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Presidential Documents

Title 3—

The President

Proclamation 9865 of April 25, 2019

World Intellectual Property Day, 2019

By the President of the United States of America

A Proclamation

On World Intellectual Property Day, we celebrate the essential role of innovation in the strength and expansion of our economy. Our free market continues to unleash the imagination of our Nation's talented creators, inventors, and entrepreneurs, enabling them to develop products that improve and elevate lives across our country and around the world. To maintain and reinforce our economic competitiveness, we must protect intellectual property and related technologies so that new industries and innovations can flourish.

Since the founding, our Nation's incredible intellectual property system has empowered Americans to make discoveries that have helped us live healthy, prosperous, and enjoyable lives. My Administration is determined to build on our country's strong tradition of protecting intellectual property. Last year, I signed the Orrin G. Hatch-Bob Goodlatte Music Modernization Act, which will improve our protection of the creative genius of America's extraordinary musicians. This groundbreaking legislation modernizes our outdated copyright laws so that artists and songwriters are justly compensated for the online use of their music. Additionally, my Administration negotiated the new United States-Mexico-Canada Agreement (USMCA), modernizing the North American Free Trade Agreement into a 21st century, high-standard agreement. The USMCA includes the strongest and most comprehensive intellectual property standards of any prior free trade agreement. Once approved by the Congress, the USMCA will deliver comprehensive protections against misappropriation of trade secrets, robust border enforcement, and enhanced trademark, copyright, and patent provisions that are critical to driving innovation, creating economic growth, and supporting American jobs. Earlier this month, I also issued a memorandum directing my Cabinet to combat trafficking in counterfeit and pirated goods in online marketplaces.

We must stop those actors who engage in unfair and unscrupulous practices, including nation states that sponsor the theft of American intellectual property. To protect our economic and national security, my Administration is taking aggressive action to enforce both our laws and a fair and reciprocal trade policy. For example, a critical part of our ongoing negotiations with China includes putting an end to the hundreds of billions of dollars of intellectual property we lose to China each year. Protecting the innovations, creations, and inventions that power our country are vital to our economic prosperity and national security.

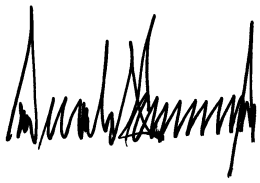
The theme of this year's World Intellectual Property Day is intellectual property in sports. Intellectual property is critical to advancing the ability of our athletes to compete and increasing the enjoyment of sports for fans. We celebrate the innovations of those working behind the scenes to create new sports equipment, enhance safety, improve branding, and broadcast sporting events. From new materials that preserve athlete health and promote performance to game-changing technological advances in robotics and artificial intelligence, intellectual property underpins the sports industry.

Today, we recognize that the success of nearly every industry, from entertainment and sports to agriculture and technology, depends on a framework that protects intellectual property. A brighter and more hopeful future is

dawning because of the increased attention nations are paying to innovation, creativity, and intellectual property. As the human mind continues to transcend limitations, we will work to empower the creative spirit of today's innovators by protecting their hard work.

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 26, 2019, as World Intellectual Property Day. I encourage Americans to observe this day with events and educational programs that celebrate the benefits of intellectual property to our economy and our country.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth 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.



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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 101, 102, 104, 105, 108, 110, and 114

[Notice 2019–08]

Point of Entry for All Campaign Finance Reports

AGENCY: Federal Election Commission.

ACTION: Interim final rule.

SUMMARY: Congress amended the Federal Election Campaign Act (''FECA'') to require all reports, designations, and notices mandated by FECA to be filed with the Federal Election Commission. Previously, Senate candidates and certain political committees were required to file such reports, designations, and notices with the Secretary of the Senate. The Commission is amending its regulations to implement this new statutory requirement. The Commission is accepting comments on this revision to its regulations and comments received may be addressed in a subsequent rulemaking document.

DATES: Effective May 2, 2019. Comments must be received on or before June 3, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Esther D. Gyory, Acting Assistant General Counsel, or Ms. Cheryl A. Hemsley, Attorney, (202) 694–1650 or (800) 424–9530.

