMENTS \*

In-Hand matching funds definition ..	<ul style="list-style-type: none"> <li>• Matching funds are In-Hand when the Applicant receives payment for the matching funds from the matching funds source and has acceptable documentation that can be provided to the CDFI Fund upon request. Acceptable In-Hand documentation must show the source, form (e.g., grant, loan, deposit, and Equity Investment), amount received, and the date the funds came into physical possession of the Applicant.</li> <li>• The following documentation, depending on the matching funds type, must be available to be provided to the CDFI Fund upon request:             <ul style="list-style-type: none"> <li>• Loan—the loan agreement and/or promissory note;</li> <li>• grant—the grant letter or agreement;</li> <li>• Equity Investment—the stock certificate, documentation of total equity outstanding, and shareholder agreement;</li> <li>• retained earnings—Retained Earnings Calculator and Audited Financial Statements or call reports from regulating entity for each fiscal year reported in Retained Earnings Calculator;</li> <li>• third party in-kind contribution—evidence of receipt of contribution and valuation;</li> <li>• deposits—certificates of deposit agreement;</li> <li>• secondary capital—secondary capital agreement and disclosure and acknowledgement statement; AND</li> <li>• clearly legible documentation that demonstrates actual receipt of the matching funds including the date of the transaction and the amount, such as a copy of a check or a wire transfer statement.</li> </ul> </li> <li>• Unless Congress waived the matching funds requirement, Applicants must provide information on their In-Hand matching funds in the Matching Funds section of the FA Application in AMIS (refer to Table 10—Required Application Documents) at the time of Application submission.</li> <li>• Although Applicants are not required to provide further documentation for In-Hand matching funds at the time of Application submission, (other than supporting documentation for retained earnings, deposits, and Equity Investments, which must be provided at the time of Application submission), they must be able to provide documentation to the CDFI Fund upon request.</li> </ul>
Matching funds requirements by Application type.	<p>The following Applicants must provide evidence of acceptable matching funds:</p> <ul style="list-style-type: none"> <li>• Category II/Core FA Applicants applying for Base-FA, PPC-FA, and DF-FA</li> <li>• TA Applicants are not required to provide matching funds.</li> <li>• The matching funds requirement for HFFI-FA and SECA FA Applicants was waived in the final FY 2019 appropriations. Therefore, HFFI-FA and SECA FA Applicants are not required to provide matching funds.</li> </ul>
Amount of required match .....	<p>Unless waived by Congress, Applicants must provide evidence of eligible, In-Hand, dollar-for-dollar, non-Federal matching funds for every Base-FA, PPC-FA, and DF-FA award dollar to be paid by the CDFI Fund. If awarded, Applicants that do not demonstrate 100 percent In-Hand matching funds at the time of Application submission may experience a longer payment timeline.</p>
Determination of award form .....	<p>Unless waived by Congress, Base-FA, PPC-FA, and DF-FA awards will be made in comparable form and value to the eligible In-Hand and/or Committed matching funds submitted by the Applicant.</p> <ul style="list-style-type: none"> <li>• For example, if an Applicant provides documentation of eligible loan matching funds for \$200,000 and eligible grant matching funds of \$400,000, the CDFI Fund will obligate \$200,000 of the FA award as a loan and \$400,000 as a grant.</li> <li>• The CDFI Fund will not permit a Recipient to change the form of award from loan to grant.</li> </ul>
Matching Funds Window definition	<ul style="list-style-type: none"> <li>• The Applicant must receive eligible In-Hand matching funds between January 1, 2017 and January 15, 2020.</li> <li>• A Recipient must provide the CDFI Fund with all documentation demonstrating the receipt of In-Hand matching funds by January 31, 2020.</li> </ul>
Matching funds and form of award	<ul style="list-style-type: none"> <li>• Recipients will be approved for a maximum award size of two times the total amount of eligible In-Hand and/or Committed matching funds included in the Application, so long as they do not exceed the requested award amount.</li> <li>• The form of the matching funds documented in the Application determines the form of the award.</li> </ul>
Committed matching funds definition.	<ul style="list-style-type: none"> <li>• Matching funds are Committed when the Applicant has entered into or received a legally binding commitment from the matching funds source showing that the matching funds will be disbursed to the Applicant at a future date.</li> <li>• The Application must provide information on their Committed matching funds in the Matching Funds section of the FA Application in AMIS (refer to Table 10—Required Application Documents) at the time of Application submission.</li> <li>• Although the Applicant is not required to provide further documentation for Committed matching funds at the time of Application submission (other than supporting documentation for retained earnings, which must be provided at the time of Application submission), it must be able to provide the CDFI Fund, upon request, acceptable written documentation showing the source, form, and amount of the Committed matching funds (including, in the case of a loan, the terms thereof), as well as the anticipated payment date of the Committed funds.</li> </ul>
Limitations on matching funds .....	<ul style="list-style-type: none"> <li>• Matching funds must be from non-Federal sources.</li> <li>• Applicants cannot proffer matching funds that were accepted as matching funds for a prior Base-FA, PPC-FA, and/or DF-FA award under the CDFI Program, NACA Program, or under another Federal grant or award program.</li> <li>• Matching funds must comply with the Regulations.</li> <li>• Matching funds must be attributable to at least one of the five eligible FA activities (see Section II (C) of this NOFA).</li> </ul>
Rights of the CDFI Fund .....	<ul style="list-style-type: none"> <li>• The CDFI Fund reserves the right to contact the matching funds source to discuss the matching funds and the documentation that the Applicant provided.</li> <li>• The CDFI Fund may grant an extension of the Matching Funds Window (defined in Table 9), on a case-by-case basis, if the CDFI Fund deems it appropriate.</li> </ul>

TABLE 9—MATCHING FUNDS REQUIREMENTS \*—Continued

<p>Matching funds in the form of third-party in-kind contributions.</p>	<ul style="list-style-type: none"> <li>• The CDFI Fund reserves the right to rescind all or a portion of a Base-FA, PPC-FA, and/or DF-FA award and re-allocate the rescinded award amount to other qualified Applicant(s), if a Recipient fails to provide evidence of In-Hand matching funds totaling its award amount obtained during the Matching Funds Window.</li> <li>• Third party in-kind contributions are non-cash contributions (i.e., property or services) provided by non-Federal third parties to the Applicant.</li> <li>• Third party in-kind contributions will be considered to be in the form of a grant for matching funds purposes.</li> <li>• Third party in-kind contributions may be in the form of real property, equipment, supplies, and other expendable property. The value of goods and services must directly benefit the eligible FA activities.</li> <li>• For third party in-kind contributions, the fair market value of goods and services must be documented as the grant match.</li> <li>• Applicants will be responsible for documenting the value of all in-kind contributions pursuant to the Uniform Requirements.</li> </ul>
<p>Matching funds in the form of a loan.</p>	<ul style="list-style-type: none"> <li>• A Base-FA, PPC-FA, or DF-FA award made in the form of a loan will have the following standardized terms:             <ul style="list-style-type: none"> <li>• i. A 13-year term with semi-annual interest-only payments due in years 1 through 10, and fully amortizing payments due each year in years 11 through 13; and</li> <li>• ii. A fixed interest rate of 3.00 percent, which was calculated by the CDFI Fund based on the U.S. Department of the Treasury's 10-year Treasury note.</li> </ul> </li> <li>• The Applicant's matching funds loan(s) must:             <ul style="list-style-type: none"> <li>• i. Have a minimum of a 3-year term (loans presented as matching funds with less than a 3-year term will not qualify as eligible match); and</li> <li>• ii. be from a non-Federal source.</li> </ul> </li> </ul>
<p>Matching funds in the form of Equity Investments. Severe Constraints Waiver .....</p>	<ul style="list-style-type: none"> <li>• The CDFI Fund reserves the right, in its sole discretion, to perform its own valuation of Equity Investment source(s) and to determine if the equity value is acceptable to the CDFI Fund.</li> <li>• In the case of an Applicant demonstrating severe constraints on available sources of matching funds, the CDFI Fund, in its sole discretion, may provide a Severe Constraints Waiver, which permits such Applicant to comply with the matching funds requirements by reducing such requirements by up to 50 percent.</li> <li>• In order to be considered eligible for a Severe Constraints Waiver, an Applicant must meet all of the SECA eligibility criteria described in Table 8. Instructions for requesting a Severe Constraints Waiver will be made available if required.</li> <li>• No more than 25 percent of the total funds available for obligation under this funding round may qualify for a Severe Constraints Waiver.</li> </ul>
<p>Ineligible matching funds .....</p>	<ul style="list-style-type: none"> <li>• If the CDFI Fund determines that any portion of the Applicant's matching funds is ineligible, the CDFI Fund will permit the Applicant to offer documentation of alternative matching funds as a substitute for the ineligible matching funds.</li> <li>• In such instances:             <ul style="list-style-type: none"> <li>• i. The Applicant must provide acceptable evidence of the alternative matching funds within the period of time specified by the CDFI Fund, and</li> <li>• ii. the alternative matching funds will not increase the total amount of Base-FA, PPC-FA, and DF-FA requested.</li> </ul> </li> </ul>
<p>Use of matching funds from a prior CDFI Program Recipient.</p>	<p>If an Applicant offers matching funds documentation from an organization that was a prior Recipient under the CDFI Program or NACA Program, the Applicant must be able to prove to the CDFI Fund's satisfaction that such funds do not consist, in whole or in part, of CDFI Program funds, NACA Program funds, or other Federal funds.</p>
<p>Matching funds in the form of retained earnings.</p>	<ul style="list-style-type: none"> <li>• Retained earnings are eligible for use as matching funds when the CDFI Fund calculates an amount equal to:             <ul style="list-style-type: none"> <li>• i. The increase in retained earnings that occurred over any one of the Applicant's fiscal years within the Matching Funds Window, adjusted to remove revenue and expenses derived from Federal sources and matching funds used for an award; or</li> <li>• ii. the annual average of such increases that occurred over any three consecutive fiscal years of the Applicant with at least one of the fiscal years occurring within the Matching Funds Window, adjusted to remove revenue and expenses derived from Federal sources and matching funds used for an award; or</li> <li>• iii. any combination of (i) and (ii) above that does not include matching funds used for an award.</li> </ul> </li> <li>• Retained earnings will be matched in the form of a grant.</li> <li>• Depository Institution Holding Company Applicants must provide call reports for the Depository Institution Holding Company in order to verify their retained earnings, even if the requested FA award (including Base-FA, PPC-FA, and DF-FA) will support its Subsidiary CDFI Insured Depository Institution.</li> </ul>
<p>Special rule for Insured Credit Unions and Insured Depository Institutions. Depository Institutions .....</p>	<ul style="list-style-type: none"> <li>• An Insured Credit Union's and Insured Depository Institution's retained earnings are eligible for use as matching funds when the CDFI Fund calculates an amount equal to:             <ul style="list-style-type: none"> <li>• i. The increase in retained earnings that occurred over any one of the Applicant's fiscal years within the Matching Funds Window, adjusted to remove revenue from Federal sources and matching funds used for an award; or</li> <li>• ii. the annual average of such increases that occurred over any three consecutive fiscal years of the Applicant with at least one of the fiscal years occurring within the Matching Funds Window, adjusted to remove revenue and expenses derived from Federal sources and matching funds used for an award; or</li> <li>• iii. the entire retained earnings that have been accumulated since the inception of the Applicant, as provided in the Regulations.</li> </ul> </li> </ul>

TABLE 9—MATCHING FUNDS REQUIREMENTS \*—Continued

	<ul style="list-style-type: none"> <li>• If option (iii) is used for Insured Credit Unions, the Applicant must increase its member and/or non-member shares and/or total loans outstanding by an amount equal to the amount of retained earnings committed as matching funds.                         <ul style="list-style-type: none"> <li>• This increase (1) will be measured on a quarterly basis from March 31, 2019; (2) must occur by the end of Year 1 of the Recipient’s Performance Period, as set forth in its Assistance Agreement; and (3) will be based on amounts reported in the Applicant’s National Credit Union Administration (NCUA) form 5300 Call Report.</li> <li>• The CDFI Fund will assess the likelihood of this increase during the Application review process.</li> <li>• An award will not be made to any Applicant that has not demonstrated in the relevant NCUA form 5300 call reports that it has increased shares and/or total loans outstanding by at least 25 percent of the requested FA award amount (including Base-FA, PPC-FA, and DF-FA) between December 31, 2017, and December 31, 2018.</li> <li>• The matching funds are not In-Hand until the Recipient has increased its member and/or non-member shares, deposits and/or total loans outstanding by the amount of retained earnings since inception that are being used as matching funds.</li> </ul> </li> <li>• If option (iii) is used for Insured Depository Institutions or Depository Institution Holding Companies, the Applicant or its Subsidiary CDFI Insured Depository Institution (in the case of a Depository Institution Holding Company) must increase deposits and/or total loans outstanding by an amount equal to the amount of retained earnings committed as matching funds. Depository Institution Holding Company Applicants must use the call reports of the Subsidiary CDFI Insured Depository Institution that the requested FA award (including Base-FA, PPC-FA, and DF-FA) will support.                         <ul style="list-style-type: none"> <li>• This increase (1) will be measured on a quarterly basis from March 31, 2019; (2) must occur by the end of Year 1 of the Recipient’s Performance Period, as set forth in its Assistance Agreement; and (3) will be based on amounts reported in the call report.</li> <li>• The CDFI Fund will assess the likelihood of this increase during the Application review process.</li> <li>• An award will not be made to any Applicant that has not demonstrated in the relevant call reports that it has increased deposits and/or total loans outstanding by at least 25 percent of the requested FA award amount (including Base-FA, PPC-FA, and DF-FA) between December 31, 2017, and December 31, 2018.</li> <li>• The matching funds are not In-Hand until the Recipient has increased its deposits and/or total loans outstanding by the amount of retained earnings since inception that are being used as matching funds.</li> </ul> </li> <li>• All regulated Applicants utilizing the option (iii) should refer to the Retained Earnings Guidance included in the Retained Earnings Calculator Excel Workbook found on the CDFI Fund’s website.</li> </ul>
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\*The requirements set forth in Table 9 are applicable to Category II (Core) FA Applicants applying for Base-FA, PPC-FA, and DF-FA. The matching funds requirements for HFFI-FA and SECA FA Applicants were waived in the final FY 2019 appropriations, and therefore the requirements set forth in Table 9 are not applicable to HFFI-FA and SECA FA Applicants for the FY 2019 Funding Round.

**IV. Application and Submission Information**

*A. Address to Request an Application Package:* Application Materials can be found on the CDFI Fund’s website at [www.cdfifund.gov/cdfi](http://www.cdfifund.gov/cdfi). Applicants may request a paper version of any Application material by contacting the CDFI Fund Help Desk at [cdfihelp@cdfi.treas.gov](mailto:cdfihelp@cdfi.treas.gov). Paper versions of Application Materials will only be

provided if an Applicant cannot access the CDFI Fund’s website.

*B. Content and Form of Application Submission:* All Applications must be prepared using the English language, and calculations must be computed in U.S. dollars. The following table lists the Required Application Documents for the FY 2019 Funding Round. The CDFI Fund reserves the right to request and review other pertinent or public information that has not been

specifically requested in this NOFA or the Application. Information submitted by the Applicant that the CDFI Fund has not specifically requested will not be reviewed or considered as part of the Application. Financial data, portfolio, and activity information provided in the Application should only include the Applicant’s activities. Information submitted must accurately reflect the Applicant’s activities.

TABLE 10—REQUIRED APPLICATION DOCUMENTS

Application documents	Applicant type	Submission format
Active AMIS Account .....	All Applicants .....	AMIS.
SF-424 .....	All Applicants .....	Fillable PDF in <i>Grants.gov</i> .
CDFI Program Application Components:	All Applicants .....	AMIS.
• Funding Application Detail.		
• Data, Charts, and Narrative sections as listed in AMIS and outlined in Application Materials.		
• Matching Funds (FA Core Applicants only).		
PPC-FA Application Components: .....	PPC-FA Applicants .....	AMIS.
• Funding Application Detail		
• Narratives		
• AMIS Charts		

TABLE 10—REQUIRED APPLICATION DOCUMENTS—Continued

Application documents	Applicant type	Submission format
DF–FA Application Components: ..... • Funding Application Detail • Narratives • AMIS Charts	DF–FA Applicants .....	AMIS.
HFFI–FA Application Components*: ..... • Requested HFFI–FA Amount • Narratives and data charts	HFFI–FA Applicants ..... —Must submit the HFFI–FA Application via Service Request in AMIS. HFFI–FA Applications must be associated with the Applicant’s FA Application in AMIS upon submission.	AMIS.

**ATTACHMENTS TO THE APPLICATION:  
Add to “Related Attachments” related list in Application**

Key Staff Resumes .....	All Applicants .....	PDF or Word document in AMIS.
Organizational Chart .....	All Applicants .....	PDF in AMIS
Audited Financial Statements For the Applicant’s Three Most Recent Historic Fiscal Years.	FA Applicants: Loan funds, venture capital funds, and other non-Insured Depository Institutions.	PDF in AMIS.
Management Letters for the Applicant’s Most Recent Historic Fiscal Year.	TA Applicants, if available: Loan funds, venture capital funds, and other non-Insured Depository Institutions	
The Management Letter is prepared by the Applicant’s auditor and is a communication on internal control over financial reporting, compliance, and other matters. The Management Letter contains the auditor’s findings regarding the Applicant’s accounting policies and procedures, internal controls, and operating policies, including any material weaknesses, significant deficiencies, and other matters identified during auditing. The Management Letter may include suggestions for improving on identified weaknesses and deficiencies and/or best practice suggestions for items that may not be considered to be weaknesses or deficiencies. The Management Letter may also include items that are not required to be disclosed in the annual Audited Financial Statements. The Management Letter is distinct from the auditor’s Opinion Letter, which is required by Generally Accepted Accounting Principles (GAAP). Management Letters are not required by GAAP, and are sometimes provided by the auditor as a separate letter from the Audit itself.	FA Applicants: Loan funds, venture capital funds, and other non-Insured Depository Institutions,. TA Applicants, if Audited Financial Statements are available: Loan funds, venture capital funds, and other non-Insured Depository Institutions.	PDF in AMIS.
Statement(s) in Lieu of Management Letter for Applicant’s Most Recent Historic Fiscal Year Issued by the Board Treasurer or other Board member using the template provided in the Application Materials (required only if Management Letters are not available for Audited Financial Statements).	FA Applicants: Loan funds, venture capital funds, and other non-Insured Depository Institutions. TA Applicants, if Audited Financial Statements ARE available but the Management Letters are NOT available: Loan funds, venture capital funds, and other non-Insured Depository Institutions.	PDF in AMIS.
Unaudited Financial Statements for Applicant’s Three Most Recent Historic Years (required only if Audited Financial Statements are not available).	TA Applicants: Loan funds, venture capital funds, and other non-Insured Depository Institutions.	PDF in AMIS.
Current Year to Date—December 31, 2018 Unaudited Financial Statements.	FA and TA Applicants: Loan funds, venture capital funds, and other non-Insured Depository Institutions.	PDF in AMIS.
Community Partnership Agreement .....	FA Applicants, if applicable .....	PDF or Word document in AMIS.
Retained Earnings Calculator Excel Workbook (required only if using retained earnings as matching funds).	FA Core Applicants, if applicable .....	Excel in AMIS.
Call reports for each fiscal year reported in the Retained Earnings Calculator.	FA Core Applicants: Insured Depository Institutions that are using retained earnings as matching funds.	PDF in AMIS.
Equity Investment Matching Funds Documentation .....	FA Core Applicants: For-profit CDFIs that are using In-Hand Equity Investment(s) as matching funds.	PDF or Word document in AMIS.
Deposits Matching Funds Documentation .....	FA Core Applicants: Insured Depository Institutions that are using In-Hand Deposits as matching funds.	PDF or Word document in AMIS.

C. *Application Submission*: The CDFI Fund has a two-step process that requires the submission of Required Application Documents (listed in Table 10) on separate deadlines and locations. The SF-424 must be submitted through *Grants.gov* and all other Required Application Documents through the AMIS portal. The CDFI Fund will not accept Applications via email, mail, facsimile, or other forms of communication, except in extremely rare circumstances that have been pre-approved in writing by the CDFI Fund. Applicants are required to submit the OMB SF-424, Application for Federal Assistance form in *Grants.gov*. All other Required Application Documents (listed in Table 10) will be submitted through AMIS. The deadline for submitting the SF-424 is listed in Tables 1 and 12.

All Applicants must register in the *Grants.gov* system to successfully submit the SF-424. The *Grants.gov* registration process can take 45 days or longer to complete and the CDFI Fund strongly encourages Applicants to start the *Grants.gov* registration process as soon as possible (refer to the following link: <http://www.grants.gov/web/grants/register.html>). Since the *Grants.gov* registration process requires Applicants to have DUNS and EIN numbers, Applicants without these required numbers should allow for additional time to complete the *Grants.gov* registration process. Further, as described in Section IV.(E) of this NOFA, new requirements for registration in the System for Awards Management (SAM), which is required as part of the *Grants.gov* registration process, may take more time than in recent years. The CDFI Fund will not extend the Application deadline for any

Applicant that started the *Grants.gov* registration process but did not complete it by the deadline. An Applicant that has previously registered with *Grants.gov* must verify that its registration is current and active. Applicants should contact *Grants.gov* directly with questions related to the registration or submission process as the CDFI Fund does not maintain the *Grants.gov* system.

Each Application must be signed by a designated Authorized Representative in AMIS before it can be submitted. Applicants must ensure that an Authorized Representative is authorized to sign legal documents on behalf of the organization. Consultants working on behalf of the organization may not be designated as Authorized Representatives. Only a designated Authorized Representative or Application Point of Contact, included in the Application, may submit the Application in AMIS. If an Authorized Representative or Application Point of Contact does not submit the Application, the Application will be deemed ineligible.

D. *Dun & Bradstreet Universal Numbering System (DUNS)*: Pursuant to the Uniform Requirements, each Applicant must provide as part of its Application submission, a Dun and Bradstreet Universal Numbering System (DUNS) number. Applicants without a DUNS number will not be able to register and submit an Application in the *Grants.gov* system. Allow sufficient time for Dun & Bradstreet to respond to inquiries and/or requests for DUNS numbers.

E. *System for Award Management (SAM)*: Any entity applying for Federal grants or other forms of Federal

financial assistance through *Grants.gov* must be registered in SAM before submitting its Application. Registration in SAM is required as part of the *Grants.gov* registration process. The SAM registration process may take one month or longer to complete. A signed notarized letter identifying the SAM authorized entity administrator for the entity associated with the DUNS number is required. This requirement is applicable to new entities registering in SAM, as well as to existing entities with registrations being updated or renewed in SAM. Applicants without DUNS and/or EIN numbers should allow for additional time as an Applicant cannot register in SAM without those required numbers. Applicants that have previously completed the SAM registration process must verify that their SAM accounts are current and active. Each Applicant must continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an Application under consideration by a Federal awarding agency. The CDFI Fund will not consider any Applicant that fails to properly register or activate its SAM account and, as a result, is unable to submit the SF-424 in *Grants.gov* or Application in AMIS by the applicable Application deadlines. These restrictions also apply to organizations that have not yet received a DUNS or EIN number. Applicants must contact SAM directly with questions related to registration or SAM account changes as the CDFI Fund does not maintain this system and has no ability to make changes or correct errors of any kind. For more information about SAM, visit <https://www.sam.gov>.

TABLE 11—GRANTS.GOV REGISTRATION TIMELINE SUMMARY

Step	Agency	Estimated minimum time to complete
Obtain a DUNS number .....	Dun & Bradstreet .....	One (1) Week *
Obtain an EIN number .....	Internal Revenue Service (IRS) .....	Two (2) Weeks *
Register in <i>SAM.gov</i> .....	System for Award Management ( <i>SAM.gov</i> ) .....	Four(4) Weeks *
Register in <i>Grants.gov</i> .....	<i>Grants.gov</i> .....	One (1) Week **.

\* Applicants are advised that the stated durations are estimates only and represent minimum timeframes. Actual timeframes may take longer. The CDFI Fund will not consider any Applicant that fails to properly register or activate its SAM account, has not yet received a DUNS or EIN number, and/or fails to properly register in *Grants.gov*.

\*\* This estimate assumes an Applicant has a DUNS number, an EIN number, and is already registered in *SAM.gov*.

F. *Submission Dates and Times*:

1. *Submission Deadlines*: The following table provides the critical

deadlines for the FY 2019 Funding Round.

TABLE 12—FY 2019 FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS

Description	Deadline	Time eastern time (ET)	Submission method
Last day to contact Certification, Compliance Monitoring and Evaluation (CCME) staff regarding CDFI Certification.	May 1, 2019 .....	11:59 p.m .....	Service Request via AMIS.
CDFI certification applications .....	May 3, 2019 .....	11:59 p.m .....	Electronically via AMIS.
Create AMIS Account (New Applicants) .....	May 3, 2019 .....	11:59 p.m .....	AMIS.
SF-424 (Application for Federal Assistance) .....	May 3, 2019 .....	11:59 p.m .....	Electronically via <i>Grants.gov</i> .
Last day to contact CDFI Program staff .....	June 4, 2019 ....	5:00 p.m .....	Service Request via AMIS Or CDFI Fund Helpdesk: 202-653-0421.
Last day to contact AMIS-IT Help Desk (regarding AMIS technical problems only).	June 6, 2019 ....	5:00 p.m .....	Service Request via AMIS or 202-653-0422 or <i>AMIS@cdfi.treas.gov</i> .
CDFI Program Application for FA or TA .....	June 6, 2019 ....	11:59 p.m .....	Electronically via AMIS.