ADDRESSES: All comments must be in writing. Comments may be submitted electronically via the Commission's website at *http://sers.fec.gov/fosers,* reference REG 2018–04. Commenters are encouraged to submit comments electronically to ensure timely receipt and consideration. Alternatively, comments may be submitted in paper form. Paper comments must be sent to the Federal Election Commission, Attn.: Esther D. Gyory, Acting Assistant General Counsel, 1050 First Street NE, Washington, DC 20463. Each commenter must provide, at a minimum, his or her first name, last name, city, and state. All properly submitted comments, including attachments, will become part of the public record, and the Commission will make comments available for public viewing on the Commission's website and in the Commission's Public Records Office. Accordingly, commenters should not provide in their comments any information that they do not wish to make public, such as a home street address, personal email address, date of birth, phone number, social security number, or driver's license number, or any information that is restricted from disclosure, such as trade secrets or commercial or financial information that is privileged or confidential.

SUPPLEMENTARY INFORMATION:

A. Background

The Legislative Branch Appropriations Act, 2019, Public Law 115–244, sec. 102, 132 Stat. 2897, 2926 (2018) (''Appropriations Act'') amended the Federal Election Campaign Act, 52 U.S.C. 30101–30145 (''FECA'') to require that all reports, designations, and statements required to be filed under FECA must be filed with the Commission. 52 U.S.C. 30102(g). Previously, candidates for the United States Senate, their principal campaign committees, and the Republican and Democratic Senatorial Campaign Committees (collectively ''Senate filers'') were required to file on paper with the Secretary of the Senate. 52 U.S.C. 30102(g)(1) (2015) (*amended* 2018). All other filers were required to submit their reports, designations, and statements with the Commission. *See* 52 U.S.C. 30102(g)(3) (2015) (*amended* 2018); *see also* 11 CFR part 105. To implement the change in the point of entry for reports, designations, and statements filed under FECA, the Commission is amending several regulations that state or refer to the point of entry for reports, designations, or notices.

Additionally, Senate filers are now subject to the electronic filing requirements of FECA and Commission regulations. Under these requirements, persons who are required to file with the Commission and have made expenditures or received contributions (or expect to make expenditures or receive contributions) aggregating over $50,000 in a calendar year must file electronically. 52 U.S.C. 30104(a)(11)(A)(i); 11 CFR 104.18(a). The Commission accordingly is amending its regulations to clarify that these electronic filing requirements apply to all filers, including Senate filers.

B. Revisions to 11 CFR Part 105—Document Filing

Currently, 11 CFR part 105 contains four separate regulations setting forth the place of filing for different types of filers. *See* 11 CFR 105.1 (House candidates and their authorized committees), 105.2 (Senate candidates, their authorized committees, and committees supporting only Senate candidates), 105.3 (Presidential candidates and their authorized committees), and 105.4 (other political committees and persons). Because all filers must now file with the Commission, the Commission is replacing 11 CFR 105.1 through 105.4 with new section 105.1 stating that all reports, designations, or statements required by FECA must be filed with the Commission.

Additionally, 11 CFR 105.5 requires the Secretary of the Senate to transfer all reports it receives pursuant to section 105.2 to the Commission. Because this provision is no longer necessary, the Commission is deleting it.

C. Revisions to 11 CFR 104.4—Independent Expenditures by Political Committees

Current section 104.4(e) instructs filers to file their independent expenditure reports based on the office sought by the candidate identified in the communication. For independent expenditures in support of, or in opposition to, Senate candidates, regularly scheduled reports must be filed with the Secretary of the Senate and the Secretary of State in the state in which the candidate is seeking election, while 24- and 48-hour reports must be filed with the Commission and the Secretary of State in the state in which the candidate is seeking election. 11 CFR 104.4(e)(2). The Commission is removing this paragraph. The Commission also is renumbering current paragraph (e)(3) (currently applicable to independent expenditures referencing House of Representatives candidates) as paragraph (e)(2) and revising the new paragraph to require that reports of independent expenditures referencing

House candidates, Senate candidates, or both, are filed with the Commission and the Secretary of the State in the state in which the candidate is seeking election; renumbering current paragraph (e)(4) as paragraph (e)(3); and making conforming edits to the cross-references to current paragraphs (e)(2) and (e)(3).

D. Revisions to 11 CFR 104.18—Electronic Filing of Reports

The Commission is revising 11 CFR 104.18(a) and (b) to make clear that all persons — including Senate filers — required by FECA to file reports and who meet certain qualifications must do so electronically with the Commission. In paragraph (a), for sake of completeness, the Commission is adding a cross-reference to parts 101, 102, 104, and 109, which also require persons to file reports. In paragraph (b), the Commission is removing the reference to part 105 because it is no longer necessary.