**2. Confirmation of Application Submission in Grants.gov and AMIS:** Applicants are required to submit the OMB SF-424, Application for Federal Assistance through the *Grants.gov* system, under the CDFI Program Funding Opportunity Number by the applicable deadline. All other Required Application Documents (listed in Table 10) must be submitted through the AMIS website by the applicable deadline. Applicants must submit the SF-424 prior to submitting the Application in AMIS. If the SF-424 is not successfully accepted by *Grants.gov* by the deadline, the CDFI Fund will not review the Application submitted in AMIS, and the Application will be deemed ineligible.

**a. Grants.gov Submission Information:** Each Applicant will receive an email from *Grants.gov* immediately after submitting the SF-424 confirming that the submission has entered the *Grants.gov* system. This email will contain a tracking number for the submitted SF-424. Within 48 hours, the Applicant will receive a second email, which will indicate if the submitted SF-424 was either successfully validated or rejected with errors. However, Applicants should not rely on the email notification from *Grants.gov* to confirm that their SF-424 was validated. Applicants are strongly encouraged to use the tracking number provided in the first email to closely monitor the status of their SF-424 by contacting the helpdesk at *Grants.gov* directly. The Application material submitted in AMIS is not officially accepted by the CDFI Fund until *Grants.gov* has validated the SF-424.

**b. AMIS Submission Information:** AMIS is a web-based portal where Applicants will directly enter their Application information and add the required attachments listed in Table 10. AMIS will verify that the Applicant provided the minimum information required to submit an Application.

Applicants are responsible for the quality and accuracy of the information and attachments included in the Application submitted in AMIS. The CDFI Fund strongly encourages Applicants to allow for sufficient time to review and complete all Required Application Documents listed in Table 10, and remedy any issues prior to the Application deadline. Each Application must be signed by an Authorized Representative in AMIS before it can be submitted. Applicants must ensure that the Authorized Representative is authorized to sign legal documents on behalf of the organization. Consultants working on behalf of the organization may not be designated as Authorized Representatives. Only an Authorized Representative or an Application Point of Contact may submit an Application. If an Authorized Representative or Application Point of Contact does not submit the Application, the Application will be deemed ineligible. Applicants may only submit one Base-FA or TA Application under the CDFI Program. Upon submission, the Application will be locked and cannot be resubmitted, edited, or modified in any way. The CDFI Fund will not unlock or allow multiple Application submissions.

**3. Late Submission:** The CDFI Fund will not accept an Application if the SF-424 is not submitted and accepted by *Grants.gov* by the SF-424 deadline. Additionally, the CDFI Fund will not accept an Application if it is not signed by an Authorized Representative and submitted in AMIS by the Application deadline. In either case, the CDFI Fund will not review any material submitted, and the Application will be deemed ineligible.

However, in cases where a Federal government administrative or technological error directly resulted in a late submission of the SF-424 or the Application, Applicants are provided two opportunities to submit a written request for acceptance of late

submissions. The CDFI Fund will not consider the late submission of the SF-424 or the Application that was a direct result of a delay in a Federal Government process, unless such delay was the result of a Federal government administrative or technological error.

**a. SF-424 Late Submission:** In cases where a Federal government administrative or technological error directly resulted in the late submission of the SF-424, the Applicant must submit a written request for acceptance of the late SF-424 submission and include documentation of the error no later than two business days after the SF-424 deadline. The CDFI Fund will not respond to requests for acceptance of late SF-424 submissions after that time period. Applicants must submit late SF-424 submission requests to the CDFI Fund via an AMIS service request to the CDFI Program with a subject line of "Late SF-424 Submission Request."

**b. Application Late Submission:** In cases where a Federal government administrative or technological error directly resulted in a late submission of the Application in AMIS, the Applicant must submit a written request for acceptance of the late Application submission and include documentation of the error no later than two business days after the Application deadline. The CDFI Fund will not respond to requests for acceptance of late Application submissions after that time period. Applicants must submit late Application submission requests to the CDFI Fund via an AMIS service request to the CDFI Program with a subject line of "Late Application Submission Request."

**G. Funding Restrictions:** Base-FA, PPC-FA, DF-FA, HFFI-FA and TA awards are limited by the following:

**1. Base-FA awards:**  
**a.** A Recipient shall use Base-FA funds only for the eligible activities described in Section II.(C)(1) of this NOFA and its Assistance Agreement.

b. With the exception of Depository Institution Holding Company Applicants, Base-FA awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

c. Base-FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay Base-FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

#### 2. PPC-FA awards:

a. A Recipient shall use PPC-FA funds only for the eligible activities described in Section II.(C)(5) of this NOFA and its Assistance Agreement.

b. With the exception of Depository Institution Holding Company Applicants, PPC-FA awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

c. PPC-FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay PPC-FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

#### 3. DF-FA awards:

a. A Recipient shall use DF-FA funds only for the eligible activities described in Section II.(C)(2) of this NOFA and its Assistance Agreement.

b. With the exception of Depository Institution Holding Company Applicants, DF-FA awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

c. DF-FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay DF-FA funds in

amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

#### 2. HFFI-FA awards:

a. A Recipient shall use HFFI-FA funds only for the eligible activities described in Section II.(C)(4) of this NOFA and its Assistance Agreement.

b. With the exception of Depository Institution Holding Company Applicants, HFFI-FA awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

c. HFFI-FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay HFFI-FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

#### 3. TA grants:

a. A Recipient shall use TA funds only for the eligible activities described in Section II.(C)(3) of this NOFA and its Assistance Agreement.

b. With the exception of Depository Institution Holding Company Applicants, TA awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

c. TA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay TA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

### V. Application Review Information

A. *Criteria:* If the Applicant has submitted an eligible Application, the CDFI Fund will conduct a substantive review in accordance with the criteria and procedures described in the Regulations, this NOFA, the Application guidance, and the Uniform

Requirements. The CDFI Fund reserves the right to contact the Applicant by telephone, email, or mail for the purpose of clarifying or confirming Application information. If contacted, the Applicant must respond within the time period communicated by the CDFI Fund or risk that its Application will be rejected. The CDFI Fund will review the Base-FA, DF-FA, PPC-FA, HFFI-FA, and TA Applications in accordance with the process below. All internal and external reviewers will complete the CDFI Fund's conflict of interest process. The CDFI Fund's Application conflict of interest policy is located on the CDFI Fund's website.

1. *Base-FA Application Scoring, Award Selection, Review, and Selection Process:* The CDFI Fund will evaluate each Application using a five-step review process illustrated in the sections below. Applicants that meet the minimum criteria will advance to the next step in the review process. Applicants applying as a Community Partnership must describe the partnership in the Application pursuant to the requirements set forth in Table 8, and will be evaluated in accordance with the review process described below.

a. *Step 1: Eligibility Review:* The CDFI Fund will evaluate each Application to determine its eligibility status pursuant to Section III of this NOFA.

b. *Step 2: Financial Analysis and Compliance Risk Evaluation:* Step 2 contains two main components: Financial Analysis and Compliance Risk Evaluation.

i. *Step 2: Financial Analysis:* For Insured Depository Institutions, the CDFI Fund will consider financial safety and soundness information from the Appropriate Federal or State Banking Agency. As detailed in Table 8, each Insured Depository Institution FA Applicant must have a CAMELS/ CAMEL rating of at least "3" and/or no significant materials concerns from its regulator.

For non-regulated Applicants, the CDFI Fund will evaluate the financial health and viability of each non-regulated Applicant using financial information provided by the Applicant. The CDFI Fund will also evaluate the compliance risk of each non-regulated Applicant using information provided in the Application as well as an Applicant's reporting history, reporting capacity, and performance risk with respect to the CDFI Fund's Performance Goals and Measures (PG&Ms). For the Financial Analysis, each non-regulated Applicant will receive a Total Financial Composite Score on a scale of one (1) to five (5), with one (1) being the highest

rating. The Total Financial Composite Score is based on the analysis of twenty-three (23) financial indicators. Applications will be grouped based on the Total Financial Composite Score. Applicants must receive a Total Financial Composite Score of one (1), two (2), or three (3) to advance to Step 3. Applicants that receive an initial Total Financial Composite Score of four (4) or five (5) will be re-evaluated and re-scored by CDFI Fund staff. If the Total Financial Composite Score remains four (4) or five (5) after CDFI Fund staff review, the Applicant will not advance to Step 3.

ii. *Step 2: Compliance Risk*

Evaluation: For the compliance analysis, the CDFI Fund will evaluate the compliance risk of each Applicant using information provided in the Application as well as an Applicant's reporting

history, reporting capacity, and performance risk with respect to the CDFI Fund's PG&Ms. Each Applicant will receive a Total Compliance Composite Score on a scale of one (1) to five (5), with one (1) being the highest rating. Applicants that receive an initial Total Compliance Composite Score of four (4) or five (5) will be re-evaluated by CDFI Fund Staff. If the Applicant is deemed a high compliance risk after CDFI Fund Staff review, the Applicant will not advance to Step 3.

c. *Step 3: Business Plan Review:*

Applicants that proceed to Step 3 will be evaluated on the soundness of its comprehensive business plan. Two external non-CDFI Fund Reviewers will conduct the Step 3 evaluation. Reviewers will evaluate the Application sections listed in Table 13. All Applications will be reviewed in

accordance with standard reviewer evaluation materials for the business plan review. Applications will be ranked based on Total Business Plan Scores, in descending order. In order to advance to Step 4, Applicants must receive a Total Business Plan Score that is either (1) equal to receiving a point score equivalent to a "Good" out of a ranking scale in descending order of Excellent, Good, Fair, Limited or Poor, in each section listed in Table 13, or (2) within the top 60 percent of the Core Applicant pool for Core Applicants or within the top 70 percent of the SECA Applicant pool for SECA Applicants, whichever is greater. In the case of tied Total Business Plan Scores that would prevent an Applicant from moving to Step 4, all Applicants with the same score will progress to Step 4.

TABLE 13—STEP 3: BASE-FA BUSINESS PLAN REVIEW SCORING CRITERIA

Base-FA application sections	Possible score	Score needed to advance
Executive Summary .....	Not Scored .....	N/A.
Business Strategy .....	12 .....	N/A.
Market and Competitive Analysis .....	7 .....	N/A.
Products and Services .....	12 .....	N/A.
Management and Track Record .....	12 .....	N/A.
Growth and Projections .....	7 .....	N/A.
Total Business Plan Score .....	50 .....	Core Applicants: Top 60 percent of all Core Applicant Step 3 Scores SECA Applicants: Top 70 percent of all SECA Applicant Step 3 Scores.

d. *Step 4: Policy Objective Review:* The CDFI Fund internal reviewers will evaluate each Application to determine its ability to meet policy objectives of the CDFI Fund. The policy objectives considered in this evaluation are listed in Table 14 below. The CDFI Fund also conducts a due diligence review for Applications that includes an analysis of programmatic risk factors including,

but not limited to: History of performance in managing Federal awards (including timeliness of reporting and compliance); ability to meet FA Objective(s) selected by Base-FA Applicants in their Applications; reports and findings from audits; and the Applicant's ability to effectively implement Federal requirements, each of which could impact the Total Policy

Objective Review Score. Each Applicant will be evaluated in each of the categories listed in Table 14, and will receive a Total Policy Objective Review Composite Score on a scale of one (1) to five (5), with one (1) being the highest score. Applicants are then grouped according to Total Policy Objective Review Scores.

TABLE 14—STEP 4: BASE-FA POLICY REVIEW SCORING CRITERIA

Section	Possible scores	High score	Score needed to advance
Economic Distress .....	1, 2, 3, 4, or 5 .....	1	N/A.
Economic Opportunities .....	1, 2, 3, 4, or 5 .....	1	N/A.
Community Collaboration .....	1, 2, 3, 4, or 5 .....	1	N/A.
Total Policy Objective Review Composite Score .....	1, 2, 3, 4, or 5 .....	1	All Scores Advance.

e. *Step 5: Award Amount Determination:* The CDFI Fund determines an award amount for each Application based on the Step 4 Total Policy Objective Review Score, the Applicant's request amount, and on certain other factors, including but not

limited to, an Applicant's deployment track record, minimum award size, and funding availability. Award amounts may be reduced from the requested award amount as a result of this analysis. Lastly, the CDFI Fund may consider the geographic diversity of

Applicants when making its funding decisions.

2. *Healthy Food Financing Initiative-FA (HFFI-FA) Application Scoring, Award Selection, Review, and Selection Process:* A CDFI Fund internal reviewer will evaluate each HFFI-FA Application

associated with a Base-FA Application that progresses to Step 4 of the FA Application review process. The reviewer will evaluate the Application sections listed in Table 15 and assign a Total HFFI-FA Score up to 60 points. The CDFI Fund will make awards to the highest scoring Applicants first. All Applications will be reviewed in accordance with standard reviewer evaluation materials. Applicants that fail to receive a Base-FA award will not be considered for a HFFI-FA award.

The CDFI Fund conducts additional levels of due diligence for Applications that are in contention for an HFFI-FA award. This due diligence includes an analysis of programmatic and financial risk factors including, but not limited to, financial stability, quality of management systems and ability to meet award management standards, history of performance in managing Federal awards (including timeliness of reporting and compliance), reports and findings from audits, and the

Applicant's ability to effectively implement Federal requirements. Award amounts may be reduced from the requested award amount as a result of this analysis. The CDFI Fund may reduce awards sizes from requested amounts based on certain variables, including but not limited to, an Applicant's loan disbursement activity or total portfolio outstanding. Lastly, the CDFI Fund may consider the geographic diversity of Applicants when making its funding decisions.

TABLE 15—STEP 4 HFFI-FA APPLICATION SCORING CRITERIA

Sections	Possible score (points)
Target Market Profile .....	20
Healthy Food Financial Products .....	20
Projected HFFI-FA Activities and HFFI Track Record .....	15
Management Capacity for Providing Healthy Food Financing .....	5
<b>Total HFFI-FA Possible Score .....</b>	<b>60</b>

3. *Persistent Poverty Counties—Financial Assistance (PPC-FA) Application Scoring, Award Selection, Review, and Selection Process:* A CDFI Fund internal reviewer will evaluate the PPC-FA request of each associated Base-FA Application that progresses to Step 4 of the FA Application review process. PPC-FA requests are not scored. PPC-FA award amounts will be determined based on the total number of eligible Applicants and funding availability, the Applicant's requested amount, and on certain factors, including but not limited to, an Applicant's overall portfolio size, historical track record of deployment in

PPC, pipeline of projects in PPC, minimum award size, and funding availability. Applicants that fail to receive a Base-FA award will not be considered for a PPC-FA award.

4. *Disability Funds-Financial Assistance (DF-FA) Application Scoring, Award Selection, Review, and Selection Process:* A CDFI Fund internal reviewer will evaluate each DF-FA Application associated with a Base-FA Application that progresses to Step 4 of the FA Application review process. The reviewer will evaluate the Application and assign a Total DF-FA Score on a scale of one (1) to three (3), with one (1) being the highest score. Applicants are then grouped according to Total DF-FA

Score. All Applications will be reviewed in accordance with standard reviewer evaluation materials. Applicants that fail to receive a Base-FA award will not be considered for a DF-FA award. Award amounts will be determined on the basis of the Total DF-FA Score, the Applicant's requested amount, and on certain factors, including but not limited to, an Applicant's deployment track record, minimum award size, and funding availability. Award amounts may be reduced from the requested award amount as a result of this analysis. The CDFI Fund will make awards to the highest scoring Applicants first.

TABLE 16—STEP 3 DF-FA APPLICATION SCORING CRITERIA

Section	Possible scores	High score
DF-FA Narrative Questions .....	1, 2, or 3	1
<b>Total DF-FA Score .....</b>	<b>1, 2, or 3</b>	<b>1</b>

5. *Technical Assistance (TA) Application Scoring, Award Selection, Review, and Selection Process:* The CDFI Fund will evaluate each Application to determine its eligibility pursuant to Section III of this NOFA. If the Application satisfies the eligibility criteria, the CDFI Fund will evaluate the TA Application. Emerging CDFI or Certifiable CDFI Applicants must receive a rating of Low Risk or Medium Risk in Section I of the TA Business Plan Review to progress to Section II of the TA Business Plan Review. Emerging

CDFI or Certifiable CDFI Applicants that receive a rating of High Risk in Section I of the TA Business Plan Review will not be considered for an award. Emerging CDFI, Certifiable CDFI, and Certified CDFI Applicants must receive a rating of Low Risk or Medium Risk in Section II of the TA Business Plan Review to be considered for an award. Applicants that receive a rating of High Risk in Section II of the TA Business Plan Review will not be considered for an award. An Applicant that is a Certified CDFI will be evaluated on the

demonstrated need for TA funding to build the CDFI's capacity, further the Applicant's strategic goals, and achieve impact within the Applicant's Target Market. An Applicant that is an Emerging CDFI or Certifiable CDFI will be evaluated on the Applicant's demonstrated capability and plan to achieve CDFI certification within three years, or if a prior awardee, the certification performance goal and measure stated in its prior Assistance Agreement. An Applicant that is an Emerging CDFI and Certifiable CDFI

will also be evaluated on its demonstrated need for TA funding to

build the CDFI’s capacity and further its strategic goals. The CDFI Fund will rate

each part of the TA Business Plan Review as indicated in Table 17.

TABLE 17—TA BUSINESS PLAN REVIEW

Business Plan Review component	Applicant type	Ratings
Section I:		
Primary Mission .....	Emerging and Certifiable Applicants .....	Low Risk, Medium Risk, or High Risk.
Financing Entity .....	Emerging and Certifiable Applicants.	
Target Market .....	Emerging and Certifiable Applicants.	
Accountability .....	Emerging and Certifiable Applicants.	
Development Services .....	Emerging and Certifiable Applicants.	
Section II:		
Target Market Needs & Strategy .....	Emerging, Certifiable, and Certified Applicants	Low Risk, Medium Risk, or High Risk.
Organizational Capacity .....	Emerging, Certifiable, and Certified Applicants.	
Management Capacity .....	Emerging, Certifiable, and Certified Applicants.	

Each TA Application will be evaluated by one internal CDFI Fund reviewer. All Applications will be reviewed in accordance with CDFI Fund standard reviewer evaluation materials for the Business Plan Review.

The CDFI Fund conducts additional levels of due diligence for Applications that are in contention for an award. This due diligence includes an analysis of programmatic and financial risk factors including, but not limited to, financial stability, history of performance in managing Federal awards (including timeliness of reporting and compliance), reports and findings from audits, and the Applicant’s ability to effectively implement Federal requirements. The CDFI Fund will also evaluate the compliance risk of each Applicant using information provided in the Application as well as an Applicant’s reporting history, reporting capacity, and performance risk with respect to the CDFI Fund’s PG&Ms. Each Applicant will receive a Total Compliance Composite Score on a scale of one (1) to five (5), with one (1) being the highest rating. Applicants that receive an initial Total Compliance Composite Score of four (4) or five (5) will be re-evaluated by CDFI Fund Staff. If the Applicant is deemed a high compliance risk after CDFI Staff review, the Applicant will not be considered for an award. The CDFI Fund will also evaluate the Applicant’s ability to meet certification criteria of being a legal entity and a non-government entity. Award amounts may be reduced as a result of the due diligence analysis in addition to consideration of the eligibility of an Applicant’s funding request and similar factors. Lastly, the CDFI Fund may consider the geographic diversity of Applicants when making its funding decisions.

6. *Insured Depository Institutions:* The CDFI Fund will consider safety and soundness information from the Appropriate Federal or State Banking

Agency. If the Applicant is a CDFI Depository Institution Holding Company, the CDFI Fund will consider information provided by the Appropriate Federal or State Banking Agencies about both the CDFI Depository Institution Holding Company and the Certified CDFI Subsidiary Insured Depository Institution that will expend and carry out the award. If the Appropriate Federal or State Banking Agency identifies safety and soundness concerns, the CDFI Fund will assess whether such concerns cause or will cause the Applicant to be incapable of undertaking the activities for which funding has been requested.

7. *Non-Regulated Institutions:* The CDFI Fund must ensure, to the maximum extent practicable, that Recipients which are non-regulated CDFIs are financially and managerially sound, and maintain appropriate internal controls (12 U.S.C. 4707(f)(1)(A) and 12 CFR 1805.800(b)). Further, the CDFI Fund must determine that an Applicant’s capacity to operate as a CDFI and its continued viability will not be dependent upon assistance from the CDFI Fund (12 U.S.C. 4704(b)(2)(A)). If it is determined that the Applicant is incapable of meeting these requirements, the CDFI Fund reserves the right to deem the Applicant ineligible or terminate the award.

B. *Anticipated Award Announcement:* The CDFI Fund anticipates making CDFI Program award announcement before December 31, 2019. However, the anticipated award announcement date is subject to change without notice.

C. *Application Rejection:* The CDFI Fund reserves the right to reject an Application if information (including administrative errors) comes to the CDFI Fund’s attention that: Adversely affects an Applicant’s eligibility for an award; adversely affects the Recipient’s certification as a CDFI (to the extent that the award is conditional upon CDFI

certification); adversely affects the CDFI Fund’s evaluation or scoring of an Application; or indicates fraud or mismanagement on the Applicant’s part. If the CDFI Fund determines any portion of the Application is incorrect in a material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the Application. The CDFI Fund reserves the right to change its eligibility and evaluation criteria and procedures, if the CDFI Fund deems it appropriate. If the changes materially affect the CDFI Fund’s award decisions, the CDFI Fund will provide information about the changes through its website. The CDFI Fund’s award decisions are final, and there is no right to appeal decisions.

D. *External Non-CDFI Fund Reviewers:* All external non-CDFI Fund reviewers are selected based on criteria that includes a professional background in community and economic development finance, and experience reviewing the financial statements of all CDFI institution types. Reviewers must complete the CDFI Fund’s conflict of interest process and be approved by the CDFI Fund. The CDFI Fund’s Application reader conflict of interest policy is located on the CDFI Fund’s website.

**VI. Federal Award Administration Information**

A. *Award Notification:* Each successful Applicant will receive an email “notice of award” notification from the CDFI Fund stating that its Application has been approved for an award. Each Applicant not selected for an award will receive an email stating that a debriefing notice has been provided in its AMIS account.

B. *Assistance Agreement:* Each Applicant selected to receive an award must enter into an Assistance Agreement with the CDFI Fund in order to receive a payment(s). The Assistance Agreement will set forth the award’s

terms and conditions, including but not be limited to the: (i) Award amount; (ii) award type; (iii) award uses; (iv) eligible use of funds; (v) performance goals and measures; and (vi) reporting requirements. FA Assistance Agreements have three-year periods of performance. TA Assistance Agreements have two-year periods of performance for Certified CDFIs and three-year periods of performance for Emerging CDFIs or Certifiable CDFIs.

1. *Certificate of Good Standing:* All FA and TA Recipients that are not Insured Depository Institutions will be required to provide the CDFI Fund with a certificate of good standing from the secretary of state for the Recipient's jurisdiction of formation prior to closing. This certificate can often be acquired online on the secretary of state website for the Recipient's jurisdiction of formation and must generally be dated within 180 days prior to the date the Recipient executes the Assistance Agreement. Due to potential backlogs in state government offices, Applicants are advised to submit requests for certificates of good standing no later than 60 days after they submit their Applications.

2. *Closing:* Pursuant to the Assistance Agreement, there will be an initial closing at which point the Assistance Agreement and related documents will be properly executed and delivered, and

an initial payment of FA or TA may be made. FA Recipients that are subject to the matching funds requirement will not receive a payment until 100 percent of their matching funds are In-Hand. The first payment is the estimated amount of award that the Recipient states in its Application that it will use for eligible FA or TA activities in the first 12 months after the award announcement. The CDFI Fund reserves the right to increase the first payment amount on any award to ensure that any subsequent payments are greater than \$25,000 for FA and \$5,000 for TA awards.

The CDFI Fund will minimize the time between the Recipient incurring costs for eligible activities and award payment in accordance with the Uniform Requirements. Advanced payments for eligible activities will occur no more than one year in advance of the Recipient incurring costs for the eligible activities. Following the initial closing, there may be subsequent closings involving additional award payments. Any documentation in addition to the Assistant Agreement that is connected with such subsequent closings and payments shall be properly executed and timely delivered by the Recipient to the CDFI Fund.

3. *Requirements Prior to Entering into an Assistance Agreement:* If, prior to entering into an Assistance Agreement,

information (including administrative errors) comes to the CDFI Fund's attention that: Adversely affects the Recipient's eligibility for an award; adversely affects the Recipient's certification as a CDFI (to the extent that the award is conditional upon CDFI certification); adversely affects the CDFI Fund's evaluation of the Application; indicates that the Recipient is not in compliance with any requirement listed in the Uniform Requirements; the Recipient has failed to execute and return a prior round Assistance Agreement to the CDFI Fund within the CDFI Fund's deadlines; or indicates fraud or mismanagement on the Recipient's part, the CDFI Fund may, in its discretion and without advance notice to the Recipient, terminate the award or take such other actions as it deems appropriate. The CDFI Fund reserves the right, in its sole discretion, to rescind an award if the Recipient fails to return the Assistance Agreement, signed by the Authorized Representative of the Recipient, and/or provide the CDFI Fund with any requested documentation, within the CDFI Fund's deadlines.