D. References to the Secretary of the Senate and 11 CFR Part 105

The Commission also is making conforming revisions to a number of regulations that refer either to the Secretary of the Senate as a place of filing or to the current place of filing provisions in 11 CFR part 105.

1. Removal of References to the Secretary of the Senate

The Commission is removing the words ''the Secretary of the Senate,'' ''file with the Commission'' and, in one instance, the Secretary of the Senate's address, in the following provisions: 11 CFR 100.5(e)(3) (definition of ''political committee''), 100.19 (''File, filed, or filing''), 104.3(e)(5) (''Contents of reports''), 104.5(f) (''Filing dates''), 104.14(c) (''Formal requirements regarding reports and statements''), 104.22(d) (''Disclosure of bundling by Lobbyists/Registrants and Lobbyist/Registrant PACs''), 108.8 (''Exemption for the District of Columbia''), 110.6(c)(1)(i) and (ii) (''Earmarked contributions''), and 114.6(d)(3) and (5) (''Twice yearly solicitations'').

2. Removal of Cross-References to 11 CFR Part 105

The Commission also is removing cross-references to 11 CFR part 105 and, where appropriate, inserting the words ''with the Commission'' in the following provisions: 11 CFR 101.1(a) and (b) (''Candidate designations''), 102.1(a) and (d) (''Registration of political committees''), 102.2(a)(1) (''Statement of organization: Forms and committee identification number''), 102.3(a)(1) (''Termination of registration''), 104.22(d) (''Disclosure of bundling by Lobbyists/Registrants and Lobbyist/Registrant PACs''), and 110.6(c)(1)(i) (''Earmarked contributions'').

The Commission is taking this action without advance notice and comment because it falls under the ''good cause'' exception of the Administrative Procedure Act (''APA''), 5 U.S.C. 553(b)(B). The revisions are necessary to conform the Commission's regulations to FECA as amended by the Appropriations Act. Because this action does not involve any Commission discretion or policy judgments, notice and comment are unnecessary. 5 U.S.C. 553(b)(B), (d)(3).

For the same reasons, these revisions fall within the ''good cause'' exception to the APA's delayed effective date provision and the requirements of the Congressional Review Act. 5 U.S.C. 553(d)(3), 808(2). Moreover, because this interim final rule is exempt from the APA's notice and comment procedure under 5 U.S.C. 553(b), the Commission is not required to conduct a regulatory flexibility analysis under 55 U.S.C. 603 or 604. *See* 5 U.S.C. 601(2), 604(a). Nor is the Commission required to submit these revisions for Congressional review under FECA. *See* 52 U.S.C 30111(d)(1), (4) (providing for congressional review when the Commission ''prescribe[s]'' a ''rule of law''). Accordingly, these revisions are effective upon publication in the **Federal Register**.

List of Subjects

11 CFR Part 100

Elections.

11 CFR Part 101

Political candidates, Reporting and recordkeeping requirements.

11 CFR Part 102

Political committees and parties, Reporting and recordkeeping requirements.

11 CFR Part 104

Campaign funds, Political committees and parties, Reporting and recordkeeping requirements.

11 CFR Part 105

Campaign funds, Political candidates, Political committees and parties, Reporting and recordkeeping requirements.

11 CFR Part 108

Elections, Reporting and recordkeeping requirements.

11 CFR Part 110

Campaign funds, Political committees and parties.

11 CFR Part 114

Business and industry, Elections, Labor.

For the reasons set out in the preamble, the Federal Election Commission amends 11 CFR chapter I, as follows:

PART 100—SCOPE AND DEFINITIONS (52 U.S.C. 30101)

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

Authority: 52 U.S.C. 30101, 30102(g), 30104, 30111(a)(8), and 30114(c).

■ 2. Amend § 100.5 by revising paragraph (e)(3) to read as follows:

§ 100.5 Political committee (52 U.S.C. 30101(4), (5), and (6)).

* * * * *

(e) * * *

(3) *Multi-candidate committee. Multi-candidate committee* means a political committee which—

(i) Has been registered with the Commission for at least 6 months;

(ii) Has received contributions for Federal elections from more than 50 persons; and

(iii) Except for any State political party organization, has made contributions to 5 or more Federal candidates.