In addition, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Assistance Agreement and the award made under this NOFA pending the criteria described in the following table:

TABLE 18—REQUIREMENTS PRIOR TO EXECUTING AN ASSISTANCE AGREEMENT

Requirement	Criteria
Failure to meet reporting requirements.	If a Recipient received a prior award under any CDFI Fund program and is not in compliance with the reporting requirements of the previously executed agreement(s), the CDFI Fund may delay entering into an Assistance Agreement or disbursing an award until such reporting requirements are met. If the Recipient is unable to meet the requirement(s) within the timeframe specified by the CDFI Fund, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA.
Failure to maintain CDFI Certification.	<ul style="list-style-type: none"> <li>• The automated systems the CDFI Fund uses only acknowledge a report's receipt and are not a determination of meeting reporting requirements.</li> <li>• An FA Recipient must be a Certified CDFI prior to entering into an Assistance Agreement.</li> <li>• If an FA Recipient fails to maintain CDFI Certification, the CDFI Fund will terminate and rescind the Assistance Agreement and the award made under this NOFA.</li> <li>• If TA Recipient is a Certified CDFI at the time of award announcement, it must maintain CDFI Certification.</li> <li>• If a Certified CDFI TA Recipient fails to maintain CDFI Certification, the CDFI Fund will terminate and rescind the Assistance Agreement and the award made under this NOFA.</li> </ul>
Pending resolution of noncompliance.	<ul style="list-style-type: none"> <li>• The CDFI Fund will delay entering into an Assistance Agreement with a Recipient that has pending non-compliance issues with any of its previously executed CDFI award agreement(s), if the CDFI Fund has not yet made a final compliance determination.</li> <li>• If the Recipient is unable to satisfactorily resolve the compliance issues, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA.</li> </ul>
Noncompliance status .....	<ul style="list-style-type: none"> <li>• If, at any time prior to entering into an Assistance Agreement, the CDFI Fund determines that a Recipient is noncompliant with any previously executed CDFI award agreement(s) and the CDFI Fund has provided written notification that the Recipient is ineligible to apply for or receive any future awards or allocations for a time period specified by the CDFI Fund in writing, the CDFI Fund may delay entering into an Assistance Agreement until the Recipient has cured the noncompliance by taking actions the CDFI Fund has specified within such specified timeframe. If the Recipient is unable to cure the noncompliance within the specified timeframe, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA.</li> </ul>

TABLE 18—REQUIREMENTS PRIOR TO EXECUTING AN ASSISTANCE AGREEMENT—Continued

Requirement	Criteria
Compliance with Federal civil rights requirements.	<ul style="list-style-type: none"> <li>If prior to entering into an Assistance Agreement under this NOFA, the Recipient receives a final determination, made within the last three years, in any proceeding instituted against the Recipient in, by, or before any court, governmental, or administrative body or agency, declaring that the Recipient has violated the following laws: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975, (42 U.S.C. 6101–6107), and Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, the CDFI Fund will terminate and rescind the Assistance Agreement and the award made under this NOFA.</li> </ul>
Do Not Pay .....	<ul style="list-style-type: none"> <li>The Do Not Pay Business Center was developed to support Federal agencies in their efforts to reduce the number of improper payments made through programs funded by the Federal government.</li> <li>The CDFI Fund reserves the right, in its sole discretion, to rescind an award if the Recipient is identified as an ineligible Recipient in the Do Not Pay database.</li> </ul>
Safety and soundness .....	<ul style="list-style-type: none"> <li>If it is determined the Recipient is, or will be, incapable of meeting its award obligations, the CDFI Fund will deem the Recipient to be ineligible, or require it to improve safety and soundness conditions prior to entering into an Assistance Agreement.</li> </ul>

C. Reporting

1. Reporting requirements: On an annual basis during the Period of

Performance, the CDFI Fund may collect information from each Recipient including, but not limited to, an Annual

Report with the following components (Annual Reporting Requirements):

TABLE 19—ANNUAL REPORTING REQUIREMENTS

Financial Statement Audit Report (Non-profit Recipient including Insured Credit Unions).	<p>A Non-profit Recipient (including Insured Credit Unions) must submit a Financial Statement Audit (FSA) report in AMIS, along with the Recipient's statement of financial condition audited or reviewed by an independent certified public accountant, if any are prepared.</p> <p>Under no circumstances should this be construed as the CDFI Fund requiring the Recipient to conduct or arrange for additional audits not otherwise required under Uniform Requirements or otherwise prepared at the request of the Recipient or parties other than the CDFI Fund.</p>
Financial Statement Audit Report (For-Profit Recipient). <i>Financial Statement Audit Report</i> (DIHC and Insured Depository Institution).	<p>For-profit Recipients must submit a FSA report in AMIS, along with the Recipient's statement of financial condition audited or reviewed by an independent certified public accountant.</p> <p>If the Recipient is a Depository Institution Holding Company or an Insured Depository Institution, it must submit a FSA report in AMIS.</p>
Single Audit Report (Non-Profit Recipients, if applicable).	<p>A non-profit Recipient must complete an annual Single Audit pursuant to the Uniform Requirements (2 CFR 200.500) if it expends \$750,000 or more in Federal awards in its fiscal year, or such other dollar threshold established by OMB pursuant to 2 CFR 200.500. If a Single Audit is required, it must be submitted electronically to the Federal Audit Clearinghouse (FAC) (see 2 CFR Subpart F-Audit Requirements in the Uniform Requirements) and optionally through AMIS.</p>
Transaction Level Report (TLR) .....	<p>The Recipient must submit a TLR to the CDFI Fund through AMIS.</p> <p>If the Recipient is a Depository Institution Holding Company that deploys all or a portion of its Financial Assistance through its Subsidiary CDFI Insured Depository Institution, that Subsidiary CDFI Insured Depository Institution must also submit a TLR. Furthermore, if the Depository Institution Holding Company itself deploys any portion of the Financial Assistance, the Depository Institution Holding Company must submit a TLR.</p> <p>The TLR is not required for TA Recipients.</p>
Uses of Award Report .....	<p>The Recipient must submit the Uses of Award Report to the CDFI Fund in AMIS.</p>
Shareholders Report .....	<p>If the Assistance is in the form of an Equity Investment, the Recipient must submit shareholder information to the CDFI Fund showing the class, series, number of shares and valuation of capital stock held or to be held by each shareholder. The Shareholder Report must be submitted for as long as the CDFI Fund is an equity holder. The Shareholders Report is submitted through AMIS.</p>
Performance Progress Report .....	<p>The Recipient must submit the Performance Progress Report through AMIS.</p>

Each Recipient is responsible for the timely and complete submission of the Annual Reporting Requirements. The CDFI Fund reserves the right to contact the Recipient and additional entities or signatories to the Assistance Agreement to request additional information and/or documentation. The CDFI Fund will use such information to monitor each Recipient's compliance with the requirements of the Assistance Agreement and to assess the impact of the CDFI Program. The CDFI Fund reserves the right, in its sole discretion,

to modify these reporting requirements, including increasing the scope and frequency of reporting, if it determines it to be appropriate and necessary; however, such reporting requirements will be modified only after notice to Recipients.

2. *Financial Management and Accounting:* The CDFI Fund will require Recipients to maintain financial management and accounting systems that comply with Federal statutes, regulations, and the terms and conditions of the Federal award. These

systems must be sufficient to permit the preparation of reports required by the CDFI Fund to ensure compliance with the terms and conditions of the CDFI Program, including the tracing of funds to a level of expenditures adequate to establish that such funds have been used in accordance with Federal statutes, regulations, and the terms and conditions of the Federal award.

The cost principles used by Recipients must be consistent with Federal cost principles and support the accumulation of costs as required by the

principles, and must provide for adequate documentation to support costs charged to the CDFI Program award. In addition, the CDFI Fund will require Recipients to: Maintain effective internal controls; comply with applicable statutes, regulations, and the Assistance Agreement; evaluate and monitor compliance; take appropriate action when not in compliance; and safeguard personally identifiable information.

**VII. Agency Contacts**

A. The CDFI Fund will respond to questions concerning this NOFA and the Application between the hours of 9:00 a.m. and 5:00 p.m. Eastern Time, starting on the date that the NOFA is published through the date listed in Table 1 and Table 12. The CDFI Fund strongly recommends Applicants submit questions to the CDFI Fund via an AMIS service request to the CDFI Program,

Certification, Compliance Monitoring and Evaluation Unit, or IT Help Desk. The CDFI Fund will post on its website responses to reoccurring questions received about the NOFA and Application. Other information regarding the CDFI Fund and its programs may be obtained from the CDFI Fund’s website at <http://www.cdfifund.gov>. Table 20 lists CDFI Fund contact information:

TABLE 20—CONTACT INFORMATION

Type of question	Preferred method	Telephone No. (not toll free)	Email addresses
CDFI Program .....	Service Request via AMIS .....	202-653-0421, option 1 .....	<a href="mailto:cdfihelp@cdfi.treas.gov">cdfihelp@cdfi.treas.gov</a> .
CCME .....	Service Request via AMIS .....	202-653-0423 .....	<a href="mailto:ccme@cdfi.treas.gov">ccme@cdfi.treas.gov</a> .
AMIS—IT Help Desk .....	Service Request via AMIS .....	202-653-0422 .....	<a href="mailto:AMIS@cdfi.treas.gov">AMIS@cdfi.treas.gov</a> .

**B. Information Technology Support:** For IT assistance, the preferred method of contact is to submit a Service Request within AMIS. For the Service Request, select “Technical Issues” from the Program dropdown menu of the Service Request. People who have visual or mobility impairments that prevent them from using the CDFI Fund’s website should call (202) 653-0422 for assistance (this is not a toll free number).

**C. Communication with the CDFI Fund:** The CDFI Fund will use the contact information in AMIS to communicate with Applicants and Recipients. It is imperative, therefore, that Applicants, Recipients, Subsidiaries, Affiliates, and signatories maintain accurate contact information in their accounts. This includes information such as contact names (especially for the Authorized Representative), email addresses, fax and phone numbers, and office locations.

**D. Civil Rights and Diversity:** Any person who is eligible to receive benefits or services from the CDFI Fund or Recipients under any of its programs is entitled to those benefits or services without being subject to prohibited discrimination. The Department of the Treasury’s Office of Civil Rights and Diversity enforces various Federal statutes and regulations that prohibit

discrimination in financially assisted and conducted programs and activities of the CDFI Fund. If a person believes that s/he has been subjected to discrimination and/or reprisal because of membership in a protected group, s/he may file a complaint with: Associate Chief Human Capital Officer, Office of Civil Rights, and Diversity, 1500 Pennsylvania Ave. NW, Washington, DC 20220 or (202) 622-1160 (not a toll-free number).

**VIII. Other Information**

**A. Paperwork Reduction Act:** Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. If applicable, the CDFI Fund may inform Applicants that they do not need to provide certain Application information otherwise required. Pursuant to the Paperwork Reduction Act, the CDFI Program, and NACA Program Application has been assigned the following control number: 1559-0021. The DF-FA Application has been assigned the following control number: 1559-0048. The HFFI-FA Application has been assigned the following control number: 1559-0040.

**B. Application Information Sessions:** The CDFI Fund may conduct webinars or host information sessions for

organizations that are considering applying to, or are interested in learning about, the CDFI Fund’s programs. For further information, visit the CDFI Fund’s website at <http://www.cdfifund.gov>.

**Authority:** 12 U.S.C. 4701, *et seq.*; 12 CFR parts 1805 and 1815; 2 CFR part 200.

**Jodie L. Harris,**  
*Director, Community Development Financial Institutions Fund.*

[FR Doc. 2019-06622 Filed 4-4-19; 8:45 am]

**BILLING CODE 4810-70-P**

**DEPARTMENT OF THE TREASURY**

**Community Development Financial Institutions Fund**

**Funding Opportunity Title: Notice of Funds Availability (NOFA) Inviting Applications for Financial Assistance (FA) Awards or Technical Assistance (TA) Grants Under the Native American CDFI Assistance (NACA Program) Fiscal Year (FY) 2019 Funding Round**

*Announcement Type:* Announcement of funding opportunity.

*Funding Opportunity Number:* CDFI-2019-NACA.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 21.012.

*Dates:*

TABLE 1—FY 2019 NACA PROGRAM FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS

Description	Deadline	Time (eastern time—ET)	Submission method
Last day to contact Certification, Compliance Monitoring and Evaluation (CCME) staff regarding CDFI Certification.	May 1, 2019 .....	11:59 p.m .....	Service Request via Award Management Information System (AMIS).
CDFI certification applications .....	May 3, 2019 .....	11:59 p.m .....	Electronically via AMIS.

TABLE 1—FY 2019 NACA PROGRAM FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS—Continued

Description	Deadline	Time (eastern time—ET)	Submission method
Create AMIS Account (New Applicants) .....	May 3, 2019 .....	11:59 p.m. ....	AMIS.
SF-424 (Application for Federal Assistance) .....	May 3, 2019 .....	11:59 p.m. ....	Electronically via <i>Grants.gov</i> .
Last day to contact NACA Program staff .....	June 4, 2019 ....	5:00 p.m. ....	Service Request via AMIS or CDFI Fund Helpdesk: 202-653-0421.
Last day to contact AMIS-IT Help Desk (regarding AMIS technical problems only).	June 6, 2019 ....	5:00 p.m. ....	Service Request via AMIS or 202-653-0422 or <i>AMIS@cdfi.treas.gov</i> .
NACA Program Application for Financial Assistance (FA) or Technical Assistance (TA).	June 6, 2019 ....	11:59 p.m. ....	AMIS.

*Executive Summary:* Through the NACA Program, the Community Development Financial Institutions (CDFI) Fund provides (i) FA awards of up to \$1 million to Certified Community Development Financial Institutions (CDFIs) serving Native American, Alaska Native, or Native Hawaiian populations or Native American areas defined as Federally-designated reservations, Hawaiian homelands, Alaska Native Villages and U.S. Census Bureau-designated Tribal Statistical Areas (collectively, “Native Communities”) to build their financial capacity to lend to Eligible Markets and/or their Target Markets, and (ii) TA grants of up to \$150,000 to build Certified, Certifiable, and Emerging CDFIs’ organizational capacity to serve Eligible Markets and/or their Target Markets and Sponsoring Entities ability to create Certified CDFIs that serve Native Communities. All awards provided through this NOFA are subject to funding availability.

**I. Program Description**

*A. History:* The CDFI Fund was established by the Riegle Community Development Banking and Financial Institutions Act of 1994 (Pub. L. 103-325, 12 U.S.C. 4701 *et seq.*) (Authorizing Statute) to promote economic revitalization and community development through investment in and assistance to CDFIs. Since its creation in 1994, the CDFI Fund has awarded more than \$3 billion to CDFIs, community development organizations, and financial institutions through the Community Development Financial Institutions Program (CDFI Program), the Native American CDFI Assistance Program (NACA Program), the Bank Enterprise Award Program (BEA Program), the Capital Magnet Fund, and the Financial Education and Counseling

Pilot Program. In addition, the CDFI Fund has allocated more than \$54 billion in tax credit allocation authority through the New Markets Tax Credit Program (NMTC Program) and has guaranteed more than \$1.5 billion in bonds for Eligible CDFIs through the CDFI Bond Guarantee Program.

*B. Priorities:* Through the NACA Program’s FA awards and TA grants, the CDFI Fund invests in and builds the capacity of for-profit and non-profit community based lending organizations known as CDFIs. These organizations, certified as CDFIs by the CDFI Fund, serve Native Communities.

*C. Program Regulations:* The regulations governing the NACA Program are found at 12 CFR parts 1805 and 1815 (the Regulations) and are used by the CDFI Fund to govern, in general, the NACA Program, setting forth evaluation criteria and other program requirements. The CDFI Fund encourages Applicants to review the Regulations; this NOFA; the NACA Program Application for Financial Assistance or Technical Assistance (the Application); all related materials and guidance documents found on the CDFI Fund’s website (Application Materials); and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200; 78 FR 78590) (the Uniform Requirements) for a complete understanding of the NACA Program. Capitalized terms in this NOFA are defined in the Authorizing Statute, the Regulations, this NOFA, the Application, Application Materials, or the Uniform Requirements. Details regarding Application content requirements are found in the Application and related Application Materials.

*D. Uniform Administrative Requirements, Cost Principles, and*

*Audit Requirements for Federal Awards (2 CFR 200):* The Uniform Requirements codify financial, administrative, procurement, and program management standards that Federal award agencies must follow. When evaluating award Applications, awarding agencies must evaluate the risks to the program posed by each Applicant, and each Applicant’s merits and eligibility. These requirements are designed to ensure that Applicants for Federal assistance receive a fair and consistent review prior to an award decision. This review will assess items such as the Applicant’s financial stability, quality of management systems, the soundness of its business plan, history of performance, ability to achieve measurable impacts through its products and services, and audit findings. In addition, the Uniform Requirements include guidance on audit requirements and other award compliance requirements for Recipients.

*E. Funding Limitations:* The CDFI Fund reserves the right to fund, in whole or in part, any, all, or none of the Applications submitted in response to this NOFA. The CDFI Fund also reserves the right to reallocate funds from the amount that is anticipated to be available through this NOFA to other CDFI Fund initiatives that are designed to benefit Native American, Native Hawaiian, and Alaskan Native communities, particularly if the CDFI Fund determines that the number of awards made through this NOFA is fewer than projected.

**II. Federal Award Information**

*A. Funding Availability:*

1. *FY 2019 Funding Round:* The CDFI Fund expects to award, through this NOFA, approximately \$15.5 million as indicated in the following table:

TABLE 2—FY 2019 FUNDING ROUND ANTICIPATED CATEGORY AMOUNTS

Funding categories (see definition in Table 7 for TA or Table 8 for FA)	Estimated total amount to be awarded (millions)	Award amount		Estimated number of awards for FY 2019	Estimate average amount awarded in FY 2019	Average amount awarded in FY 2018
		Minimum	Maximum			
Base-FA .....	\$10.95	\$150,000	\$1,000,000	24	\$453,500	\$453,500
Persistent Poverty Counties—Financial Assistance (PPC-FA) .....	1.55	100,000	300,000	9	180,000	180,000
TA .....	3	10,000	150,000	21	142,000	142,000
Total (Base-FA, PPC-FA, and TA) ..	15.5	.....	.....	54	.....	.....
Disability Funds—Financial Assistance (DF-FA) * .....	3	100,000	500,000	9	250,000	333,000
Healthy Food Financing Initiative—Financial Assistance (HFFI-FA) * .....	22	500,000	5,000,000	14	2,200,000	1,571,000

\* DF-FA and HFFI-FA appropriation will be allocated in one competitive round between the NACA and CDFI Program NOFAs.

The CDFI Fund reserves the right to award more or less than the amounts cited above in each category, based upon available funding and other factors, as appropriate.

2. *Funding Availability for the FY 2019 Funding Round:* As of the date of this NOFA, the CDFI Fund is operating under the Consolidated Appropriations Act, 2019 (Pub. L. 116-6).

3. *Anticipated Start Date and Period of Performance:* The Period of Performance for TA grants begins with the date of the notice of the award and includes either (i) an Emerging or Certifiable CDFI Recipient's three full consecutive fiscal years after the date of the notice of the award or (ii) a Certified CDFI Recipient's two full consecutive fiscal years after the date of the award announcement or (iii) a Sponsoring Entity award Recipient's four full years after the award announcement, during which the Recipient must meet the performance goals set forth in the Assistance Agreement. The Period of Performance for FA awards begins with the date of the award announcement and includes a Recipient's three full consecutive fiscal years after the date of the notice of the award, during which time the Recipient must meet the performance goals set forth in the Assistance Agreement.

B. *Types of Awards:* Through the NACA Program, the CDFI Fund provides two types of awards: Financial Assistance (FA) and Technical Assistance (TA) awards. *An Applicant may submit an Application for a TA grant or an FA award under the NACA Program, but not both.* FA Awards include the Base Financial Assistance (Base-FA) award and the following awards that are provided as a supplement to the Base-FA award: Healthy Food Financing Initiative-Financial Assistance (HFFI-FA), Persistent Poverty Counties-Financial

Assistance (PPC-FA), and Disability Funds-Financial Assistance (DF-FA). The HFFI-FA, PPC-FA, and DF-FA Applications will be evaluated independently from the Base-FA Application, and will not affect the Base-FA Application evaluation or Base-FA award amount.

However, Applicants that qualify for the NACA Program may submit two Applications: *One Application*—either for a TA grant or an FA award, but not both—through the CDFI Program, and *one Application*—either for a TA grant or an FA award, but not both—through the NACA Program. NACA qualified Applicants that choose to apply for awards through both the CDFI Program and the NACA Program may either apply for the same type of award under each Program or for a different type of award under each Program. NACA qualified Applicants that choose to apply under both the NACA Program and CDFI Program and are selected for an award under both Programs will be provided the larger of the two awards. NACA Applicants cannot receive an award under both Programs. The matching funds requirement for NACA Program FA award Applicants and HFFI-FA Applicants was waived in the final FY 2019 appropriations. Therefore, NACA Program FA and HFFI-FA Applicants are not required to submit matching funds for their award requests.

1. *Base-FA Awards:* Base-FA awards can be in the form of loans, grants, Equity Investments, deposits and credit union shares. The form of the Base-FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waived the matching funds requirement. The matching funds requirement was waived for NACA Program Applicants and therefore the Base-FA award will be in the form of a grant for the NACA Program. The CDFI

Fund reserves the right, in its sole discretion, to provide a Base-FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application.

2. *Persistent Poverty Counties—Financial Assistance (PPC-FA) Awards:* PPC-FA awards will be provided as a supplement to Base-FA awards; therefore, only those Applicants that are selected to receive a Base-FA award through the NACA Program FY 2019 Funding Round will be eligible to receive a PPC-FA award. PPC-FA awards can be in the form of loans, grants, Equity Investment, deposits and credit union shares. The form of the PPC-FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waived the matching funds requirement. The matching funds requirement was waived for NACA Program Applicants and therefore the PPC-FA award will be in the form of a grant for NACA Program Applicants. The CDFI Fund reserves the right, in its sole discretion, to provide a PPC-FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application.

3. *Disability Funds—Financial Assistance (DF-FA) Awards:* DF-FA awards will be provided as a supplement to Base-FA awards; therefore, only those Applicants that have been selected to receive a Base-FA award through the NACA Program FY 2019 Funding Round will be eligible to receive a DF-FA award. DF-FA awards can be in the form of loans, grants, Equity Investments, deposits and credit union shares. The form of the DF-FA award is based on the form of the matching funds that the Applicant

includes in its Application, unless Congress waived the matching funds requirement. The matching funds requirement was waived for NACA Program Applicants and therefore the DF-FA award will be in the form of a grant for NACA Program Applicants. The CDFI Fund reserves the right, in its sole discretion, to provide a DF-FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application.

4. *Healthy Food Financing Initiative—Financial Assistance (HFFI-FA) Awards:* HFFI-FA awards will be provided as a supplement to Base-FA awards; therefore, only those Applicants that have been selected to receive a Base-FA award through the NACA Program FY 2019 Funding Round will be eligible to receive an HFFI-FA award. HFFI-FA awards can be in the form of loans, grants, Equity Investments, deposits and credit union shares. The form of the HFFI-FA award is based on the form of the matching funds that the Applicant includes in its Application, unless Congress waived the matching funds requirement. The matching funds requirement was waived for HFFI-FA Applicants and therefore the HFFI-FA awards will be in the form of a grant. The CDFI Fund reserves the right, in its sole discretion, to provide an HFFI-FA award in an amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its Application.

5. *TA Grants:* TA is provided in the form of grants. The CDFI Fund reserves the right, in its sole discretion, to provide a TA grant in an amount other than which the Applicant requests; however, the TA grant amount will not exceed the Applicant's request as stated in its Application.

C. *Eligible Activities:*

1. *FA Awards:* Base-FA, PPC-FA, DF-FA, and HFFI-FA award funds may be expended for activities serving Commercial Real Estate, Small Business, Microenterprise, Community Facilities, Consumer Financial Products, Consumer Financial Services, Commercial Financial Products, Commercial Financial Services, Affordable Housing, Intermediary Lending to Non-Profits and CDFIs, and other lines of business as deemed appropriate by the CDFI Fund in the following five categories: (i) Financial Products; (ii) Financial Services; (iii) Loan Loss Reserves; (iv) Development Services; and (v) Capital Reserves. The FA budget is the amount of the award and must be expended in the five eligible activity categories. Base-FA Recipients must meet performance goals, which will be derived from projections and attestations provided by the Applicant in its Application, to achieve one or more of the following FA Objectives: (i) Increase Volume of Financial Products in an Eligible Market(s) and/or in the Applicant's approved Target Market and/or Increase Volume of Financial Services in an Eligible Market(s) and/or in the Applicant's approved Target Market; (ii) Serve Eligible Market(s) or the

Applicant's approved Target Market in New Geographic Area or Areas; (iii) Provide New Financial Products in an Eligible Market(s) and/or in the Applicant's approved Target Market, Provide New Financial Services in an Eligible Market(s) and/or in the Applicant's approved Target Market, or Provide New Development Services in an Eligible Market(s) and/or in the Applicant's approved Target Market; and (iv) Serve New Targeted Population or Populations. At the end of each year of the period of performance, fifty (50) percent or more of the Financial Products closed by NACA Recipients must be in Native Communities. FA awards may only be used for Direct Costs associated with an eligible activity; no indirect expenses are allowed. Up to 15 percent of the FA award may be used for Direct Administrative Expenses associated with an eligible FA activity. "Direct Administrative Expenses" shall mean Direct Costs, as described in section 2 CFR 200.413 of the Uniform Requirements, which are incurred by the Recipient to carry out the Financial Assistance. Direct Costs incurred to provide Development Services or Financial Services do not constitute Direct Administrative Expenses.

The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301-8303, with respect to any Direct Costs. For purposes of this NOFA, the five eligible activity categories are defined below:

TABLE 3—BASE-FA, PPC-FA, DF-FA, AND HFFI-FA ELIGIBLE ACTIVITY CATEGORIES

FA eligible activity	FA eligible activity definition *	Eligible CDFI institution types
i. Financial Products .....	FA expended as loans, Equity Investments and similar financing activities (as determined by the CDFI Fund) including the purchase of loans originated by certified CDFIs and the provision of loan guarantees. In the case of CDFI Intermediaries, Financial Products may also include loans to CDFIs and/or emerging CDFIs, and deposits in Insured Credit Union CDFIs, emerging Insured Credit Union CDFIs, and/or State-Insured Credit Union CDFIs. For HFFI-FA, however, the purchase of loans originated by certified CDFIs, loan refinancing, or any type of financing for prepared food outlets are not eligible activities.	All
ii. Financial Services .....	FA expended for providing checking, savings accounts, check cashing, money orders, certified checks, automated teller machines, deposit taking, safe deposit box services, and other similar services.	Insured Depository Institutions and Depository Institution Holding Company only. Not applicable for HFFI-FA Recipients.
iii. Loan Loss Reserves .....	FA set aside in the form of cash reserves, or through accounting-based accrual reserves, to cover losses on loans, accounts, and notes receivable or for related purposes that the CDFI Fund deems appropriate.	All.

TABLE 3—BASE-FA, PPC-FA, DF-FA, AND HFFI-FA ELIGIBLE ACTIVITY CATEGORIES—Continued

FA eligible activity	FA eligible activity definition *	Eligible CDFI institution types
iv. Development Services .....	FA expended for activities undertaken by a CDFI, its Affiliate or contractor that (i) promote community development and (ii) prepare or assist current or potential borrowers or investees to use the CDFI's Financial Products or Financial Services. For example, such activities include financial or credit counseling; homeownership counseling; business planning; and management assistance.	All.
v. Capital Reserves .....	FA set aside as reserves to support the Applicant's ability to leverage other capital, for such purposes as increasing its net assets or providing financing, or for related purposes as the CDFI Fund deems appropriate.	Insured Depository Institutions and Depository Institution Holding Company only Not applicable for DF-FA.

\* All FA eligible activities must be in an Eligible Market or the Applicant's approved Target Market. Eligible Market is defined as (i) a geographic area meeting the requirements set forth in 12 CFR 1805.201(b)(3)(ii), or (ii) individuals that are Low-Income, African American, Hispanic, Native American, Native Hawaiians residing in Hawaii, Alaska Natives residing in Alaska, or Other Pacific Islanders residing in American Samoa, Guam or the Northern Mariana Islands.

2. *DF-FA Award:* DF-FA award funds may only be expended for eligible FA activities (referenced in Table 3) to directly or indirectly benefit individuals with disabilities. The DF-FA Recipient must close Financial Products for the primary purpose of directly or indirectly benefiting people with disabilities, where the majority of the DF-FA supported loans or investments benefit individuals with disabilities, in an amount equal to or greater than 85 percent of the total DF-FA provided. Eligible DF-FA financing activities may include, among other activities, loans to develop or purchase affordable, accessible, and safe housing; loans to provide or facilitate employment

opportunities; and loans to purchase assistive technology.

For the purposes of DF-FA, a person with a Disability is a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment, as defined by the American Disabilities Act (ADA) at <https://www.ada.gov/cguide.htm>.

3. *TA Grants:* TA grant funds may be expended for the following eight eligible activity categories: (i) Compensation—Personal Services; (ii) Compensation—Fringe Benefits; (iii) Professional Service Costs; (iv) Travel Costs; (v) Training and Education Costs; (vi)

Equipment; (vii) Supplies; and (viii) Incorporation Costs. Sponsoring Entities may also use TA grant funds for incorporation costs. The TA budget is the amount of the award and must be expended in the eight eligible activity categories. None of the eligible activity categories will be authorized for indirect costs or an associated indirect cost rate. Any expenses that are prohibited by the Uniform Requirements are unallowable and are generally found in Subpart E-Cost Principles. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs. For purposes of this NOFA, the eight eligible activity categories are defined below:

TABLE 4—TA ELIGIBLE ACTIVITY CATEGORIES, SUBJECT TO THE APPLICABLE PROVISIONS OF THE UNIFORM REQUIREMENTS

(i) Compensation—Personal Services.	TA paid to cover all remuneration paid currently or accrued, for services of Applicant's employees rendered during the Period of Performance under the TA grant in accordance with section 200.430 of the Uniform Requirements. Any work performed directly but unrelated to the purposes of the TA grant may not be paid as Compensation through a TA grant. For example, the salaries for building maintenance would not carry out the purpose of a TA grant and would be deemed unallowable.
(ii) Compensation—fringe benefits	TA paid to cover allowances and services provided by the Applicant to its employees as compensation in addition to regular salaries and wages, in accordance with section 200.431 of the Uniform Requirements. Such expenditures are allowable as long as they are made under formally established and consistently applied organizational policies of the Applicant.
(iii) Professional service costs .....	TA used to pay for professional and consultant services (e.g., such as strategic and marketing plan development), rendered by persons who are members of a particular profession or possess a special skill (e.g., credit analysis, portfolio management), and who are not officers or employees of the Applicant, in accordance with section 200.459 of the Uniform Requirements. Payment for a consultant's services may not exceed the current maximum of the daily equivalent rate paid to an Executive Schedule Level IV Federal employee. Professional and consultant services must build the capacity of the CDFI. For example, professional services that provide direct development services to the customers does not build the capacity of the CDFI to provide those services and would not be eligible.
(iv) Travel costs .....	TA used to pay costs of transportation, lodging, subsistence, and related items incurred by the Applicant's personnel who are on travel status on business related to the TA award, in accordance with section 200.474 of the Uniform Requirements. Travel costs do not include costs incurred by the Applicant's consultants who are on travel status. Any payments for travel expenses incurred by the Applicant's personnel but unrelated to carrying out the purpose of the TA grant would be deemed unallowable. As such, documentation must be maintained that justifies the travel as necessary to the TA grant.
(v) Training and education costs ....	TA used to pay the cost of training and education provided by the Applicant for employees' development in accordance with section 200.472 of the Uniform Requirements. TA can only be used to pay for training costs incurred by the Applicant's employees. Training and education costs may not be incurred by the Applicant's consultants.

TABLE 4—TA ELIGIBLE ACTIVITY CATEGORIES, SUBJECT TO THE APPLICABLE PROVISIONS OF THE UNIFORM REQUIREMENTS—Continued

(vi) Equipment .....	TA used to pay for tangible personal property, having a useful life of more than one year and a per-unit acquisition cost of at least \$5,000, in accordance with section 200.33 of the Uniform Requirements. For example, items such as office furnishings and information technology systems are allowable as Equipment costs. The Applicant must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 with respect to the purchase of Equipment.
(vii) Supplies .....	TA used to pay for tangible personal property with a per unit acquisition cost of less than \$5,000 in accordance with section 200.94 of the Uniform Requirements. For example, a desktop computer costing \$1,000 is allowable as a Supply cost. The Applicant must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 with respect to the purchase of Supplies.
(viii) Incorporation Costs (Sponsoring Entities only).	TA used to pay for incorporation fees in connection with the establishment or reorganization of an organization as a CDFI, in accordance with section 200.455 of the Uniform Requirements. Incorporation Costs are allowable for NACA Program Sponsoring Entity Applicants only.

4. *HFFI-FA Award*: HFFI-FA award funds may only be expended for eligible FA activities referenced in Table 3. The HFFI-FA investments must comply with the following guidelines:

a. Recipient must close Financial Products for Healthy Food Retail Outlets and Healthy Food Non-Retail Outlets in its approved Target Market in an amount equal to or greater than 100 percent of the total HFFI Financial Assistance provided. Eligible financing activities to Healthy Food Retail Outlets and Healthy Food Non-Retail Outlets require that the majority of the loan or investment be devoted to offering a range of Healthy Food choices, which may include, among other activities, investments supporting an existing retail store or wholesale operation upgrade to offer an expanded range of Healthy Food choices, or supporting a nonprofit organization that expands the availability of Healthy Foods in underserved areas.

b. Recipient must demonstrate that it has closed Financial Products to Healthy Food Retail Outlets located in Food Deserts in the Recipient's approved Target Market in an amount equal to 75 percent of the total HFFI Financial Assistance provided.

*Definitions*

*Healthy Foods*. Healthy Foods include unprepared nutrient-dense foods and beverages as set forth in the USDA Dietary Guidelines for Americans 2015–2020 including whole fruits and vegetables, whole grains, fat free or low-fat dairy foods, lean meats and poultry

(fresh, refrigerated, frozen or canned). Healthy Foods should have low or no added sugars, and be low-sodium, reduced sodium, or no-salt-added. (See USDA Dietary Guidelines: <http://www.choosemyplate.gov/dietary-guidelines>).

*Healthy Food Retail Outlets*. Commercial sellers of Healthy Foods including, but not limited to, grocery stores, mobile food retailers, farmers markets, retail cooperatives, corner stores, bodegas, stores that sell other food and non-food items along with a range of Healthy Foods.

*Healthy Food Non-Retail Outlets*. Wholesalers of Healthy Foods including, but not limited to, wholesale food outlets, wholesale cooperatives, or other non-retail food producers that supply for sale a range of Healthy Food options; entities that produce or distribute Healthy Foods for eventual retail sale, and entities that provide consumer education regarding the consumption of Healthy Foods.

*Food Deserts*. Distressed geographic areas where either a substantial number or share of residents has low access to a supermarket or large grocery store. For the purpose of satisfying this requirement, a Food Desert must either: (1) Be a census tract determined to be a Food Desert by the U.S. Department of Agriculture (USDA), in its USDA Food Access Research Atlas; (2) be a census tract adjacent to a census tract determined to be a Food Desert by the USDA, in its USDA Food Access Research Atlas; which has a median family income less than or equal to 120

percent of the applicable Area Median Family Income; or (3) be a Geographic Unit as defined in 12 CFR part 1805.201(b)(3)(ii)(B), which (i) individually meets at least one of the criteria in 12 CFR part 1805.201(b)(3)(ii)(D), and (ii) has been identified as having low access to a supermarket or grocery store through a methodology that has been adopted for use by another governmental or philanthropic healthy food initiative.

5. *PPC-FA Award*: PPC-FA award funds may only be expended for eligible FA activities referenced in Table 3. The PPC-FA Recipient must close Financial Products in PPC in an Eligible Market or in the Applicant's approved Target Market in an amount equal to or greater than 100 percent of the total PPC Financial Assistance provided. The specific counties that meet the criteria for "persistent poverty" can be found at: <https://www.cdfifund.gov/Documents/PPC%20updated%20Oct.2017.xlsx>.

**III. Eligibility Information**

*A. Eligible Applicants*: For the purposes of this NOFA, the following tables set forth the eligibility criteria to receive an award from the CDFI Fund, along with certain definitions of terms. There are four categories of Applicant eligibility criteria: (1) CDFI certification criteria (Table 5); (2) requirements that apply to all Applicants (Table 6); (3) requirements that apply to TA Applicants (Table 7); and (4) requirements that apply to FA Applicants (Table 8).

TABLE 5—CDFI CERTIFICATION CRITERIA DEFINITIONS

Certified CDFI .....	• An entity that the CDFI Fund has officially notified that it meets all CDFI certification requirements.
Certifiable CDFI .....	• An entity that has submitted a CDFI certification application to the CDFI Fund demonstrating that it meets the CDFI certification requirements but which has not yet been officially certified. (See Table 12 for Application submission deadlines.)
	• The CDFI Fund will not enter into an Assistance Agreement or make an FA award payment unless and until an Applicant is a Certified CDFI.
	• The CDFI Fund will enter into an Assistance Agreement if the Applicant is awarded a TA award regardless of the Applicant's certification status.

TABLE 5—CDFI CERTIFICATION CRITERIA DEFINITIONS—Continued

Emerging CDFI (TA Applicants) .....	<ul style="list-style-type: none"> <li>• A non-Certified entity that has not submitted a CDFI certification application but demonstrates to the CDFI Fund in its Application that it has an acceptable plan to meet CDFI certification requirements by the end of its Period of Performance, or another date that the CDFI Fund selects.</li> <li>• An Emerging CDFI that has prior award(s) must comply with CDFI certification performance goal and measure(s) stated in its prior Assistance Agreement(s).</li> <li>• Emerging CDFIs may only apply for TA grants, and are ineligible for FA awards.</li> <li>• An Emerging CDFI selected to receive a TA grant will be required to become a Certified CDFI by a date specified in the Assistance Agreement.</li> </ul>
Sponsoring Entity .....	<ul style="list-style-type: none"> <li>• Sponsoring Entities include any legal organization that primarily serves Native Community with “primary” meaning, at least 50 percent of its activities are directed toward the Native Community.</li> <li>• An eligible organization that proposes to create a separate legal organization that will become a Certified CDFI serving Native Communities.</li> <li>• Sponsoring Entities may only apply for TA grants; they are not eligible to apply for FA awards.</li> <li>• Each Sponsoring Entity selected to receive a TA grant will be required to create and certify an Emerging CDFI by the dates specified in the Assistance Agreement.</li> </ul>
Definition of Native Other Targeted Population as Target Market.	<p>The CDFI Fund uses the following definitions, set forth in the Office of Management and Budget (OMB) Notice, Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity (October 30, 1997), as amended and supplemented:</p> <ul style="list-style-type: none"> <li>• American Indian, Native American, or Alaska Native: A person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment; and</li> <li>• Native Hawaiian (living in Hawaii): A person having origins in any of the original peoples of Hawaii.</li> </ul>

TABLE 6—ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS

Applicant .....	<ul style="list-style-type: none"> <li>• Only the entity that will carry out the proposed award activities may apply for an award (other than Depository Institution Holding Companies—see below) and Sponsoring Entities. Recipients may not create a new legal entity to carry out the proposed award activities (except for Sponsoring Entities).</li> <li>• The information in the Application should only reflect the activities of the Applicant, including the presentation of financial and portfolio information. Do not include financial or portfolio information from parent companies, Affiliates, or Subsidiaries in the Application unless it relates to the provision of Development Services.</li> </ul>
Application type and submission overview through <i>Grants.gov</i> and Awards Management Information System (AMIS).	<ul style="list-style-type: none"> <li>• An Applicant that applies on behalf of another organization will be rejected without further consideration, other than Depository Institution Holding Companies (see below).</li> <li>• Applicants must submit the Required Application Documents listed in Table 10.</li> <li>• The CDFI Fund will only accept Applications that use the official application templates provided on the <i>Grants.gov</i> and AMIS websites. Applications submitted with alternative or altered templates will not be considered.</li> <li>• Applicants undergo a two-step process that requires the submission of Application documents by two separate deadlines in two different locations: (1) The SF-424 in <i>Grants.gov</i> and (2) all other Required Application Documents in AMIS.</li> <li>• <i>Grants.gov</i> and the SF-424:             <ul style="list-style-type: none"> <li>○ <i>Grants.gov</i>: Applicants must submit the Office of Management and Budget (OMB) Standard Form (SF) OMB SF-424, Application for Federal Assistance.</li> <li>○ All Applicants must register in the <i>Grants.gov</i> system to successfully submit an Application. The <i>Grants.gov</i> registration process can take 30 days or more to complete. The CDFI Fund strongly encourages Applicants to register as early as possible.</li> <li>○ The CDFI Fund will not extend the SF-424 application deadline for any Applicant that started the <i>Grants.gov</i> registration process on, before, or after the date of the publication of this NOFA, but did not complete it by the deadline except in the case of a Federal government administrative or technological error that directly resulted in a late submission of the SF-424.</li> <li>○ The SF-424 must be submitted in <i>Grants.gov</i> on or before the deadline listed in Table 1 and Table 12. Applicants are strongly encouraged to submit their SF-424 as early as possible in the <i>Grants.gov</i> portal.</li> <li>○ The deadline for the <i>Grants.gov</i> submission is before the AMIS submission deadline.</li> <li>○ The SF-424 must be submitted under the NACA Program Funding Opportunity Number for the NACA Program Application. <i>NACA Program Applicants should be careful to not select the CDFI Program Funding Opportunity Number when submitting their SF-424 for the NACA Program.</i> NACA Program Applicants that submit their SF-424 for the NACA Program Application under the CDFI Program Funding Opportunity Number will be deemed ineligible for the NACA Program Application.</li> <li>○ If the SF-424 is not accepted by <i>Grants.gov</i> by the deadline, the CDFI Fund will not review any material submitted in AMIS and the Application will be deemed ineligible.</li> </ul> </li> <li>• AMIS and all other Required Application Documents listed in Table 10:             <ul style="list-style-type: none"> <li>○ AMIS is an enterprise-wide information technology system that replaced the myCDFI Fund portal. Applicants will use AMIS to submit and store organization and Application information with the CDFI Fund.</li> <li>○ Applicants are only allowed one NACA Program Application submission in AMIS.</li> <li>○ Each Application in AMIS must be signed by an Authorized Representative.</li> <li>○ Applicants must ensure that the Authorized Representative is authorized to sign legal documents on behalf of the organization. <i>Consultants working on behalf of the organization may not be designated as Authorized Representatives.</i></li> <li>○ Only the Authorized Representative or Application Point of Contact, included in the Application, may submit the Application in AMIS.</li> </ul> </li> </ul>

TABLE 6—ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS—Continued

Employer Identification Number (EIN).	<ul style="list-style-type: none"> <li>○ All Required Application Documents must be submitted in AMIS on or before the deadline specified in Tables 1 and 12.</li> <li>○ The CDFI Fund will not extend the deadline for any Applicant except in the case of a Federal government administrative or technological error that directly resulted in the late submission of the Application in AMIS.</li> </ul>
Dun & Bradstreet, (DUNS) number	<ul style="list-style-type: none"> <li>• Applicants must have a unique EIN assigned by the Internal Revenue Service (IRS).</li> <li>• The CDFI Fund will reject an Application submitted with the EIN of a parent or Affiliate organization.</li> <li>• The EIN in the Applicant's AMIS account must match the EIN in the Applicant's <i>Grant.gov</i> and System for Award Management (SAM) accounts. The CDFI Fund will reject an Application if the EIN in the Applicant's AMIS account does not match the EIN in its <i>Grants.gov</i> and SAM accounts.</li> </ul>
System for Award Management (SAM).	<ul style="list-style-type: none"> <li>• Pursuant to OMB guidance (68 FR 38402), an Applicant must apply using its unique DUNS number in <i>Grants.gov</i>.</li> <li>• The CDFI Fund will reject an Application submitted with the DUNS number of a parent or Affiliate organization.</li> <li>• The DUNS number in the Applicant's AMIS account must match the DUNS number in the Applicant's <i>Grant.gov</i> and SAM accounts. The CDFI Fund will reject an Application if the DUNS number in the Applicant's AMIS account does not match the DUNS number in its <i>Grants.gov</i> and SAM accounts.</li> <li>• SAM is a web-based, government-wide application that collects, validates, stores, and disseminates business information about the federal government's trading partners in support of the contract awards, grants, and electronic payment processes.</li> <li>• Applicants must register in SAM as part of the <i>Grants.gov</i> registration process.</li> <li>• Applicants must have a DUNS number and an EIN number in order to register in SAM.</li> <li>• Applicants must be registered in SAM in order to submit an SF-424 in <i>Grants.gov</i>.</li> <li>• The CDFI Fund reserves the right to deem an Application ineligible if the Applicant's SAM account expires during the Application evaluation period or is set to expire between September 1, 2019 and December 31, 2019, and the Applicant does not re-activate or renew, as applicable, the account within the deadlines that the CDFI Fund communicates to affected Applicants during the Application evaluation period.</li> </ul>
AMIS Account .....	<ul style="list-style-type: none"> <li>• Each Applicant must register as an organization in AMIS and submit all Required Application Documents listed in Table 10 through the AMIS portal.</li> <li>• The Application of any organization that does not properly register in AMIS by the deadline set forth in Table 1—FY 2019 NACA Program Funding Round Critical Deadlines for Applicants—will be rejected without further consideration.</li> <li>• The Authorized Representative and/or Application Point of Contact must be included as “users” in the Applicant's AMIS account.</li> <li>• An Applicant that fails to properly register and update its AMIS account may miss important communication from the CDFI Fund and/or not be able to successfully submit an Application.</li> </ul>
501(c)(4) status .....	<ul style="list-style-type: none"> <li>• Pursuant to 2 U.S.C. 1611, any 501(c)(4) organization that engages in lobbying activities is not eligible to receive a CDFI or NACA Program award.</li> </ul>
Compliance with Nondiscrimination and Equal Opportunity Statutes, Regulations, and Executive Orders.	<ul style="list-style-type: none"> <li>• An Applicant may not be eligible to receive an award if proceedings have been instituted against it in, by, or before any court, governmental agency, or administrative body, and a final determination within the last three years indicates the Applicant has violated any of the following laws, including but not limited to: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975, (42 U.S.C. 6101–6107), and Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency.</li> </ul>
Depository Institution Holding Company Applicant.	<ul style="list-style-type: none"> <li>• In the case where a CDFI Depository Institution Holding Company Applicant intends to carry out the activities of an award through its Subsidiary CDFI Insured Depository Institution, the Application must be submitted by the CDFI Depository Institution Holding Company and reflect the activities and financial performance of the Subsidiary CDFI Insured Depository Institution.</li> <li>• Authorized representatives of both the Depository Institution Holding Company and the Subsidiary CDFI Insured Depository Institution must certify that the information included in the Application represents that of the Subsidiary CDFI Insured Depository Institution, and that the award funds will be used to support the Subsidiary CDFI Insured Depository Institution for the eligible activities outlined in the Application.</li> </ul>
Use of award .....	<ul style="list-style-type: none"> <li>• All awards made through this NOFA must be used to support the Applicant's activities in at least one of the FA or TA Eligible Activity Categories (see Section II.(C)).</li> <li>• With the exception of Depository Institution Holding Company Applicants, awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent. The Recipient of any award made through this NOFA must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.</li> </ul>
Requested award amount .....	<ul style="list-style-type: none"> <li>• An Applicant must state its requested award amount in the Application in AMIS. An Applicant that does not include this amount will not be allowed to submit an Application.</li> </ul>
Pending resolution of noncompliance.	<ul style="list-style-type: none"> <li>• The CDFI Fund will consider an Application submitted by an Applicant that has pending noncompliance issues of any of its previously executed award agreement(s), if the CDFI Fund has not yet made a final compliance determination.</li> </ul>
Noncompliance status .....	<ul style="list-style-type: none"> <li>• The CDFI Fund will not consider an Application submitted by an Applicant that has a previously executed award agreement(s) if, as of the date of the Application, (i) the CDFI Fund has made a determination that such entity is noncompliant with a previously executed agreement, and (ii) the CDFI Fund has provided written notification that such entity is ineligible to apply for or receive any future CDFI Fund awards or allocations. Such entities will be ineligible to submit an Application for such time period as specified by the CDFI Fund in writing.</li> </ul>

TABLE 6—ELIGIBILITY REQUIREMENTS FOR ALL APPLICANTS—Continued

	<ul style="list-style-type: none"> <li>• The CDFI Fund will not consider any Applicant that has defaulted on a loan from the CDFI Fund within five years of the Application deadline.</li> </ul>
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TABLE 7—ELIGIBILITY REQUIREMENTS FOR TA APPLICANTS

CDFI certification status .....	Certified CDFIs, Certifiable CDFIs, Emerging CDFIs, or Sponsoring Entities (see definitions in Table 5).
Matching funds .....	<ul style="list-style-type: none"> <li>• Matching funds documentation is not required for TA awards.</li> </ul>
Limitation on Awards .....	<ul style="list-style-type: none"> <li>• An Emerging CDFI serving Native Communities may not receive more than three TA awards as an uncertified CDFI.</li> <li>• A Sponsoring Entity is only eligible to apply for an award if (i) it does not have an active prior award or (ii) the certification goal in its active award's Assistance Agreement has been satisfied and it proposes to create another CDFI that will serve one or more Native Communities.</li> </ul>
Proposed Activities .....	<ul style="list-style-type: none"> <li>• Applicants must propose to directly undertake eligible activities with TA awards. For example, an uncertified CDFI Applicant must propose to become certified as part of its Application and a Certified CDFI Applicant must propose activities that build its capacity to serve its Target Market or an Eligible Market. With the exception of Sponsoring Entities, Applicants may not propose to use a TA award to create a separate legal entity to become a certified CDFI or otherwise carry out the TA award activities.</li> </ul>
Insured CDFI—Insured Credit Union and Insured Depository Institution.	<ul style="list-style-type: none"> <li>• Each Insured Depository Institution TA Applicant must have a CAMELS/CAMEL rating (rating for banks and credit unions, respectively) or equivalent type of rating by its regulator, collectively referred to as "CAMELS/CAMEL rating" throughout this document, of at least "4".</li> <li>• TA Applicants with CAMELS/CAMEL ratings of "5" will not be eligible for awards.</li> <li>• The CDFI Fund will also evaluate materials concerns identified by the Appropriate Federal Banking Agency in determining the eligibility of Insured Depository Institution Applicants.</li> </ul>
Target Market .....	<ul style="list-style-type: none"> <li>• TA Applicants must demonstrate that the Certified CDFI, Certifiable CDFI, Emerging CDFI, or the CDFI to be created by the Sponsoring Entity will primarily serve one or more Native Community as its Target Market.</li> </ul>

TABLE 8—ELIGIBILITY REQUIREMENTS FOR FA APPLICANTS

CDFI certification status .....	<ul style="list-style-type: none"> <li>• Each FA Applicant must be a Certified CDFI prior to the date of award announcement.</li> <li>• The CDFI Fund will consider an Application submitted by an Applicant that has pending noncompliance issues with its Annual Certification Report, if the CDFI Fund has not yet made a final compliance determination.</li> </ul>
Activities in Native Communities ....	<ul style="list-style-type: none"> <li>• For consideration under this NOFA, each FA Applicant must:                             <ul style="list-style-type: none"> <li>○ Demonstrate that at least 50 percent of its past activities were in one or more Native Communities; and</li> <li>○ describe how it will target its lending/investing activities to one or more Native Communities.</li> </ul> </li> </ul>
Target Market .....	<ul style="list-style-type: none"> <li>• For consideration under this NOFA, an FA Applicant's certification Target Market must have one or more of the following characteristics:                             <ul style="list-style-type: none"> <li>○ For qualifying with an <i>investment area</i> Target Market, the Applicant must demonstrate that the investment area approved for certification is <i>also</i> a geographic area of Federally-designated reservations, Hawaiian homelands, Alaska Native Villages and U.S. Census Bureau designated Tribal Statistical Areas; and/or</li> <li>○ For qualifying with an <i>Other Targeted Population (OTP)</i> Target Market, the applicant's Target Market approved for certification must be an OTP of Native Americans or American Indians, including Alaska Natives living in Alaska and Native Hawaiians living in Hawaii.</li> </ul> </li> <li>• Any FA Applicant whose certification Target Market does not meet either of the conditions above will not be eligible for an FA award under this NOFA.</li> </ul>
Community Collaboration .....	<ul style="list-style-type: none"> <li>• All FA Applicants must demonstrate strong community collaboration with Native Communities.</li> </ul>
Matching funds documentation .....	<ul style="list-style-type: none"> <li>• Applicants must submit acceptable documentation attesting that they have received or will receive matching funds. Applicants that do not complete the Matching Funds section in the FA Application in AMIS, documenting the source(s) of their matching funds, will not be evaluated. The matching funds requirements for NACA Program FA and HFFI-FA Applicants were waived in the final FY 2019 appropriations. Therefore, NACA Program and HFFI-FA Applicants are not required to submit matching funds documentation.</li> <li>• Unless Congress waived the matching funds requirement, Applicants must document their matching funds in the Matching Funds section in the FA Application in AMIS. Matching funds information provided in another format will not be considered.</li> <li>• Unless Congress waived the matching funds requirement, awards will be limited to no more than two times the amount of In-Hand or Committed matching funds documentation provided at the time of Application. See Table 9 for the definitions of Committed and In-Hand.</li> <li>• Unless Congress waived the matching funds requirement, awards will be obligated in like form to the matching funds provided at time of Application. See Table 9. Matching Funds "Determination of Award Form" for additional guidance.</li> <li>• Unless Congress waived the matching funds requirement, award payments from the CDFI Fund will require eligible dollar-for-dollar In-Hand matching funds for the total payment amount. Recipients will not receive a payment until 100 percent of their matching funds are In-Hand.</li> <li>• Unless Congress waived the matching funds requirement, the CDFI Fund will reduce and de-obligate the remaining balance of any Award that does not demonstrate full dollar-for-dollar matching funds equal to the announced award amount by the end of the Matching Funds Window.</li> </ul>

TABLE 8—ELIGIBILITY REQUIREMENTS FOR FA APPLICANTS—Continued

\$5 Million funding cap .....	<ul style="list-style-type: none"> <li>The CDFI Fund is prohibited from obligating more than \$5 million in CDFI and NACA Program awards, in the aggregate, to any one organization and its Subsidiaries and Affiliates during any three-year period from the announcement date.</li> </ul>
FA Applicants with Community Partners.	<ul style="list-style-type: none"> <li>For TA Applicants, for purposes of this NOFA and per final FY 2019 appropriations language, the CDFI Fund will include CDFI and NACA Program final awards in the cap calculation that were provided to an Applicant (and/or its Subsidiaries or Affiliates) under the FY 2016, 2017, and 2018 funding rounds, as well as the requested FY 2019 award, excluding DF-FA and HFFI-FA awards.</li> <li>For FA Applicants, for purposes of this NOFA and per final FY 2019 appropriations language, the CDFI Fund will include CDFI and NACA Program final awards in the cap calculation that were provided to an Applicant (and/or its Subsidiaries or Affiliates) under the FY 2017 and 2018 funding rounds, as well as the requested FY 2019 award, excluding DF-FA and HFFI-FA awards.</li> </ul>
Insured CDFI—Insured Credit Union and Insured Depository Institution.	<ul style="list-style-type: none"> <li>A NACA Applicant can apply for assistance jointly with a Community Partner. The CDFI Applicant would complete the NACA Program Application and would address the Community Partnership in its business plan and other sections of the Application as specified in the Application Materials.</li> <li>The CDFI Applicant must be either a Certified or Certifiable CDFI as defined in Table 5.</li> <li>An Application with a Community Partner must:             <ul style="list-style-type: none"> <li>Describe how the NACA Applicant and Community Partner will each participate in the partnership and how the partnership will enhance eligible activities serving the Investment Area and/or Targeted Population.</li> <li>Demonstrate that the Community Partnership activities are consistent with the strategic plan submitted by the NACA Applicant.</li> </ul> </li> <li>Assistance provided upon approval of an Application with a Community Partner shall only be entrusted to the NACA Applicant and shall not be used to fund any activity carried out directly by the Community Partner or an Affiliate or Subsidiary thereof.</li> </ul>
PPC-FA .....	<ul style="list-style-type: none"> <li>Each Insured Depository Institution FA Applicant must have a CAMELS/CAMEL rating (rating for banks and credit unions, respectively) or equivalent type of rating by its regulator, collectively referred to as "CAMELS/CAMEL rating" throughout this document, of at least "3".</li> <li>FA Applicants with CAMELS/CAMEL ratings of "4 or 5" will not be eligible for awards.</li> <li>The CDFI Fund will also evaluate materials concerns identified by the appropriate regulator in determining eligibility of Insured Depository Institution Applicants.</li> </ul>
DF-FA .....	<ul style="list-style-type: none"> <li>All PPC-FA Applicants must:             <ul style="list-style-type: none"> <li>Submit a CDFI or NACA Program FA Application;</li> <li>Meet all NACA FA award eligibility requirements; and</li> <li>Provide a PPC-FA award request amount in AMIS.</li> </ul> </li> </ul>
HFFI-FA .....	<ul style="list-style-type: none"> <li>All DF-FA Applicants must:             <ul style="list-style-type: none"> <li>Submit a CDFI or NACA Program FA Application;</li> <li>Meet all NACA FA award eligibility requirements;</li> <li>Submit the DF-FA Application; and</li> <li>Provide a DF-FA award request amount in AMIS.</li> </ul> </li> </ul>
	<ul style="list-style-type: none"> <li>All HFFI-FA Applicants must:             <ul style="list-style-type: none"> <li>Submit a CDFI or NACA Program FA Application;</li> <li>Meet all NCA FA award eligibility requirements;</li> <li>Submit the HFFI-FA Application; and</li> <li>Provide a HFFI-FA award request amount in AMIS.</li> </ul> </li> </ul>

**B. Matching Funds Requirements:** In order to receive a Base-FA, PPC-FA, or DF-FA award, an Applicant must provide evidence of eligible dollar-for-dollar matching funds and attest that it can provide acceptable documentation upon the CDFI Fund's request as part of the Application, unless Congress waived the matching funds requirement. The matching funds requirement for NACA Program FA and HFFI-FA Applicants was waived in the final FY 2019 appropriations. Therefore, NACA Program FA and HFFI-FA Applicants are not required to submit matching

funds for their award requests. An Applicant that represents that it has Equity Investments and/or deposits matching funds In-Hand at the time of Application submission must provide documentation of such as part of the Application. An Applicant that uses retained earnings as matching funds must provide supporting documentation of In-Hand and/or Committed matching funds at the time of Application submission. The CDFI Fund will review matching funds information, attestations, and supporting matching funds documentation, if applicable,

prior to award payment and will disburse funds based upon eligible In-Hand matching funds. The CDFI Fund encourages Applicants to review the Regulations, the Uniform Requirements, and the matching funds guidance materials available on the CDFI Fund's website. Table 9 provides a summary of the matching funds requirements for Base-FA, PPC-FA, and DF-FA. The matching funds requirements for NACA Program FA and HFFI-FA Applicants were waived in the final FY 2019 appropriations. Additional details are set forth in the Application Materials.

TABLE 9—MATCHING FUNDS REQUIREMENTS \*

In-Hand matching funds definition ..	<ul style="list-style-type: none"> <li>Matching funds are In-Hand when the Applicant receives payment for the matching funds from the matching funds source and has acceptable documentation that can be provided to the CDFI Fund upon request. Acceptable In-Hand documentation must show the source, form (e.g., grant, loan, deposit, and Equity Investment), amount received, and the date the funds came into physical possession of the Applicant.</li> <li>The following documentation, depending on the matching funds type, must be available to be provided to the CDFI Fund upon request:</li> </ul>
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TABLE 9—MATCHING FUNDS REQUIREMENTS \*—Continued

	<ul style="list-style-type: none"> <li>• Loan—the loan agreement and/or promissory note;</li> <li>• grant—the grant letter or agreement;</li> <li>• Equity Investment—the stock certificate, documentation of total equity outstanding, and shareholder agreement;</li> <li>• retained earnings—Retained Earnings Calculator and Audited Financial Statements or call reports from regulating entity for each fiscal year reported in Retained Earnings Calculator;</li> <li>• third party in-kind contribution—evidence of receipt of contribution and valuation;</li> <li>• deposits—certificates of deposit agreement;</li> <li>• secondary capital—secondary capital agreement and disclosure and acknowledgement statement;</li> </ul> <p>AND</p> <ul style="list-style-type: none"> <li>• clearly legible documentation that demonstrates actual receipt of the matching funds including the date of the transaction and the amount, such as a copy of a check or a wire transfer statement.</li> </ul> <ul style="list-style-type: none"> <li>• Unless Congress waived the matching fund requirement, Applicants must provide information on their In-Hand matching funds in the Matching Funds section of the FA Application in AMIS (refer to Table 10—Required Application Documents) at the time of Application submission.</li> <li>• Although Applicants are not required to provide further documentation for In-Hand matching funds at the time of Application submission, (other than supporting documentation for retained earnings, deposits, and Equity Investments, which must be provided at the time of Application submission), they must be able to provide documentation to the CDFI Fund upon request.</li> </ul>
<p>Matching funds requirements by Application type.</p>	<p>The matching funds requirement for HFFI-FA and NACA Program FA Applicants was waived in the final FY 2019 appropriations. Therefore, NACA Program FA and HFFI-FA Applicants are not required to provide matching funds.</p>
<p>Amount of required match .....</p>	<p>Unless waived by Congress, Applicants must provide evidence of eligible, In-Hand, dollar-for-dollar, non-Federal matching funds for every Base-FA, PPC-FA, and DF-FA award dollar to be paid by the CDFI Fund. If awarded, Applicants that do not demonstrate 100 percent In-Hand matching funds at the time of Application submission may experience a longer payment timeline.</p>
<p>Determination of award form .....</p>	<p>Unless waived by Congress, Base-FA, PPC-FA, and DF-FA awards will be made in comparable form and value to the eligible In-Hand and/or Committed matching funds submitted by the Applicant.</p> <ul style="list-style-type: none"> <li>• For example, if an Applicant provides documentation of eligible loan matching funds for \$200,000 and eligible grant matching funds of \$400,000, the CDFI Fund will obligate \$200,000 of the FA award as a loan and \$400,000 as a grant.</li> </ul>
<p>Matching Funds Window definition</p>	<ul style="list-style-type: none"> <li>• The CDFI Fund will not permit a Recipient to change the form of award from loan to grant.</li> <li>• The Applicant must receive eligible In-Hand matching funds between January 1, 2017 and January 15, 2020.</li> <li>• A Recipient must provide the CDFI Fund with all documentation demonstrating the receipt of In-Hand matching funds by January 31, 2020.</li> </ul>
<p>Matching funds and form of award</p>	<ul style="list-style-type: none"> <li>• Recipients will be approved for a maximum award size of two times the total amount of eligible In-Hand and/or Committed matching funds included in the Application, so long as they do not exceed the requested award amount.</li> <li>• The form of the matching funds documented in the Application determines the form of the award.</li> <li>• Matching funds are Committed when the Applicant has entered into or received a legally binding commitment from the matching funds source showing that the matching funds will be disbursed to the Applicant at a future date.</li> <li>• The Application must provide information on their Committed matching funds in the Matching Funds section of the FA Application in AMIS (refer to Table 10—Required Application Documents) at the time of Application submission.</li> <li>• Although the Applicant is not required to provide further documentation for Committed matching funds at the time of Application submission (other than supporting documentation for retained earnings, which must be provided at the time of Application submission), it must be able to provide the CDFI Fund, upon request, acceptable written documentation showing the source, form, and amount of the Committed matching funds (including, in the case of a loan, the terms thereof), as well as the anticipated payment date of the Committed funds.</li> </ul>
<p>Committed matching funds definition.</p>	<ul style="list-style-type: none"> <li>• Matching funds must be from non-Federal sources.</li> <li>• Applicants cannot proffer matching funds that were accepted as matching funds for a prior Base-FA, PPC-FA, and/or DF-FA award under the CDFI Program, NACA Program, or under another Federal grant or award program.</li> <li>• Matching funds must comply with the Regulations.</li> <li>• Matching funds must be attributable to at least one of the five eligible FA activities (see Section II.(C) of this NOFA).</li> </ul>
<p>Limitations on matching funds .....</p>	<ul style="list-style-type: none"> <li>• The CDFI Fund reserves the right to contact the matching funds source to discuss the matching funds and the documentation that the Applicant provided.</li> <li>• The CDFI Fund may grant an extension of the Matching Funds Window (defined in Table 9), on a case-by-case basis, if the CDFI Fund deems it appropriate.</li> <li>• The CDFI Fund reserves the right to rescind all or a portion of a Base-FA, PPC-FA, and/or DF-FA award and re-allocate the rescinded award amount to other qualified Applicant(s), if a Recipient fails to provide evidence of In-Hand matching funds totaling its award amount obtained during the Matching Funds Window.</li> </ul>
<p>Rights of the CDFI Fund .....</p>	<ul style="list-style-type: none"> <li>• Third party in-kind contributions are non-cash contributions (<i>i.e.</i>, property or services) provided by non-Federal third parties to the Applicant.</li> <li>• Third party in-kind contributions will be considered to be in the form of a grant for matching funds purposes.</li> <li>• Third party in-kind contributions may be in the form of real property, equipment, supplies, and other expendable property. The value of goods and services must directly benefit the eligible FA activities.</li> </ul>
<p>Matching funds in the form of third-party in-kind contributions.</p>	

TABLE 9—MATCHING FUNDS REQUIREMENTS \*—Continued

<p>Matching funds in the form of a loan.</p>	<ul style="list-style-type: none"> <li>• For third party in-kind contributions, the fair market value of goods and services must be documented as the grant match.</li> <li>• Applicants will be responsible for documenting the value of all in-kind contributions pursuant to the Uniform Requirements.</li> <li>• A Base-FA, PPC-FA, or DF-FA award made in the form of a loan will have the following standardized terms:             <ul style="list-style-type: none"> <li>i. A 13-year term with semi-annual interest-only payments due in years 1 through 10, and fully amortizing payments due each year in years 11 through 13; and</li> <li>ii. A fixed interest rate of 3.00 percent, which was calculated by the CDFI Fund based on the U.S. Department of the Treasury's 10-year Treasury note.</li> </ul> </li> <li>• The Applicant's matching funds loan(s) must:             <ul style="list-style-type: none"> <li>i. Have a minimum of a 3-year term (loans presented as matching funds with less than a 3-year term will not qualify as eligible match); and</li> <li>ii. be from a non-Federal source.</li> </ul> </li> </ul>
<p>Matching funds in the form of Equity Investments. Severe Constraints Waiver .....</p>	<ul style="list-style-type: none"> <li>• The CDFI Fund reserves the right, in its sole discretion, to perform its own valuation of Equity Investment source(s) and to determine if the equity value is acceptable to the CDFI Fund.</li> <li>• In the case of an Applicant demonstrating severe constraints on available sources of matching funds, the CDFI Fund, in its sole discretion, may provide a Severe Constraints Waiver, which permits such Applicant to comply with the matching funds requirements by reducing such requirements by up to 50 percent.</li> <li>• In order to be considered eligible for a Severe Constraints Waiver, an Applicant must meet all of the NACA FA eligibility criteria described in Table 8. Instructions for requesting a Severe Constraints Waiver will be made available if required.</li> <li>• No more than 25 percent of the total funds available for obligation under this funding round may qualify for a Severe Constraints Waiver.</li> </ul>
<p>Ineligible matching funds .....</p>	<ul style="list-style-type: none"> <li>• If the CDFI Fund determines that any portion of the Applicant's matching funds is ineligible, the CDFI Fund will permit the Applicant to offer documentation of alternative matching funds as a substitute for the ineligible matching funds.</li> <li>• In such instances:             <ul style="list-style-type: none"> <li>i. The Applicant must provide acceptable evidence of the alternative matching funds within the period of time specified by the CDFI Fund, and</li> <li>ii. the alternative matching funds will not increase the total amount of Base-FA, PPC-FA, and DF-FA requested.</li> </ul> </li> </ul>
<p>Use of matching funds from a prior CDFI Program Recipient.</p>	<p>If an Applicant offers matching funds documentation from an organization that was a prior Recipient under the CDFI Program or NACA Program, the Applicant must be able to prove to the CDFI Fund's satisfaction that such funds do not consist, in whole or in part, of CDFI Program funds, NACA Program funds, or other Federal funds.</p>
<p>Matching funds in the form of retained earnings.</p>	<ul style="list-style-type: none"> <li>• Retained earnings are eligible for use as matching funds when the CDFI Fund calculates an amount equal to:             <ul style="list-style-type: none"> <li>i. The increase in retained earnings that occurred over any one of the Applicant's fiscal years within the Matching Funds Window, adjusted to remove revenue and expenses derived from Federal sources and matching funds used for an award; or</li> <li>ii. the annual average of such increases that occurred over any three consecutive fiscal years of the Applicant with at least one of the fiscal years occurring within the Matching Funds Window, adjusted to remove revenue and expenses derived from Federal sources and matching funds used for an award; or</li> <li>iii. any combination of (i) and (ii) above that does not include matching funds used for an award.</li> </ul> </li> <li>• Retained earnings will be matched in the form of a grant.</li> </ul>
<p>Special rule for Insured Credit Unions and Insured Depository Institutions.</p>	<ul style="list-style-type: none"> <li>• Depository Institution Holding Company Applicants must provide call reports for the Depository Institution Holding Company in order to verify their retained earnings, even if the requested FA award (including Base-FA, PPC-FA, and DF-FA) will support its Subsidiary CDFI Insured Depository Institution.</li> <li>• An Insured Credit Union's and Insured Depository Institution's retained earnings are eligible for use as matching funds when the CDFI Fund calculates an amount equal to:             <ul style="list-style-type: none"> <li>i. The increase in retained earnings that occurred over any one of the Applicant's fiscal years within the Matching Funds Window, adjusted to remove revenue from Federal sources and matching funds used for an award; or</li> <li>ii. the annual average of such increases that occurred over any three consecutive fiscal years of the Applicant with at least one of the fiscal years occurring within the Matching Funds Window, adjusted to remove revenue and expenses derived from Federal sources and matching funds used for an award; or</li> <li>iii. the entire retained earnings that have been accumulated since the inception of the Applicant, as provided in the Regulations.</li> </ul> </li> <li>• If option (iii) is used for Insured Credit Unions, the Applicant must increase its member and/or non-member shares and/or total loans outstanding by an amount equal to the amount of retained earnings committed as matching funds.             <ul style="list-style-type: none"> <li>• This increase (1) will be measured on a quarterly basis from March 31, 2019; (2) must occur by the end of Year 1 of the Recipient's Performance Period, as set forth in its Assistance Agreement; and (3) will be based on amounts reported in the Applicant's National Credit Union Administration (NCUA) form 5300 Call Report.</li> <li>• The CDFI Fund will assess the likelihood of this increase during the Application review process.</li> <li>• An award will not be made to any Applicant that has not demonstrated in the relevant NCUA form 5300 call reports that it has increased shares and/or total loans outstanding by at least 25 percent of the requested FA award amount (including Base-FA, PPC-FA, and DF-FA) between December 31, 2017, and December 31, 2018.</li> </ul> </li> </ul>

TABLE 9—MATCHING FUNDS REQUIREMENTS \*—Continued

	<ul style="list-style-type: none"> <li>• The matching funds are not In-Hand until the Recipient has increased its member and/or non-member shares, deposits and/or total loans outstanding by the amount of retained earnings since inception that are being used as matching funds.</li> <li>• If option (iii) is used for Insured Depository Institutions or Depository Institution Holding Companies, the Applicant or its Subsidiary CDFI Insured Depository Institution (in the case of a Depository Institution Holding Company) must increase deposits and/or total loans outstanding by an amount equal to the amount of retained earnings committed as matching funds. Depository Institution Holding Company Applicants must use the call reports of the Subsidiary CDFI Insured Depository Institution that the requested FA award (including Base-FA, PPC-FA, and DF-FA) will support.             <ul style="list-style-type: none"> <li>• This increase (1) will be measured on a quarterly basis from March 31, 2019; (2) must occur by the end of Year 1 of the Recipient’s Performance Period, as set forth in its Assistance Agreement; and (3) will be based on amounts reported in the call report.</li> <li>• The CDFI Fund will assess the likelihood of this increase during the Application review process.</li> <li>• An award will not be made to any Applicant that has not demonstrated in the relevant call reports that it has increased deposits and/or total loans outstanding by at least 25 percent of the requested FA award amount (including Base-FA, PPC-FA, and DF-FA) between December 31, 2017, and December 31, 2018.</li> <li>• The matching funds are not In-Hand until the Recipient has increased its deposits and/or total loans outstanding by the amount of retained earnings since inception that are being used as matching funds.</li> </ul> </li> <li>• All regulated Applicants utilizing the option (iii) should refer to the Retained Earnings Guidance included in the Retained Earnings Calculator Excel Workbook found on the CDFI Fund’s website.</li> </ul>
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\* Unless Congress waived the matching funds requirement, the requirements set forth in Table 9 are applicable to NACA Program FA Applicants applying for Base-FA, PPC-FA, and DF-FA, and for HFFI-FA Applicants. The matching funds requirements for NACA Program FA Applicants and HFFI-FA Applicants were waived in the final FY 2019 appropriations, and therefore the requirements set forth in Table 9 are not applicable to NACA FA and HFFI-FA Applicants for the FY 2019 Funding Round.

**IV. Application and Submission Information**

*A. Address to Request an Application Package:* Application Materials can be found on the CDFI Fund’s website at [www.cdfifund.gov/nativ](http://www.cdfifund.gov/nativ). Applicants may request a paper version of any Application material by contacting the CDFI Fund Help Desk at [cdfihelp@cdfi.treas.gov](mailto:cdfihelp@cdfi.treas.gov). Paper versions of Application Materials will only be

provided if an Applicant cannot access the CDFI Fund’s website.

*B. Content and Form of Application Submission:* All Applications must be prepared using the English language, and calculations must be computed in U.S. dollars. The following table lists the Required Application Documents for the FY 2019 Funding Round. The CDFI Fund reserves the right to request and review other pertinent or public information that has not been

specifically requested in this NOFA or the Application. Information submitted by the Applicant that the CDFI Fund has not specifically requested will not be reviewed or considered as part of the Application. Financial data, portfolio, and activity information provided in the Application should only include the Applicant’s activities. Information submitted must accurately reflect the Applicant’s activities.

TABLE 10—REQUIRED APPLICATION DOCUMENTS

Application documents	Applicant type	Submission format
Active AMIS Account .....	All Applicants .....	AMIS.
SF-424 .....	All Applicants .....	Fillable PDF in <i>Grants.gov</i> .
NACA Program Application Components: .....	All Applicants .....	AMIS.
<ul style="list-style-type: none"> <li>• Funding Application Detail.</li> <li>• Data, Charts, and Narrative sections as listed in AMIS and outlined in Application Materials.</li> <li>• Matching Funds (CDFI Program FA Core Applicants only).</li> </ul>		
PPC-FA Application Components: .....	PPC-FA Applicants .....	AMIS.
<ul style="list-style-type: none"> <li>• Funding Application Detail.</li> <li>• Narratives.</li> <li>• AMIS Charts.</li> </ul>		
DF-FA Application Components: .....	DF-FA Applicants .....	AMIS.
<ul style="list-style-type: none"> <li>• Funding Application Detail.</li> <li>• Narratives.</li> <li>• AMIS Charts.</li> </ul>		
HFFI-FA Application Components: * .....	HFFI-FA Applicants .....	AMIS.
<ul style="list-style-type: none"> <li>• Requested HFFI-FA Amount.</li> <li>• Narratives and data charts.</li> </ul> <p><i>*HFFI-FA Application, including narratives and data charts, will be provided after FA Application submission if Applicant makes an HFFI-FA funding request in AMIS.</i></p>	—Must submit the HFFI-FA Application via Service Request in AMIS. HFFI-FA Applications must be associated with the Applicant’s FA Application in AMIS upon submission.	

TABLE 10—REQUIRED APPLICATION DOCUMENTS—Continued

Application documents	Applicant type	Submission format
<b>ATTACHMENTS TO THE APPLICATION:</b> Add to "Related Attachments" related list in Application		
Key Staff Resumes .....	All Applicants .....	PDF or Word document in AMIS.
Organizational Chart .....	All Applicants .....	PDF in AMIS.
Audited Financial Statements For the Applicant's Three Most Recent Historic Fiscal Years.	FA Applicants: Loan funds, venture capital funds, and other non-Insured Depository Institutions. TA Applicants, if available: Loan funds, venture capital funds, and other non-Insured Depository Institutions.	PDF in AMIS.
Management Letters for the Applicant's Most Recent Historic Fiscal Year.	FA Applicants: Loan funds, venture capital funds, and other non-Insured Depository Institutions. TA Applicants, if Audited Financial Statements are available: Loan funds, venture capital funds, and other non-Insured Depository Institutions.	PDF in AMIS.
The Management Letter is prepared by the Applicant's auditor and is a communication on internal control over financial reporting, compliance, and other matters. The Management Letter contains the auditor's findings regarding the Applicant's accounting policies and procedures, internal controls, and operating policies, including any material weaknesses, significant deficiencies, and other matters identified during auditing. The Management Letter may include suggestions for improving on identified weaknesses and deficiencies and/or best practice suggestions for items that may not be considered to be weaknesses or deficiencies. The Management Letter may also include items that are not required to be disclosed in the annual Audited Financial Statements. The Management Letter is distinct from the auditor's Opinion Letter, which is required by Generally Accepted Accounting Principles (GAAP). Management Letters are not required by GAAP, and are sometimes provided by the auditor as a separate letter from the Audit itself.	FA Applicants: Loan funds, venture capital funds, and other non-Insured Depository Institutions. TA Applicants, if Audited Financial Statements are available: Loan funds, venture capital funds, and other non-Insured Depository Institutions.	
Statement(s) in Lieu of Management Letter for Applicant's Most Recent Historic Fiscal Year Issued by the Board Treasurer or other Board member using the template provided in the Application Materials (required only if Management Letters are not available for Audited Financial Statements).	FA Applicants: Loan funds, venture capital funds, and other non-Insured Depository Institutions. TA Applicants, if Audited Financial Statements ARE available but the Management Letters are NOT available: Loan funds, venture capital funds, and other non-Insured Depository Institutions.	PDF in AMIS.
Unaudited Financial Statements for Applicant's Three Most Recent Historic Years (required only if Audited Financial Statements are not available).	TA Applicants: Loan funds, venture capital funds, and other non-Insured Depository Institutions.	PDF in AMIS.
Current Year to Date—December 31, 2018 Unaudited Financial Statements.	FA and TA Applicants: Loan funds, venture capital funds, and other non-Insured Depository Institutions.	PDF in AMIS.
Community Partnership Agreement .....	FA Applicants, if applicable .....	PDF or Word document in AMIS.
Retained Earnings Calculator Excel Workbook (required only if using retained earnings as matching funds).	CDFI Program FA Core Applicants, if applicable .....	Excel in AMIS.
Call reports for each fiscal year reported in the Retained Earnings Calculator.	CDFI Program FA Core Applicants: Insured Depository Institutions that are using retained earnings as matching funds only.	PDF in AMIS.
Equity Investment Matching Funds Documentation .....	CDFI Program FA Core Applicants: For-profit CDFIs that are using In-Hand Equity Investment(s) as matching funds.	PDF or Word document in AMIS.
Deposits Matching Funds Documentation .....	CDFI Program FA Core Applicants: Insured Depository Institutions that are using In-Hand Deposits as matching funds.	PDF or Word document in AMIS.

C. *Application Submission:* The CDFI Fund has a two-step process that requires the submission of Required Application Documents (listed in Table 10) on separate deadlines and locations. The SF-424 must be submitted through *Grants.gov* and all other Required Application Documents through the AMIS portal. The CDFI Fund will not accept Applications via email, mail, facsimile, or other forms of

communication, except in extremely rare circumstances that have been pre-approved in writing by the CDFI Fund. Applicants are required to submit the OMB SF-424, Application for Federal Assistance form in *Grants.gov*. All other Required Application Documents (listed in Table 10) will be submitted through AMIS. The deadline for submitting the SF-424 is listed in Tables 1 and 12.

All Applicants must register in the *Grants.gov* system to successfully submit the SF-424. The *Grants.gov* registration process can take 45 days or longer to complete and the CDFI Fund strongly encourages Applicants to start the *Grants.gov* registration process as soon as possible (refer to the following link: <http://www.grants.gov/web/grants/register.html>). Since the *Grants.gov* registration process requires Applicants

to have DUNS and EIN numbers, Applicants without these required numbers should allow for additional time to complete the *Grants.gov* registration process. Further, as described in Section IV.(E) of this NOFA, new requirements for registration in the System for Awards Management (SAM), which is required as part of the *Grants.gov* registration process, may take more time than in recent years. The CDFI Fund will not extend the Application deadline for any Applicant that started the *Grants.gov* registration process but did not complete it by the deadline. An Applicant that has previously registered with *Grants.gov* must verify that its registration is current and active. Applicants should contact *Grants.gov* directly with questions related to the registration or submission process as the CDFI Fund does not maintain the *Grants.gov* system.

Each Application must be signed by a designated Authorized Representative in AMIS before it can be submitted. Applicants must ensure that an Authorized Representative is authorized to sign legal documents on behalf of the organization. Consultants working on behalf of the organization may not be designated as Authorized Representatives. Only a designated

Authorized Representative or Application Point of Contact, included in the Application, may submit the Application in AMIS. If an Authorized Representative or Application Point of Contact does not submit the Application, the Application will be deemed ineligible.

**D. Dun & Bradstreet Universal Numbering System (DUNS):** Pursuant to the Uniform Requirements, each Applicant must provide as part of its Application submission, a Dun and Bradstreet Universal Numbering System (DUNS) number. Applicants without a DUNS number will not be able to register and submit an Application in the *Grants.gov* system. Allow sufficient time for Dun & Bradstreet to respond to inquiries and/or requests for DUNS numbers.

**E. System for Award Management (SAM):** Any entity applying for Federal grants or other forms of Federal financial assistance through *Grants.gov* must be registered in SAM before submitting its Application. Registration in SAM is required as part of the *Grants.gov* registration process. The SAM registration process may take one month or longer to complete. A signed notarized letter identifying the SAM authorized entity administrator for the entity associated with the DUNS number is required. This requirement is

applicable to new entities registering in SAM, as well as to existing entities with registrations being updated or renewed in SAM. Applicants without DUNS and/or EIN numbers should allow for additional time as an Applicant cannot register in SAM without those required numbers. Applicants that have previously completed the SAM registration process must verify that their SAM accounts are current and active. Each Applicant must continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an Application under consideration by a Federal awarding agency. The CDFI Fund will not consider any Applicant that fails to properly register or activate its SAM account and, as a result, is unable to submit the SF-424 in *Grants.gov* or Application in AMIS by the applicable Application deadlines. These restrictions also apply to organizations that have not yet received a DUNS or EIN number. Applicants must contact SAM directly with questions related to registration or SAM account changes as the CDFI Fund does not maintain this system and has no ability to make changes or correct errors of any kind. For more information about SAM, visit <https://www.sam.gov>.

TABLE 11—GRANTS.GOV REGISTRATION TIMELINE SUMMARY

Step	Agency	Estimated minimum time to complete
Obtain a DUNS number .....	Dun & Bradstreet .....	One (1) Week.*
Obtain an EIN Number .....	Internal Revenue Service (IRS) .....	Two (2) Weeks.*
Register in <i>SAM.gov</i> .....	System for Award Management ( <i>SAM.gov</i> ) .....	Four (4) Weeks.*
Register in <i>Grants.gov</i> .....	<i>Grants.gov</i> .....	One (1) Week.**

\* Applicants are advised that the stated durations are estimates only and represent minimum timeframes. Actual timeframes may take longer. The CDFI Fund will not consider any Applicant that fails to properly register or activate its SAM account, has not yet received a DUNS or EIN number, and/or fails to properly register in *Grants.gov*.

\*\* This estimate assumes an Applicant has a DUNS number, an EIN number, and is already registered in *SAM.gov*.

**F. Submission Dates and Times:** deadlines for the FY 2019 Funding Round.  
**1. Submission Deadlines:** The following table provides the critical

TABLE 12—FY 2019 FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS

Description	Deadline	Time eastern time (ET)	Submission method
Last day to contact Certification, Compliance Monitoring and Evaluation (CCME) staff regarding CDFI Certification.	May 1, 2019 .....	11:59 p.m .....	Service Request via AMIS.
CDFI certification applications .....	May 3, 2019 .....	11:59 p.m .....	Electronically via AMIS.
Create AMIS Account (New Applicants) .....	May 3, 2019 .....	11:59 p.m .....	AMIS.
SF-424 (Application for Federal Assistance) .....	May 3, 2019 .....	11:59 p.m .....	Electronically via <i>Grants.gov</i> .
Last day to contact NACA Program staff .....	June 4, 2019 ...	5:00 p.m .....	Service Request via AMIS or CDFI Fund Helpdesk: 202-653-0421.
Last day to contact AMIS-IT Help Desk (regarding AMIS technical problems only).	June 6, 2019 ....	5:00 p.m .....	Service Request via AMIS or 202-653-0422 or <a href="mailto:AMIS@cdfi.treas.gov">AMIS@cdfi.treas.gov</a> .

TABLE 12—FY 2019 FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS—Continued

Description	Deadline	Time eastern time (ET)	Submission method
NACA Program Application for FA or TA .....	June 6, 2019 ....	11:59 p.m .....	Electronically via AMIS.

2. *Confirmation of Application Submission in Grants.gov and AMIS:* Applicants are required to submit the OMB SF–424, Application for Federal Assistance through the *Grants.gov* system, under the NACA Program Funding Opportunity Number by the applicable deadline. All other Required Application Documents (listed in Table 10) must be submitted through the AMIS website by the applicable deadline. Applicants must submit the SF–424 prior to submitting the Application in AMIS. If the SF–424 is not successfully accepted by *Grants.gov* by the deadline, the CDFI Fund will not review the Application submitted in AMIS, and the Application will be deemed ineligible.

a. *Grants.gov* Submission Information: Each Applicant will receive an email from *Grants.gov* immediately after submitting the SF–424 confirming that the submission has entered the *Grants.gov* system. This email will contain a tracking number for the submitted SF–424. Within 48 hours, the Applicant will receive a second email, which will indicate if the submitted SF–424 was either successfully validated or rejected with errors. However, Applicants should not rely on the email notification from *Grants.gov* to confirm that their SF–424 was validated. Applicants are strongly encouraged to use the tracking number provided in the first email to closely monitor the status of their SF–424 by contacting the helpdesk at *Grants.gov* directly. The Application material submitted in AMIS is not officially accepted by the CDFI Fund until *Grants.gov* has validated the SF–424.

b. *AMIS* Submission Information: *AMIS* is a web-based portal where Applicants will directly enter their Application information and add the required attachments listed in Table 10. *AMIS* will verify that the Applicant provided the minimum information required to submit an Application. Applicants are responsible for the quality and accuracy of the information and attachments included in the Application submitted in *AMIS*. The CDFI Fund strongly encourages Applicants to allow for sufficient time to review and complete all Required Application Documents listed in Table 10, and remedy any issues prior to the

Application deadline. Each Application must be signed by an Authorized Representative in *AMIS* before it can be submitted. Applicants must ensure that the Authorized Representative is authorized to sign legal documents on behalf of the organization. Consultants working on behalf of the organization may not be designated as Authorized Representatives. Only an Authorized Representative or an Application Point of Contact may submit an Application. If an Authorized Representative or Application Point of Contact does not submit the Application, the Application will be deemed ineligible. *Applicants may only submit one Base-FA or TA Application under the NACA Program.* Upon submission, the Application will be locked and cannot be resubmitted, edited, or modified in any way. The CDFI Fund will not unlock or allow multiple Application submissions.

3. *Late Submission:* The CDFI Fund will not accept an Application if the SF–424 is not submitted and accepted by *Grants.gov* by the SF–424 deadline. Additionally, the CDFI Fund will not accept an Application if it is not signed by an Authorized Representative and submitted in *AMIS* by the Application deadline. In either case, the CDFI Fund will not review any material submitted, and the Application will be deemed ineligible.

However, in cases where a Federal government administrative or technological error directly resulted in a late submission of the SF–424 or the Application, Applicants are provided two opportunities to submit a written request for acceptance of late submissions. The CDFI Fund will not consider the late submission of the SF–424 or the Application that was a direct result of a delay in a Federal Government process, unless such delay was the result of a Federal government administrative or technological error.

a. *SF–424 Late Submission:* In cases where a Federal government administrative or technological error directly resulted in the late submission of the SF–424, the Applicant must submit a written request for acceptance of the late SF–424 submission and include documentation of the error no later than two business days after the SF–424 deadline. The CDFI Fund will not respond to requests for acceptance

of late SF–424 submissions after that time period. Applicants must submit late SF–424 submission requests to the CDFI Fund via an *AMIS* service request to the NACA Program with a subject line of “Late SF–424 Submission Request.”

b. *Application Late Submission:* In cases where a Federal government administrative or technological error directly resulted in a late submission of the Application in *AMIS*, the Applicant must submit a written request for acceptance of the late Application submission and include documentation of the error no later than two business days after the Application deadline. The CDFI Fund will not respond to requests for acceptance of late Application submissions after that time period. Applicants must submit late Application submission requests to the CDFI Fund via an *AMIS* service request to the NACA Program with a subject line of “Late Application Submission Request.”

G. *Funding Restrictions:* Base–FA, PPC–FA, DF–FA, HFFI–FA and TA awards are limited by the following:

1. *Base-FA awards:*

a. A Recipient shall use Base-FA funds only for the eligible activities described in Section II.(C)(1) of this NOFA and its Assistance Agreement.

b. With the exception of Depository Institution Holding Company Applicants, Base-FA awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund’s prior written consent.

c. Base-FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay Base-FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, with respect to any Direct Costs.

2. *PPC–FA awards:*

a. A Recipient shall use PPC–FA funds only for the eligible activities

described in Section II.(C)(5) of this NOFA and its Assistance Agreement.

b. With the exception of Depository Institution Holding Company Applicants, PPC-FA awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

c. PPC-FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay PPC-FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301-8303, with respect to any Direct Costs.

### 3. DF-FA awards:

a. A Recipient shall use DF-FA funds only for the eligible activities described in Section II.(C)(2) of this NOFA and its Assistance Agreement.

b. With the exception of Depository Institution Holding Company Applicants, DF-FA awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

c. DF-FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay DF-FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301-8303, with respect to any Direct Costs.

### 2. HFFI-FA awards:

a. A Recipient shall use HFFI-FA funds only for the eligible activities described in Section II.(C)(4) of this NOFA and its Assistance Agreement.

b. With the exception of Depository Institution Holding Company Applicants, HFFI-FA awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

c. HFFI-FA funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay HFFI-FA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301-8303, with respect to any Direct Costs.

### 3. TA grants:

a. A Recipient shall use TA funds only for the eligible activities described in Section II.(C)(3) of this NOFA and its Assistance Agreement.

b. A Sponsoring Entity award Recipient must create, as a legal entity, the Emerging CDFI no later than the end of the first year of the period of performance, whereupon the Sponsoring Entity must request the CDFI Fund to amend the Assistance Agreement and add the Emerging CDFI as a co-Recipient thereto, with the Sponsoring Entity, thereby transferring any and all remaining balances and/or assets derived from the TA award to the Emerging CDFI.

c. With the exception of Depository Institution Holding Company Applicants, TA awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

d. TA funds shall only be paid to the Recipient.

e. The CDFI Fund, in its sole discretion, may pay TA funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

f. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301-8303, with respect to any Direct Costs.

## V. Application Review Information

A. *Criteria:* If the Applicant has submitted an eligible Application, the CDFI Fund will conduct a substantive review in accordance with the criteria and procedures described in the Regulations, this NOFA, the Application guidance, and the Uniform Requirements. The CDFI Fund reserves the right to contact the Applicant by telephone, email, or mail for the purpose of clarifying or confirming Application information. If contacted, the Applicant must respond within the time period communicated by the CDFI Fund or risk that its Application will be rejected. The CDFI Fund will review the Base-FA, DF-FA, PPC-FA, HFFI-FA, and TA Applications in accordance with the process below. All internal and

external reviewers will complete the CDFI Fund's conflict of interest process. The CDFI Fund's Application conflict of interest policy is located on the CDFI Fund's website.

1. *Base-FA Application Scoring, Award Selection, Review, and Selection Process:* The CDFI Fund will evaluate each Application using a five-step review process illustrated in the sections below. Applicants that meet the minimum criteria will advance to the next step in the review process. Applicants applying as a Community Partnership must describe the partnership in the Application pursuant to the requirements set forth in Table 8, and will be evaluated in accordance with the review process described below.

a. Step 1: Eligibility Review: The CDFI Fund will evaluate each Application to determine its eligibility status pursuant to Section III of this NOFA.

b. Step 2: Financial Analysis and Compliance Risk Evaluation: Step 2 contains two main components: Financial Analysis and Compliance Risk Evaluation.

i. Step 2: Financial Analysis: For Insured Depository Institutions, the CDFI Fund will consider financial safety and soundness information from the Appropriate Federal or State Banking Agency. As detailed in Table 8, each Insured Depository Institution FA Applicant must have a CAMELS/CAMEL rating of at least "3" and/or no significant materials concerns from its regulator.

For non-regulated Applicants, the CDFI Fund will evaluate the financial health and viability of each non-regulated Applicant using financial information provided by the Applicant. The CDFI Fund will also evaluate the compliance risk of each non-regulated Applicant using information provided in the Application as well as an Applicant's reporting history, reporting capacity, and performance risk with respect to the CDFI Fund's Performance Goals and Measures (PG&Ms). For the Financial Analysis, each non-regulated Applicant will receive a Total Financial Composite Score on a scale of one (1) to five (5), with one (1) being the highest rating. The Total Financial Composite Score is based on the analysis of twenty-three (23) financial indicators. Applications will be grouped based on the Total Financial Composite Score. Applicants must receive a Total Financial Composite Score of one (1), two (2), or three (3) to advance to Step 3. Applicants that receive an initial Total Financial Composite Score of four (4) or five (5) will be re-evaluated and re-scored by CDFI Fund staff. If the

Total Financial Composite Score remains four (4) or five (5) after CDFI Fund staff review, the Applicant will not advance to Step 3.

ii. Step 2: Compliance Risk Evaluation: For the compliance analysis, the CDFI Fund will evaluate the compliance risk of each Applicant using information provided in the Application as well as an Applicant’s reporting history, reporting capacity, and performance risk with respect to the CDFI Fund’s PG&Ms. Each Applicant will receive a Total Compliance Composite Score on a scale of one (1) to five (5), with one (1) being the highest rating. Applicants that receive an initial

Total Compliance Composite Score of four (4) or five (5) will be re-evaluated by CDFI Fund Staff. If the Applicant is deemed a high compliance risk after CDFI Fund Staff review, the Applicant will not advance to Step 3.

c. Step 3: Business Plan Review: Applicants that proceed to Step 3 will be evaluated on the soundness of its comprehensive business plan. Two external non-CDFI Fund Reviewers will conduct the Step 3 evaluation. Reviewers will evaluate the Application sections listed in Table 13. All Applications will be reviewed in accordance with standard reviewer evaluation materials for the business

plan review. Applications will be ranked based on Total Business Plan Scores, in descending order. In order to advance to Step 4, Applicants must receive a Total Business Plan Score that is either (1) equal to receiving a point score equivalent to a “Good” out of a ranking scale in descending order of Excellent, Good, Fair, Limited or Poor, in each section listed in Table 13, or (2) within the top 70 percent of the NACA FA Applicant pool, whichever is greater. In the case of tied Total Business Plan Scores that would prevent an Applicant from moving to Step 4, all Applicants with the same score will progress to Step 4.

TABLE 13—STEP 3: BASE-FA BUSINESS PLAN REVIEW SCORING CRITERIA

Base-FA application sections	Possible score	Score needed to advance
Executive Summary .....	Not Scored .....	N/A
Business Strategy .....	12 .....	N/A.
Market and Competitive Analysis .....	7 .....	N/A.
Products and Services .....	12 .....	N/A.
Management and Track Record .....	12 .....	N/A.
Growth and Projections .....	7 .....	N/A.
<b>Total Business Plan Score .....</b>	<b>50 .....</b>	<b>NACA Applicants: Top 70 percent of all NACA Applicant Step 3 Scores.</b>

d. Step 4: Policy Objective Review: The CDFI Fund internal reviewers will evaluate each Application to determine its ability to meet policy objectives of the CDFI Fund. The policy objectives considered in this evaluation are listed in Table 14 below. The CDFI Fund also conducts a due diligence review for Applications that includes an analysis of programmatic risk factors including,

but not limited to: History of performance in managing Federal awards (including timeliness of reporting and compliance); ability to meet FA Objective(s) selected by Base-FA Applicants in their Applications; reports and findings from audits; and the Applicant’s ability to effectively implement Federal requirements, each of which could impact the Total Policy

Objective Review Score. Each Applicant will be evaluated in each of the categories listed in Table 14, and will receive a Total Policy Objective Review Composite Score on a scale of one (1) to five (5), with one (1) being the highest score. Applicants are then grouped according to Total Policy Objective Review Scores.

TABLE 14—STEP 4: BASE-FA POLICY REVIEW SCORING CRITERIA

Section	Possible scores	High score	Score needed to advance
Economic Distress .....	1, 2, 3, 4, or 5 .....	1	N/A.
Economic Opportunities .....	1, 2, 3, 4, or 5 .....	1	N/A.
Community Collaboration .....	1, 2, 3, 4, or 5 .....	1	N/A.
<b>Total Policy Objective Review Composite Score .....</b>	<b>1, 2, 3, 4, or 5 .....</b>	<b>1</b>	<b>All Scores Advance.</b>

e. Step 5: Award Amount Determination: The CDFI Fund determines an award amount for each Application based on the Step 4 Total Policy Objective Review Score, the Applicant’s request amount, and on certain other factors, including but not limited to, an Applicant’s deployment track record, minimum award size, and funding availability. Award amounts may be reduced from the requested award amount as a result of this analysis. Lastly, the CDFI Fund may consider the geographic diversity of

Applicants when making its funding decisions.

2. *Healthy Food Financing Initiative-FA (HFFI-FA) Application Scoring, Award Selection, Review, and Selection Process:* A CDFI Fund internal reviewer will evaluate each HFFI-FA Application associated with a Base-FA Application that progresses to Step 4 of the FA Application review process. The reviewer will evaluate the Application sections listed in Table 15 and assign a Total HFFI-FA Score up to 60 points. The CDFI Fund will make awards to the

highest scoring Applicants first. All Applications will be reviewed in accordance with standard reviewer evaluation materials. Applicants that fail to receive a Base-FA award will not be considered for a HFFI-FA award.

The CDFI Fund conducts additional levels of due diligence for Applications that are in contention for an HFFI-FA award. This due diligence includes an analysis of programmatic and financial risk factors including, but not limited to, financial stability, quality of management systems and ability to meet

award management standards, history of performance in managing Federal awards (including timeliness of reporting and compliance), reports and findings from audits, and the Applicant's ability to effectively

implement Federal requirements. Award amounts may be reduced from the requested award amount as a result of this analysis. The CDFI Fund may reduce awards sizes from requested amounts based on certain variables,

including but not limited to, an Applicant's loan disbursement activity or total portfolio outstanding. Lastly, the CDFI Fund may consider the geographic diversity of Applicants when making its funding decisions.

TABLE 15—STEP 4 HFFI-FA APPLICATION SCORING CRITERIA

Sections	Possible score (points)
Target Market Profile .....	20
Healthy Food Financial Products .....	20
Projected HFFI-FA Activities and HFFI Track Record .....	15
Management Capacity for Providing Healthy Food Financing .....	5
<b>Total HFFI-FA Possible Score .....</b>	<b>60</b>

3. *Persistent Poverty Counties—Financial Assistance (PPC-FA) Application Scoring, Award Selection, Review, and Selection Process:* A CDFI Fund internal reviewer will evaluate the PPC-FA request of each associated Base-FA Application that progresses to Step 4 of the FA Application review process. PPC-FA requests are not scored. PPC-FA award amounts will be determined based on the total number of eligible Applicants and funding availability, the Applicant's requested amount, and on certain factors, including but not limited to, an Applicant's overall portfolio size, historical track record of deployment in

PPC, pipeline of projects in PPC, minimum award size, and funding availability. Applicants that fail to receive a Base-FA award will not be considered for a PPC-FA award.  
 4. *Disability Funds-Financial Assistance (DF-FA) Application Scoring, Award Selection, Review, and Selection Process:* A CDFI Fund internal reviewer will evaluate each DF-FA Application associated with a Base-FA Application that progresses to Step 4 of the FA Application review process. The reviewer will evaluate the Application and assign a Total DF-FA Score on a scale of one (1) to three (3), with one (1) being the highest score. Applicants are then grouped according to Total DF-FA

Score. All Applications will be reviewed in accordance with standard reviewer evaluation materials. Applicants that fail to receive a Base-FA award will not be considered for a DF-FA award. Award amounts will be determined on the basis of the Total DF-FA Score, the Applicant's requested amount, and on certain factors, including but not limited to, an Applicant's deployment track record, minimum award size, and funding availability. Award amounts may be reduced from the requested award amount as a result of this analysis. The CDFI Fund will make awards to the highest scoring Applicants first.

TABLE 16—STEP 3 DF-FA APPLICATION SCORING CRITERIA

Section	Possible scores	High score
DF-FA Narrative Questions .....	1, 2, or 3	1
<b>Total DF-FA Score .....</b>	<b>1, 2, or 3</b>	<b>1</b>

5. *Technical Assistance (TA) Application Scoring, Award Selection, Review, and Selection Process:* The CDFI Fund will evaluate each Application to determine its eligibility pursuant to Section III of this NOFA. If the Application satisfies the eligibility criteria, the CDFI Fund will evaluate the TA Application. Sponsoring Entity, Emerging CDFI or Certifiable CDFI Applicants must receive a rating of Low Risk or Medium Risk in Section I of the TA Business Plan Review to progress to Section II of the TA Business Plan Review. Sponsoring Entity, Emerging CDFI or Certifiable CDFI Applicants that receive a rating of High Risk in Section I of the TA Business Plan Review will not be considered for an award. Sponsoring Entity, Emerging CDFI, Certifiable CDFI, and Certified CDFI

Applicants must receive a rating of Low Risk or Medium Risk in Section II of the TA Business Plan Review to be considered for an award. Applicants that receive a rating of High Risk in Section II of the TA Business Plan Review will not be considered for an award.  
 An Applicant that is a Certified CDFI will be evaluated on the demonstrated need for TA funding to build the CDFI's capacity, further the Applicant's strategic goals, and achieve impact within the Applicant's Target Market. An Applicant that is an Emerging CDFI or Certifiable CDFI will be evaluated on the Applicant's demonstrated capability and plan to achieve CDFI certification within three years, or if a prior awardee, the certification performance goal and measure stated in its prior Assistance

Agreement. An Applicant that is an Emerging CDFI and Certifiable CDFI will also be evaluated on its demonstrated need for TA funding to build the CDFI's capacity and further its strategic goals. An Applicant that is a Sponsoring Entity will be rated on the Applicant's demonstrated capability to create a separate legal entity within one year that will achieve CDFI certification within four years. An Applicant that is a Sponsoring Entity will also be rated on its demonstrated need for TA funding to build the CDFI's capacity and further its strategic goals.  
 The CDFI Fund will rate each part of the TA Business Plan Review as indicated in Table 17.

TABLE 17—TA BUSINESS PLAN REVIEW

Business Plan Review component	Applicant type	Ratings
Section I:		
Primary Mission .....	Sponsoring Entity, Emerging, and Certifiable Applicants.	Low Risk, Medium Risk, or High Risk.
Financing Entity .....	Sponsoring Entity, Emerging, and Certifiable Applicants.	
Target Market .....	Sponsoring Entity, Emerging, and Certifiable Applicants.	
Accountability .....	Sponsoring Entity, Emerging, and Certifiable Applicants.	
Development Services .....	Sponsoring Entity, Emerging, and Certifiable Applicants.	
Section II:		
Target Market Needs & Strategy .....	Sponsoring Entity, Emerging, Certifiable, and Certified Applicants.	Low Risk, Medium Risk, or High Risk.
Organizational Capacity .....	Sponsoring Entity, Emerging, Certifiable, and Certified Applicants.	
Management Capacity .....	Sponsoring Entity, Emerging, Certifiable, and Certified Applicants.	

Each TA Application will be evaluated by one internal CDFI Fund reviewer. All Applications will be reviewed in accordance with CDFI Fund standard reviewer evaluation materials for the Business Plan Review.

The CDFI Fund conducts additional levels of due diligence for Applications that are in contention for an award. This due diligence includes an analysis of programmatic and financial risk factors including, but not limited to, financial stability, history of performance in managing Federal awards (including timeliness of reporting and compliance), reports and findings from audits, and the Applicant’s ability to effectively implement Federal requirements. The CDFI Fund will also evaluate the compliance risk of each Applicant using information provided in the Application as well as an Applicant’s reporting history, reporting capacity, and performance risk with respect to the CDFI Fund’s PG&Ms. Each Applicant will receive a Total Compliance Composite Score on a scale of one (1) to five (5), with one (1) being the highest rating. Applicants that receive an initial Total Compliance Composite Score of four (4) or five (5) will be re-evaluated by CDFI Fund Staff. If the Applicant is deemed a high compliance risk after CDFI Staff review, the Applicant will not be considered for an award. The CDFI Fund will also evaluate the Applicant’s ability to meet certification criteria of being a legal entity and a non-government entity. Award amounts may be reduced as a result of the due diligence analysis in addition to consideration of the eligibility of an Applicant’s funding request and similar factors. Lastly, the CDFI Fund may consider the geographic diversity of

Applicants when making its funding decisions.

6. *Insured Depository Institutions:* The CDFI Fund will consider safety and soundness information from the Appropriate Federal or State Banking Agency. If the Applicant is a CDFI Depository Institution Holding Company, the CDFI Fund will consider information provided by the Appropriate Federal or State Banking Agencies about both the CDFI Depository Institution Holding Company and the Certified CDFI Subsidiary Insured Depository Institution that will expend and carry out the award. If the Appropriate Federal or State Banking Agency identifies safety and soundness concerns, the CDFI Fund will assess whether such concerns cause or will cause the Applicant to be incapable of undertaking the activities for which funding has been requested.

7. *Non-Regulated Institutions:* The CDFI Fund must ensure, to the maximum extent practicable, that Recipients which are non-regulated CDFIs are financially and managerially sound, and maintain appropriate internal controls (12 U.S.C. 4707(f)(1)(A) and 12 CFR 1805.800(b)). Further, the CDFI Fund must determine that an Applicant’s capacity to operate as a CDFI and its continued viability will not be dependent upon assistance from the CDFI Fund (12 U.S.C. 4704(b)(2)(A)). If it is determined that the Applicant is incapable of meeting these requirements, the CDFI Fund reserves the right to deem the Applicant ineligible or terminate the award.

B. *Anticipated Award Announcement:* The CDFI Fund anticipates making NACA Program award announcement before December 31, 2019. However, the

anticipated award announcement date is subject to change without notice.

C. *Application Rejection:* The CDFI Fund reserves the right to reject an Application if information (including administrative errors) comes to the CDFI Fund’s attention that: Adversely affects an Applicant’s eligibility for an award; adversely affects the Recipient’s certification as a CDFI (to the extent that the award is conditional upon CDFI certification); adversely affects the CDFI Fund’s evaluation or scoring of an Application; or indicates fraud or mismanagement on the Applicant’s part. If the CDFI Fund determines any portion of the Application is incorrect in a material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the Application. The CDFI Fund reserves the right to change its eligibility and evaluation criteria and procedures, if the CDFI Fund deems it appropriate. If the changes materially affect the CDFI Fund’s award decisions, the CDFI Fund will provide information about the changes through its website. The CDFI Fund’s award decisions are final, and there is no right to appeal decisions.

D. *External Non-CDFI Fund Reviewers:* All external non-CDFI Fund reviewers are selected based on criteria that includes a professional background in community and economic development finance, and experience reviewing the financial statements of all CDFI institution types. Reviewers must complete the CDFI Fund’s conflict of interest process and be approved by the CDFI Fund. The CDFI Fund’s Application reader conflict of interest policy is located on the CDFI Fund’s website.

**VI. Federal Award Administration Information**

A. *Award Notification*: Each successful Applicant will receive an email “notice of award” notification from the CDFI Fund stating that its Application has been approved for an award. Each Applicant not selected for an award will receive an email stating that a debriefing notice has been provided in its AMIS account.

B. *Assistance Agreement*: Each Applicant selected to receive an award must enter into an Assistance Agreement with the CDFI Fund in order to receive a payment(s). The Assistance Agreement will set forth the award’s terms and conditions, including but not be limited to the: (i) Award amount; (ii) award type; (iii) award uses; (iv) eligible use of funds; (v) performance goals and measures; and (vi) reporting requirements. FA Assistance Agreements have three-year periods of performance. TA Assistance Agreements have two-year periods of performance for Certified CDFIs, three-year periods of performance for Emerging CDFIs or Certifiable CDFIs, and four-year periods of performance for Sponsoring Entity TA Recipients. Upon creation of the Emerging CDFI, the Sponsoring Entity will request the CDFI Fund to amend the Assistance Agreement and add the Emerging CDFI as a party thereto; the Emerging CDFI, as co-awardee, must comply with all of the requirements in the Assistance Agreement, including all program goals and measures.

1. *Certificate of Good Standing*: All FA and TA Recipients that are not Insured Depository Institutions will be required to provide the CDFI Fund with a certificate of good standing from the secretary of state for the Recipient’s

jurisdiction of formation prior to closing. This certificate can often be acquired online on the secretary of state website for the Recipient’s jurisdiction of formation and must generally be dated within 180 days prior to the date the Recipient executes the Assistance Agreement. Due to potential backlogs in state government offices, Applicants are advised to submit requests for certificates of good standing no later than 60 days after they submit their Applications.

2. *Closing*: Pursuant to the Assistance Agreement, there will be an initial closing at which point the Assistance Agreement and related documents will be properly executed and delivered, and an initial payment of FA or TA may be made. FA Recipients that are subject to the matching funds requirement will not receive a payment until 100 percent of their matching funds are In-Hand. The first payment is the estimated amount of award that the Recipient states in its Application that it will use for eligible FA or TA activities in the first 12 months after the award announcement. The CDFI Fund reserves the right to increase the first payment amount on any award to ensure that any subsequent payments are greater than \$25,000 for FA and \$5,000 for TA awards.

The CDFI Fund will minimize the time between the Recipient incurring costs for eligible activities and award payment in accordance with the Uniform Requirements. Advanced payments for eligible activities will occur no more than one year in advance of the Recipient incurring costs for the eligible activities. Following the initial closing, there may be subsequent closings involving additional award

payments. Any documentation in addition to the Assistance Agreement that is connected with such subsequent closings and payments shall be properly executed and timely delivered by the Recipient to the CDFI Fund.

3. *Requirements Prior to Entering into an Assistance Agreement*: If, prior to entering into an Assistance Agreement, information (including administrative errors) comes to the CDFI Fund’s attention that: Adversely affects the Recipient’s eligibility for an award; adversely affects the Recipient’s certification as a CDFI (to the extent that the award is conditional upon CDFI certification); adversely affects the CDFI Fund’s evaluation of the Application; indicates that the Recipient is not in compliance with any requirement listed in the Uniform Requirements; the Recipient has failed to execute and return a prior round Assistance Agreement to the CDFI Fund within the CDFI Fund’s deadlines; or indicates fraud or mismanagement on the Recipient’s part, the CDFI Fund may, in its discretion and without advance notice to the Recipient, terminate the award or take such other actions as it deems appropriate. The CDFI Fund reserves the right, in its sole discretion, to rescind an award if the Recipient fails to return the Assistance Agreement, signed by the Authorized Representative of the Recipient, and/or provide the CDFI Fund with any requested documentation, within the CDFI Fund’s deadlines.

In addition, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Assistance Agreement and the award made under this NOFA pending the criteria described in the following table:

**TABLE 18—REQUIREMENTS PRIOR TO EXECUTING AN ASSISTANCE AGREEMENT**

Requirement	Criteria
Failure to meet reporting requirements.	If a Recipient received a prior award under any CDFI Fund program and is not in compliance with the reporting requirements of the previously executed agreement(s), the CDFI Fund may delay entering into an Assistance Agreement or disbursing an award until such reporting requirements are met. If the Recipient is unable to meet the requirement(s) within the timeframe specified by the CDFI Fund, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA.
Failure to maintain CDFI Certification.	<ul style="list-style-type: none"> <li>• The automated systems the CDFI Fund uses only acknowledge a report’s receipt and are not a determination of meeting reporting requirements.</li> <li>• An FA Recipient must be a Certified CDFI prior to entering into an Assistance Agreement.</li> <li>• If an FA Recipient fails to maintain CDFI Certification, the CDFI Fund will terminate and rescind the Assistance Agreement and the award made under this NOFA.</li> <li>• If TA Recipient is a Certified CDFI at the time of award announcement, it must maintain CDFI Certification.</li> <li>• If a Certified CDFI TA Recipient fails to maintain CDFI Certification, the CDFI Fund will terminate and rescind the Assistance Agreement and the award made under this NOFA.</li> </ul>
Pending resolution of noncompliance.	<ul style="list-style-type: none"> <li>• The CDFI Fund will delay entering into an Assistance Agreement with a Recipient that has pending non-compliance issues with any of its previously executed CDFI award agreement(s), if the CDFI Fund has not yet made a final compliance determination.</li> <li>• If the Recipient is unable to satisfactorily resolve the compliance issues, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA.</li> </ul>

TABLE 18—REQUIREMENTS PRIOR TO EXECUTING AN ASSISTANCE AGREEMENT—Continued

Requirement	Criteria
Noncompliance status .....	<ul style="list-style-type: none"> <li>If, at any time prior to entering into an Assistance Agreement, the CDFI Fund determines that a Recipient is noncompliant with any previously executed CDFI award agreement(s) and the CDFI Fund has provided written notification that the Recipient is ineligible to apply for or receive any future awards or allocations for a time period specified by the CDFI Fund in writing, the CDFI Fund may delay entering into an Assistance Agreement until the Recipient has cured the noncompliance by taking actions the CDFI Fund has specified within such specified timeframe. If the Recipient is unable to cure the noncompliance within the specified timeframe, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA.</li> </ul>
Compliance with Federal civil rights requirements.	<ul style="list-style-type: none"> <li>If prior to entering into an Assistance Agreement under this NOFA, the Recipient receives a final determination, made within the last three years, in any proceeding instituted against the Recipient in, by, or before any court, governmental, or administrative body or agency, declaring that the Recipient has violated the following laws: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975, (42 U.S.C. 6101–6107), and Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, the CDFI Fund will terminate and rescind the Assistance Agreement and the award made under this NOFA.</li> </ul>
Do Not Pay .....	<ul style="list-style-type: none"> <li>The Do Not Pay Business Center was developed to support Federal agencies in their efforts to reduce the number of improper payments made through programs funded by the Federal government.</li> <li>The CDFI Fund reserves the right, in its sole discretion, to rescind an award if the Recipient is identified as an ineligible Recipient in the Do Not Pay database.</li> </ul>
Safety and soundness .....	<ul style="list-style-type: none"> <li>If it is determined the Recipient is, or will be, incapable of meeting its award obligations, the CDFI Fund will deem the Recipient to be ineligible, or require it to improve safety and soundness conditions prior to entering into an Assistance Agreement.</li> </ul>

*C. Reporting*  
 1. *Reporting requirements:* On an annual basis during the Period of Performance, the CDFI Fund may collect information from each Recipient including, but not limited to, an Annual Report with the following components (Annual Reporting Requirements):

TABLE 19—ANNUAL REPORTING REQUIREMENTS

Financial Statement Audit Report (Non-profit Recipient including Insured Credit Unions).	<p>A Non-profit Recipient (including Insured Credit Unions) must submit a Financial Statement Audit (FSA) report in AMIS, along with the Recipient's statement of financial condition audited or reviewed by an independent certified public accountant, if any are prepared.</p> <p>Under no circumstances should this be construed as the CDFI Fund requiring the Recipient to conduct or arrange for additional audits not otherwise required under Uniform Requirements or otherwise prepared at the request of the Recipient or parties other than the CDFI Fund.</p>
Financial Statement Audit Report (For-Profit Recipient).	<p>For-profit Recipients must submit a FSA report in AMIS, along with the Recipient's statement of financial condition audited or reviewed by an independent certified public accountant.</p>
Financial Statement Audit Report (DIHC and Insured Depository Institution).	<p>If the Recipient is a Depository Institution Holding Company or an Insured Depository Institution, it must submit a FSA report in AMIS.</p>
Single Audit Report (Non-Profit Recipients, if applicable).	<p>A non-profit Recipient must complete an annual Single Audit pursuant to the Uniform Requirements (2 CFR 200.500) if it expends \$750,000 or more in Federal awards in its fiscal year, or such other dollar threshold established by OMB pursuant to 2 CFR 200.500. If a Single Audit is required, it must be submitted electronically to the Federal Audit Clearinghouse (FAC) (see 2 CFR subpart F—Audit Requirements in the Uniform Requirements) and optionally through AMIS.</p>
Transaction Level Report (TLR) .....	<p>The Recipient must submit a TLR to the CDFI Fund through AMIS.</p> <p>If the Recipient is a Depository Institution Holding Company that deploys all or a portion of its Financial Assistance through its Subsidiary CDFI Insured Depository Institution, that Subsidiary CDFI Insured Depository Institution must also submit a TLR. Furthermore, if the Depository Institution Holding Company itself deploys any portion of the Financial Assistance, the Depository Institution Holding Company must submit a TLR.</p> <p>The TLR is not required for TA Recipients.</p>
Uses of Award Report .....	<p>The Recipient must submit the Uses of Award Report to the CDFI Fund in AMIS.</p>
Shareholders Report .....	<p>If the Assistance is in the form of an Equity Investment, the Recipient must submit shareholder information to the CDFI Fund showing the class, series, number of shares and valuation of capital stock held or to be held by each shareholder. The Shareholder Report must be submitted for as long as the CDFI Fund is an equity holder. The Shareholders Report is submitted through AMIS.</p>
Performance Progress Report .....	<p>The Recipient must submit the Performance Progress Report through AMIS.</p>
Financial Statement Audit Report (Sponsoring Entities).	<p>A Sponsoring Entity must submit a FSA report in AMIS, along with a statement of financial condition audited or reviewed by an independent certified public accountant, if any are prepared.</p> <p>Under no circumstances should this be construed as the CDFI Fund requiring the Sponsoring Entity to conduct or arrange for additional audits not otherwise required under Uniform Requirements or otherwise prepared at the request of the Sponsoring Entity or parties other than the CDFI Fund.</p>

Each Recipient is responsible for the timely and complete submission of the Annual Reporting Requirements. Sponsoring Entities with co-awardees will be informed of any reporting shifts at the time the Emerging CDFI is

adjoined to the Agreement. The CDFI Fund reserves the right to contact the Recipient and additional entities or signatories to the Assistance Agreement to request additional information and/or documentation. The CDFI Fund will use such information to monitor each Recipient's compliance with the requirements of the Assistance Agreement and to assess the impact of the NACA Program. The CDFI Fund reserves the right, in its sole discretion, to modify these reporting requirements, including increasing the scope and frequency of reporting, if it determines it to be appropriate and necessary; however, such reporting requirements will be modified only after notice to Recipients.

**2. Financial Management and Accounting:** The CDFI Fund will require Recipients to maintain financial management and accounting systems that comply with Federal statutes, regulations, and the terms and

conditions of the Federal award. These systems must be sufficient to permit the preparation of reports required by the CDFI Fund to ensure compliance with the terms and conditions of the NACA Program, including the tracing of funds to a level of expenditures adequate to establish that such funds have been used in accordance with Federal statutes, regulations, and the terms and conditions of the Federal award.

The cost principles used by Recipients must be consistent with Federal cost principles and support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to the NACA Program award. In addition, the CDFI Fund will require Recipients to: Maintain effective internal controls; comply with applicable statutes, regulations, and the Assistance Agreement; evaluate and monitor compliance; take appropriate action when not in compliance; and

safeguard personally identifiable information.

**VII. Agency Contacts**

A. The CDFI Fund will respond to questions concerning this NOFA and the Application between the hours of 9:00 a.m. and 5:00 p.m. Eastern Time, starting on the date that the NOFA is published through the date listed in Table 1 and Table 12. The CDFI Fund strongly recommends Applicants submit questions to the CDFI Fund via an AMIS service request to the NACA Program, Certification, Compliance Monitoring and Evaluation Unit, or IT Help Desk. The CDFI Fund will post on its website responses to reoccurring questions received about the NOFA and Application. Other information regarding the CDFI Fund and its programs may be obtained from the CDFI Fund's website at <http://www.cdfifund.gov>. Table 20 lists CDFI Fund contact information:

TABLE 20—CONTACT INFORMATION

Type of question	Preferred method	Telephone number (not toll free)	Email addresses
NACA Program .....	Service Request via AMIS .....	202-653-0421, option 1 .....	<a href="mailto:cdfihelp@cdfi.treas.gov">cdfihelp@cdfi.treas.gov</a> .
CCME .....	Service Request via AMIS .....	202-653-0423 .....	<a href="mailto:ccme@cdfi.treas.gov">ccme@cdfi.treas.gov</a> .
AMIS—IT Help Desk .....	Service Request via AMIS .....	202-653-0422 .....	<a href="mailto:AMIS@cdfi.treas.gov">AMIS@cdfi.treas.gov</a> .

**B. Information Technology Support:** For IT assistance, the preferred method of contact is to submit a Service Request within AMIS. For the Service Request, select "Technical Issues" from the Program dropdown menu of the Service Request. People who have visual or mobility impairments that prevent them from using the CDFI Fund's website should call (202) 653-0422 for assistance (this is not a toll free number).

**C. Communication with the CDFI Fund:** The CDFI Fund will use the contact information in AMIS to communicate with Applicants and Recipients. It is imperative, therefore, that Applicants, Recipients, Subsidiaries, Affiliates, and signatories maintain accurate contact information in their accounts. This includes information such as contact names (especially for the Authorized Representative), email addresses, fax and phone numbers, and office locations.

**D. Civil Rights and Diversity:** Any person who is eligible to receive benefits or services from the CDFI Fund

or Recipients under any of its programs is entitled to those benefits or services without being subject to prohibited discrimination. The Department of the Treasury's Office of Civil Rights and Diversity enforces various Federal statutes and regulations that prohibit discrimination in financially assisted and conducted programs and activities of the CDFI Fund. If a person believes that s/he has been subjected to discrimination and/or reprisal because of membership in a protected group, s/he may file a complaint with: Associate Chief Human Capital Officer, Office of Civil Rights, and Diversity, 1500 Pennsylvania Ave., NW, Washington, DC 20220 or (202) 622-1160 (not a toll-free number).

**VIII. Other Information**

**A. Paperwork Reduction Act:** Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. If applicable, the CDFI Fund may inform Applicants that they do not

need to provide certain Application information otherwise required. Pursuant to the Paperwork Reduction Act, the CDFI Program, and NACA Program Application has been assigned the following control number: 1559-0021. The DF-FA Application has been assigned the following control number: 1559-0048. The HFFI-FA Application has been assigned the following control number: 1559-0040.

**B. Application Information Sessions:** The CDFI Fund may conduct webinars or host information sessions for organizations that are considering applying to, or are interested in learning about, the CDFI Fund's programs. For further information, visit the CDFI Fund's website at <http://www.cdfifund.gov>.

**Authority:** 12 U.S.C. 4701, *et seq*; 12 CFR parts 1805 and 1815; 2 CFR part 200.

**Jodie L. Harris,**

*Director, Community Development Financial Institutions Fund.*

[FR Doc. 2019-06623 Filed 4-4-19; 8:45 am]

**BILLING CODE 4810-70-P**

**DEPARTMENT OF THE TREASURY****Office of the Comptroller of the Currency****Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Leasing**

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA).

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and respondents are not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning the renewal of its information collection titled "Leasing." The OCC also is giving notice that it has sent the collection to OMB for review.

**DATES:** Comments must be submitted on or before May 6, 2019.

**ADDRESSES:** Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email:* [prainfo@occ.treas.gov](mailto:prainfo@occ.treas.gov).
- *Mail:* Chief Counsel's Office, Office of the Comptroller of the Currency, Attention: 1557-0206, 400 7th Street SW, Suite 3E-218, Washington, DC 20219.

- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E-218, Washington, DC 20219.

- *Fax:* (571) 465-4326.

**Instructions:** You must include "OCC" as the agency name and "1557-0206" in your comment. In general, the OCC will publish comments on [www.reginfo.gov](http://www.reginfo.gov) without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

*Additionally, please send a copy of your comments by mail to:* OCC Desk

Officer, 1557-0206, U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington, DC 20503 or by email to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov).

You may review comments and other related materials that pertain to this information collection<sup>1</sup> following the close of the 30-day comment period for this notice by any of the following methods:

- *Viewing Comments Electronically:* Go to [www.reginfo.gov](http://www.reginfo.gov). Click on the "Information Collection Review" tab. Underneath the "Currently under Review" section heading, from the drop-down menu select "Department of Treasury" and then click "submit." This information collection can be located by searching by OMB control number "1557-0206" or "Leasing." Upon finding the appropriate information collection, click on the related "ICR Reference Number." On the next screen, select "View Supporting Statement and Other Documents" and then click on the link to any comment listed at the bottom of the screen.

- For assistance in navigating [www.reginfo.gov](http://www.reginfo.gov), please contact the Regulatory Information Service Center at (202) 482-7340.

- *Viewing Comments Personally:* You may personally inspect comments at the OCC, 400 7th Street SW, Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649-5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect comments.

**FOR FURTHER INFORMATION CONTACT:** Shaquita Merritt, Clearance Officer, (202) 649-5490 or, for persons who are deaf or hearing impaired, TTY, (202) 649-5597, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E-218, Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC

asks that OMB extend its approval of this collection.

*Title:* Leasing.

*OMB Control No.:* 1557-0206.

*Description:* Under 12 CFR 23.4(c), a national bank must liquidate or re-lease property that is no longer subject to lease (off-lease property) as soon as practicable and not later than five years from the date the bank acquires the legal right to possess or control the property. If a national bank wishes to extend the five-year holding period for up to an additional five years, it must obtain OCC approval. Twelve CFR 23.4(c) requires a national bank seeking an extension to provide a clearly convincing demonstration as to why any additional holding period is necessary. In addition, a national bank must value off-lease property at the lower of current fair market value or book value promptly after the property becomes off-lease property.

Under 12 CFR 23.6, leases are subject to the lending limits prescribed by 12 U.S.C. 84, as implemented by 12 CFR part 32, or, if the lessee is an affiliate of the national bank, to the restrictions on transactions with affiliates prescribed by 12 U.S.C. 371c and 371c-1; Regulation W, 12 CFR part 223; and other limits or restrictions the OCC determines apply.

Twelve U.S.C. 24 contains two separate provisions authorizing a national bank to acquire personal property for purposes of lease financing. 12 U.S.C. 24(Seventh) authorizes leases of personal property (Section 24(Seventh) Leases) if the lease is a conforming lease as defined in 12 CFR 23.2(d)(2) and represents a noncancelable obligation of the lessee (*i.e.*, the lease serves as the functional equivalent of a loan). See 12 CFR 23.20. A national bank also may acquire personal property for purposes of lease financing under the authority of 12 U.S.C. 24(Tenth). Twelve CFR 23.5 requires that if a national bank enters into both types of leases, its records must distinguish between the two types of leases. This information is required to establish that the national bank is complying with the limitations and requirements applicable to the two separate types of leases.

*Type of Review:* Regular.

*Affected Public:* Businesses or other for-profit.

*Estimated Number of Respondents:* 229.

*Estimated Total Annual Burden:* 562.

*Frequency of Response:* On occasion.

On December 4, 2018, the OCC issued a notice for 60 days of comment concerning this collection, 83 FR 62670. No comments were received. Comments continue to be requested on:

<sup>1</sup> On December 4, 2018, the OCC published a 60-day notice for this information collection, 83 FR 62670.

(a) Whether the information collections are necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

(b) The accuracy of the OCC's estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

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

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

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 29, 2019.

**Theodore J. Dowd,**

*Deputy Chief Counsel, Office of the Comptroller of the Currency.*

[FR Doc. 2019-06643 Filed 4-4-19; 8:45 am]

**BILLING CODE 4810-33-P**

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### Agency Information Collection Activities: Information Collection Renewal; Comment Request; OCC Supplier Registration Form

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on the renewal of an information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and respondents are not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning the renewal of its information collection titled, "OCC Supplier Registration Form."

**DATES:** Comments must be submitted on or before June 4, 2019.

**ADDRESSES:** Commenters are encouraged to submit comments by email, if

possible. You may submit comments by any of the following methods:

- *Email:* [prainfo@occ.treas.gov](mailto:prainfo@occ.treas.gov).

- *Mail:* Chief Counsel's Office, Office of the Comptroller of the Currency, Attention: 1557-0316, 400 7th Street SW, Suite 3E-218, Washington, DC 20219.

- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E-218, Washington, DC 20219.

- *Fax:* (571) 465-4326.

*Instructions:* You must include "OCC" as the agency name and "1557-0316" in your comment. In general, the OCC will publish comments on [www.reginfo.gov](http://www.reginfo.gov) without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection<sup>1</sup> by any of the following methods:

- *Viewing Comments Electronically:*

Go to [www.reginfo.gov](http://www.reginfo.gov). Click on the "Information Collection Review" tab. Underneath the "Currently under Review" section heading, from the drop-down menu, select "Department of Treasury" and then click "submit." This information collection can be located by searching by OMB control number "1557-0316" or "OCC Supplier Registration Form." Upon finding the appropriate information collection, click on the related "ICR Reference Number." On the next screen, select "View Supporting Statement and Other Documents" and then click on the link to any comment listed at the bottom of the screen.

- For assistance in navigating [www.reginfo.gov](http://www.reginfo.gov), please contact the Regulatory Information Service Center at (202) 482-7340.

- *Viewing Comments Personally:* You may personally inspect comments at the OCC, 400 7th Street SW, Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700 or, for persons who are deaf or hearing

impaired, TTY, (202) 649-5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect comments.

#### FOR FURTHER INFORMATION CONTACT:

Shaquita Merritt, OCC Clearance Officer, (202) 649-5490 or, for persons who are deaf or hearing impaired, TTY, (202) 649-5597, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, suite 3E-218, Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor.

"Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include 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 title 44 requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the proposed collection of information set forth in this document.

*Title:* OCC Supplier Registration Form.

*OMB Number:* 1557-0316.

*Frequency of Response:* On occasion.

*Affected Public:* Business or other for-profit.

*Estimated Number of Respondents:* 200.

*Estimated Total Annual Burden Hours:* 33 hours.

*Abstract:* Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) requires the OCC to develop and implement standards and procedures to ensure, to the maximum extent possible, the fair inclusion and utilization of minorities, women, and minority-owned and women-owned businesses in all business and activities of the agency at all levels, including procurement, insurance, and all types of contracts<sup>2</sup> and to develop standards for coordinating technical assistance to such businesses.<sup>3</sup>

In order to comply with the Congressional mandate to develop standards for the fair inclusion and utilization of minority- and women-owned businesses and to provide effective technical assistance to these businesses, the OCC developed an on-

<sup>1</sup> Following the close of the 60-Day comment period for this notice, the OCC will publish a notice for 30 days of comment for this collection.

<sup>2</sup> 12 U.S.C. 5452(c)(1).

<sup>3</sup> 12 U.S.C. 5452(b)(2)(B).

going system to collect up-to-date contact information and capabilities statements from potential suppliers. This information allows the OCC to update and enhance its internal database of interested minority- and women-owned businesses. This information also allows the OCC to measure the effectiveness of its technical assistance and outreach efforts and to target areas where additional outreach efforts are necessary.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. The OCC invites comment on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information shall have practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

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

(d) Ways to minimize the burden of the collection 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.

Dated: March 29, 2019.

**Theodore J. Dowd,**

*Deputy Chief Counsel, Office of the Comptroller of the Currency.*

[FR Doc. 2019-06642 Filed 4-4-19; 8:45 am]

**BILLING CODE 4810-33-P**

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### Agency Information Collection Activities: Information Collection Renewal; Comment Request; FFIEC Cybersecurity Assessment Tool

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the National Credit Union Administration (NCUA) (collectively, the Agencies), as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other

federal agencies to take this opportunity to comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA).

In accordance with the requirements of the PRA, the Agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment on behalf of the Agencies concerning renewal of the information collection titled, "FFIEC Cybersecurity Assessment Tool" ("Assessment").

**DATES:** Comments must be submitted on or before June 4, 2019.

**ADDRESSES:** Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email:* [prainfo@occ.treas.gov](mailto:prainfo@occ.treas.gov).
- *Mail:* Chief Counsel's Office, Office of the Comptroller of the Currency, Attention: 1557-0328, 400 7th Street SW, Suite 3E-218, Washington, DC 20219.

- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E-218, Washington, DC 20219.
- *Fax:* (571) 465-4326.

**Instructions:** You must include "OCC" as the agency name and "1557-0328" in your comment. In general, the OCC will publish comments on [www.reginfo.gov](http://www.reginfo.gov) without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection<sup>1</sup> by any of the following methods:

- **Viewing Comments Electronically:** Go to [www.reginfo.gov](http://www.reginfo.gov). Click on the "Information Collection Review" tab. Underneath the "Currently under Review" section heading, from the drop-down menu, select "Department of Treasury" and then click "submit." This information collection can be located by searching by OMB control number "1557-0328" or "FFIEC Cybersecurity

Assessment Tool." Upon finding the appropriate information collection, click on the related "ICR Reference Number." On the next screen, select "View Supporting Statement and Other Documents" and then click on the link to any comment listed at the bottom of the screen.

- For assistance in navigating [www.reginfo.gov](http://www.reginfo.gov), please contact the Regulatory Information Service Center at (202) 482-7340.

- **Viewing Comments Personally:** You may personally inspect comments at the OCC, 400 7th Street SW, Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649-5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect comments.

#### FOR FURTHER INFORMATION CONTACT:

Shaquita Merritt, OCC Clearance Officer, Carl Kaminski, Special Counsel, or Priscilla Benner, Attorney (202) 649-5490, for persons who are deaf or hearing impaired, TTY, (202) 649-5597, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E-218, Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. *et seq.*), federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The definition contained in 5 CFR 1320.3(c) also includes a voluntary collection. Section 3506(c)(2)(A) of title 44 requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing, on behalf of the Agencies, a notice of the proposed collection of information set forth in this document.

*Title:* FFIEC Cybersecurity Assessment Tool.

*OMB Number:* 1557-0328.

*Description:* Cyber threats continue to evolve and increase exponentially with greater sophistication. Financial

<sup>1</sup> Following the close of the 60-day comment period for this notice, the OCC will publish a notice for 30 days of comment for this collection.

institutions<sup>2</sup> are exposed to cyber risks because they are dependent on information technology to deliver services to consumers and businesses every day. Cyber attacks on financial institutions may result in unauthorized access to, and the compromise of, confidential information, as well as the destruction of critical data and systems. Disruption, degradation, or unauthorized alteration of information and systems can affect a financial institution's operations and core processes and undermine confidence in the nation's financial services sector. Absent immediate attention to these rapidly increasing threats, financial institutions and the financial sector as a whole are at risk.

For this reason, the Agencies, under the auspices of the Federal Financial Institutions Examination Council ("FFIEC"), have worked diligently to assess and enhance the state of the financial industry's cyber preparedness

and to improve the Agencies' examination procedures and training to strengthen the oversight of financial industry cybersecurity readiness. The Agencies also have focused on providing financial institutions with resources that can assist in protecting them and their customers from the growing risks posed by cyber attacks.

As part of these efforts, the Agencies developed the Assessment to assist financial institutions of all sizes in assessing their inherent cyber risks and their risk management capabilities. The Assessment allows a financial institution to identify its inherent cyber risk profile based on the technologies and connection types, delivery channels, online/mobile products and technology services that it offers to its customers, its organizational characteristics, and the cyber threats it is likely to face. Once a financial institution identifies its inherent cyber risk profile, it can use the Assessment's

maturity matrix to evaluate its level of cybersecurity preparedness based on the financial institution's cyber risk management and oversight, threat intelligence capabilities, cybersecurity controls, external dependency management, and cyber incident management and resiliency planning. A financial institution may use the matrix's maturity levels to identify opportunities for improving the financial institution's cyber risk management based on its inherent risk profile. The Assessment also enables a financial institution to rapidly identify areas that could improve the financial institution's cyber risk management and response programs, as appropriate. Use of the Assessment by financial institutions is voluntary.

*Type of Review:* Regular.

*Affected Public:* Businesses or other for-profit.

*Burden Estimates:*<sup>3</sup>

Assessment burden estimate	Estimated number of respondents less than \$500 million @80 hours	Estimated number of respondents \$500 million - \$10 billion @120 hours	Estimated number of respondents \$10 billion - \$50 billion @160 hours	Estimated number of respondents over \$50 billion @180 hours	Estimated total respondents and total annual burden hours
OCC National Banks and Federal Savings Associations.	823 × 80 = 65,840 hours	157 × 120 = 18,840 hours.	123 × 160 = 19,680 hours.	82 × 180 = 14,760 hours	1,185 respondents 119,120 hours.
FDIC State Non-Member Banks and State Savings Associations.	2,689 × 80 = 215,120 hours.	760 × 120 = 91,200 hours.	34 × 160 = 5,440 hours ..	6 × 180 = 1,080 hours ....	3,489 respondents 312,840 hours.
Board State Member Banks and Bank Holding Companies.	2,768 × 80 = 221,440 hours.	766 × 120 = 91,920 hours.	81 × 160 = 12,960 hours	26 × 180 = 4,680 hours ..	3,641 respondents 331,000 hours.
NCUA Federally-Insured Credit Unions.	4,830 × 80 = 386,400 hours.	536 × 120 = 64,320 hours.	8 × 160 = 1,280 hours ....	1 × 180 = 180 hours .....	5,375 respondents 452,180 hours.
Total .....	11,110 × 80 = hours = 888,800.	2,219 × 120 hours = 266,280 hours.	246 hours × 160 = 39,360 hours.	115 hours × 180 = 20,700 hours.	13,690 respondents 1,215,140 hours.

Comments submitted in response to this notice will be summarized and 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 Agencies, including whether the information has practical utility;

(b) The accuracy of the Agencies' estimates of the burden of the collection of information;

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

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection

techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 29, 2019.

**Theodore J. Dowd,**  
Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2019-06644 Filed 4-4-19; 8:45 am]

**BILLING CODE 4810-33-P**

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**Proposed Collection; Comment Request for Form 4972**

**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 information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning

<sup>2</sup> For purposes of this information collection, the term "financial institution" includes banks, savings associations, credit unions, and bank holding companies.

<sup>3</sup> Burden is estimated conservatively and assumes all institutions will complete the Assessment. Therefore, the estimated burden may exceed the actual burden because use of the Assessment by financial institutions is not mandatory. The burden

estimates for financial institutions include technology service providers who may assist financial institutions in completing their Assessments.

Form 4972, Tax on Lump-Sum Distributions (From Qualified Plans of Participants Born Before January 2, 1936).

**DATES:** Written comments should be received on or before June 4, 2019 to be assured of consideration.

**ADDRESSES:** Direct all written comments to L. 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 form and instructions should be directed to Sara Covington, (202) 317-6038, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at [Sara.L.Covington@irs.gov](mailto:Sara.L.Covington@irs.gov).

**SUPPLEMENTARY INFORMATION:**

*Title:* Tax on Lump-Sum Distributions (From Qualified Plans of Participants Born Before January 2, 1936).

*OMB Number:* 1545-0193.

*Form Number:* Form 4972.

*Abstract:* Internal Revenue Code section 402(e) and regulation section 402(e) and regulations section 1.402(e) allow recipients of lump-sum distributions from a qualified retirement plan to figure the tax separately on the distributions. The tax can be computed on the 10-year averaging method and/or by a special capital gain method. Form 4972 is used to compute the separate tax and to make a special 20 percent capital gain election on lump-sum distributions attributable to pre-1974 participation.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households.

*Estimated Number of Responses:* 17,720.

*Estimated Time Per Respondent:* 4 hrs. 24 min.

*Estimated Total Annual Burden Hours:* 77,968.

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: April 1, 2019.

**Laurie Brimmer,**

*Senior Tax Analyst.*

[FR Doc. 2019-06629 Filed 4-4-19; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF THE TREASURY**

**Interest Rate Paid on Cash Deposited To Secure U.S. Immigration and Customs Enforcement Immigration Bonds**

**AGENCY:** Departmental Offices, Treasury.

**ACTION:** Notice.

**SUMMARY:** For the period beginning April 1, 2019, and ending on June 30, 2019, the U.S. Immigration and Customs Enforcement Immigration Bond interest rate is 2.45 per centum per annum.

**DATES:** Rates are applicable April 1, 2019 to June 30, 2019.

**ADDRESSES:** Comments or inquiries may be mailed to Will Walcutt, Supervisor, Funds Management Branch, Funds Management Division, Fiscal Accounting, Bureau of the Fiscal Services, Parkersburg, West Virginia 26106-1328.

You can download this notice at the following internet addresses: <http://www.treasury.gov> or <http://www.federalregister.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Ryan Hanna, Manager, Funds Management Branch, Funds Management Division, Fiscal Accounting, Bureau of the Fiscal Service, Parkersburg, West Virginia 261006-1328 (304) 480-5120; Will Walcutt, Supervisor, Funds Management Branch, Funds Management Division, Fiscal Accounting, Bureau of the Fiscal

Services, Parkersburg, West Virginia 26106-1328, (304) 480-5117.

**SUPPLEMENTARY INFORMATION:** Federal law requires that interest payments on cash deposited to secure immigration bonds shall be "at a rate determined by the Secretary of the Treasury, except that in no case shall the interest rate exceed 3 per centum per annum." 8 U.S.C. 1363(a). Related Federal regulations state that "Interest on cash deposited to secure immigration bonds will be at the rate as determined by the Secretary of the Treasury, but in no case will exceed 3 per centum per annum or be less than zero." 8 CFR 293.2. Treasury has determined that interest on the bonds will vary quarterly and will accrue during each calendar quarter at a rate equal to the lesser of the average of the bond equivalent rates on 91-day Treasury bills auctioned during the preceding calendar quarter, or 3 per centum per annum, but in no case less than zero. [FR Doc. 2015-18545] In addition to this Notice, Treasury posts the current quarterly rate in Table 2b—Interest Rates for Specific Legislation on the TreasuryDirect website.

**Gary Grippo,**

*Deputy Assistant Secretary for Public Finance.*

[FR Doc. 2019-06742 Filed 4-4-19; 8:45 am]

**BILLING CODE 4810-25-P**

**DEPARTMENT OF THE TREASURY**

**United States Mint**

**Request for Applications for Appointment to the Citizens Coinage Advisory Committee**

Pursuant to United States Code, Title 31, section 5135 (b), the United States Mint is accepting applications for appointment to the Citizens Coinage Advisory Committee (CCAC) to represent the *interests of the general public* in the coinage of the United States. The CCAC was established to:

- Advise the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals produced by the United States Mint.

- Advise the Secretary of the Treasury with regard to the events, persons, or places that the CCAC recommends to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made.

- Make recommendations with respect to the mintage level for any commemorative coin recommended.

Total membership consists of eleven voting members appointed by the Secretary of the Treasury:

- One person specially qualified by virtue of his or her education, training, or experience as a nationally or internationally recognized curator in the United States of a numismatic collection;

- One person specially qualified by virtue of his or her experience in the medallic arts or sculpture;

- One person specially qualified by virtue of his or her education, training, or experience in American history;

- One person specially qualified by virtue of his or her education, training, or experience in numismatics;

- Three persons who can represent the interests of the general public in the coinage of the United States; and

- Four persons appointed by the Secretary of the Treasury on the basis of the recommendations by the House and Senate leadership.

Members are appointed for a term of four years. No individual may be appointed to the CCAC while serving as an officer or employee of the Federal Government.

The CCAC is subject to the direction of the Secretary of the Treasury. Meetings of the CCAC are open to the public and are held approximately four to six times per year. The United States Mint is responsible for providing the necessary support, technical services, and advice to the CCAC. CCAC members are not paid for their time or services, but, consistent with Federal Travel Regulations, members are reimbursed for their travel and lodging expenses to attend meetings. Members are Special Government Employees and are subject to the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR part 2653).

The United States Mint will review all submissions and will forward its recommendations to the Secretary of the Treasury for appointment consideration. Candidates should include specific skills, abilities, talents, and credentials to support their applications. The United States Mint is interested in candidates who are recognized as having unique and valued talents or as accomplished professionals; have demonstrated experience, knowledge, interest, or background in a variety of fields, including numismatics, art, education, working with youth, or American heritage and culture; have demonstrated interest and a commitment to actively participate in

meetings and activities, and a demonstrated understanding of the role of the CCAC and the obligations of a Special Government Employee; possess demonstrated leadership skills in their fields of expertise or discipline; possess a demonstrated desire for public service and have a history of honorable professional and personal conduct, as well as successful standing in their communities; and who are free of professional, political, or financial interests that could negatively affect their ability to provide impartial advice.

*Application Deadline:* Friday, April 26, 2019.

*Receipt of Applications:* Any member of the public wishing to be considered for CCAC membership should submit a resume and cover letter describing his or her qualifications and reasons for seeking membership by email to *info@ccac.gov* or by mail to the United States Mint; 801 9th Street NW, Washington, DC 20220; Attn: Greg Weinman. Submissions must be postmarked no later than Friday, April 26, 2019.

*Notice Concerning Delivery of First-Class and Priority Mail:* First-class mail to the United States Mint is put through an irradiation process to protect against biological contamination. Support materials put through this process may suffer irreversible damage. We encourage you to consider using alternate delivery services, especially when sending time-sensitive material.

*For Further Information:* Contact Betty Birdsong, Acting United States Mint Liaison to the CCAC; 801 9th Street NW, Washington, DC 20220, or call 202-354-7770.

Dated: March 29, 2019.

**David J. Ryder,**

*Director, United States Mint.*

[FR Doc. 2019-06616 Filed 4-4-19; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF VETERANS AFFAIRS

### Veterans' Advisory Committee on Education (VACOE), Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that the Veterans' Advisory Committee on Education will meet on May 8th and May 9th, 2019. On both days, the meeting will be held at 810 Vermont Ave. NW, Conference Room 630, Washington, DC 20204. The meeting sessions will begin and end as follows:

Date:	Time:
May 8, 2019 .....	8:30 a.m. to 5:00 p.m.
May 9, 2019 .....	8:30 a.m. to 5:00 p.m.

The meeting sessions are open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on educational issues affecting Veterans. The Committee's area of focus includes access to quality programing and ensuring Veterans success.

On May 8, 2019, the morning agenda includes welcoming remarks, remarks from VA officials, and briefings regarding access to quality educational programing for Veterans. The Committee will use the afternoon to discuss the presentations from the morning and conduct an open discussion around those topics. On May 9, 2019, the morning agenda topic is focused on Ensuring Veterans Success. The Committee will be briefed on available data regarding GI Bill beneficiaries and the transition assistance program education track. The Committee will use the afternoon to discuss the presentations from the morning and conduct an open discussion around those topics. The afternoon will end with the Committee discussion recommendations and next steps based on the topics covered during the meeting.

Public comments will be received at 4:30 p.m. on April 21, 2019. Interested parties should contact Mr. Lucas Tickner, via email at *Lucas.Tickner@va.gov*, or by mail at 810 Vermont Avenue NW (22—Education Service), Washington, DC 20420. Individuals wishing to speak are invited to submit a 1–2 page summary of their comment for inclusion in the official meeting record. Because the meeting is being held in a government building, a photo I.D. must be presented at the Guard's Desk as a part of the clearance process. Due to an increase in security protocols, and to prevent delays in clearance processing, you should allow an additional 30 minutes before the meeting begins. Any member of the public seeking additional information should contact Mr. Tickner at the email address noted above.

Dated: April 2, 2019.

**Jelessa M. Burney,**

*Federal Advisory Committee Management Officer.*

[FR Doc. 2019-06676 Filed 4-4-19; 8:45 am]

**BILLING CODE P**



# FEDERAL REGISTER

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Vol. 84

Friday,

No. 66

April 5, 2019

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Part II

The President

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Proclamation 9858—World Autism Awareness Day, 2019



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# Presidential Documents

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Title 3—

Proclamation 9858 of April 1, 2019

The President

World Autism Awareness Day, 2019

By the President of the United States of America

## A Proclamation

On World Autism Awareness Day, we honor the millions of Americans living with autism spectrum disorder (ASD), who, in spite of the challenges they may face, continue to make extraordinary contributions to their families, their communities, our Nation, and the world. We also express our sincere appreciation to the families, friends, medical professionals, and caregivers who help Americans with ASD pursue the American Dream.

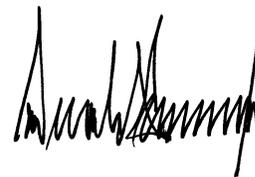
As a Nation, we must continue to support Americans with ASD. My Administration has worked to fund cutting-edge research, optimize health systems, and enhance available resources and treatments that will benefit people with ASD. Ongoing Federal research efforts to understand the health and development of children with ASD have recently expanded to include adolescents and young adults, thereby advancing our knowledge of ASD beyond childhood. Additionally, our economic policies have created the lowest unemployment rate in history for Americans with disabilities, and recent Federal investments in apprenticeship programs for individuals with ASD will help provide more pathways to stable employment.

Ensuring the safety of all Americans with ASD is a priority of my Administration. Last year, I was pleased to sign into law Kevin and Avonte's Law, which expands the existing Federal emergency alert program to include people with ASD and other cognitive disorders who may wander from safety. This legislation also authorizes funding for tracking technologies and specialized training for caregivers to help prevent and respond to instances of wandering. These investments will help put concerned families at ease, reduce the risk of tragedies, and improve the quality of life for individuals with ASD, their families, and caregivers.

Today, we celebrate the tremendous accomplishments of Americans with ASD and reaffirm our commitment to work together to ensure that every member of our society is afforded equal opportunities to reach their full potential.

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 April 2, 2019, as World Autism Awareness Day. I call upon all Americans to learn more about the signs of autism to improve early diagnosis, understand the challenges faced by individuals with autism, and find ways to support those with autism and their families.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of April, 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.

A handwritten signature in black ink, appearing to be Donald Trump, located in the upper right quadrant of the page.

[FR Doc. 2019-06953  
Filed 4-4-19; 11:15 am]  
Billing code 3295-F9-P

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