* * * * *

■ 3. Amend § 100.19 by revising the introductory text and paragraphs (a) and (e) to read as follows:

§ 100.19 File, filed, or filing (52 U.S.C. 30102(g), 30104(a)).

With respect to documents required to be filed under 11 CFR parts 101, 102, 104, 105, 107, 108, and 109, and any modifications or amendments thereto, the terms *file, filed, and filing* mean one of the actions set forth in paragraphs (a) through (f) of this section. For purposes of this section, document means any report, statement, notice, or designation required by the Act to be filed with the Commission.

(a) *Where to deliver reports.* Except for documents electronically filed under paragraph (c) of this section, a document is timely filed upon delivery to the Federal Election Commission, at the street address identified in the definition of ''Commission'' in § 1.2, by the close of business on the prescribed filing date.

* * * * *

(e) *48-hour statements of last-minute contributions.* In addition to other

permissible means of filing, authorized committees that are not required to file electronically may file 48-hour notices of contributions using facsimile machines. All authorized committees, including electronic reporting entities, may use the Commission's website's on-line program to file 48-hour notifications of contributions. *See* 11 CFR 104.5(f).

* * * * *

PART 101—CANDIDATE STATUS AND DESIGNATIONS (52 U.S.C. 30102(e))

■ 4. The authority citation for part 101 is revised to read as follows:

Authority: 52 U.S.C. 30102(e), (g), 30104(a)(11), and 30111(a)(8).

■ 5. Revise § 101.1 to read as follows:

§ 101.1 Candidate designations (52 U.S.C. 30102(e)(1), (g)).

(a) *Principal Campaign Committee.* Within 15 days after becoming a candidate under 11 CFR 100.3, each candidate, other than a nominee for the office of Vice President, shall designate in writing, a principal campaign committee in accordance with 11 CFR 102.12. A candidate shall designate his or her principal campaign committee by filing a Statement of Candidacy on FEC Form 2, or, if the candidate is not required to file electronically under 11 CFR 104.18, by filing a letter with the Commission containing the same information (that is, the individual's name and address, party affiliation, and office sought, the District and State in which Federal office is sought, and the name and address of his or her principal campaign committee). Each principal campaign committee shall register, designate a depository, and report in accordance with 11 CFR parts 102, 103, and 104.

(b) *Authorized committees.* A candidate may designate additional political committees in accordance with 11 CFR 102.13 to serve as committees which will be authorized to accept contributions or make expenditures on behalf of the candidate. For each such authorized committee, other than a principal campaign committee, the candidate shall file a written designation with his or her principal campaign committee. The principal campaign committee shall file such designations with the Commission.

PART 102—REGISTRATION, ORGANIZATION, AND RECORDKEEPING BY POLITICAL COMMITTEES (52 U.S.C. 30103)

■ 6. The authority citation for part 102 continues to read as follows:

Authority: 52 U.S.C. 30102, 30103, 30104(a)(11), 30111(a)(8), 30120.

■ 7. Amend § 102.1 by revising paragraphs (a) and (d) to read as follows:

§ 102.1 Registration of political committees (52 U.S.C. 30102(g), 30103(a)).

(a) *Principal campaign committees.* Each principal campaign committee shall file a Statement of Organization in accordance with 11 CFR 102.2 no later than 10 days after designation pursuant to 11 CFR 101.1. In addition, each principal campaign committee shall file all designations, statements and reports which are filed with such committee with the Commission.

* * * * *

(d) *Other political committees.* All other committees shall file a Statement of Organization no later than 10 days after becoming a political committee within the meaning of 11 CFR 100.5. Such statement(s) shall be filed with the Commission.

■ 8. Amend § 102.2 by revising paragraph (a)(1) to read as follows:

§ 102.2 Statement of organization: Forms and committee identification number (52 U.S.C. 30302(g), 30103(b), (c)).

(a) * * *

(1) The Statement of Organization shall be filed with the Commission on Federal Election Commission Form 1.

* * * * *

■ 9. Amend § 102.3 by revising paragraph (a)(1) to read as follows:

§ 102.3 Termination of registration (52 U.S.C. 30102(g), 30103(d)(1)).

(a)(1) A political committee (other than a principal campaign committee) may terminate only upon filing a termination report on the appropriate FEC Form or upon filing a written statement containing the same information with the Commission. Except as provided in 11 CFR 102.4(c), only a committee which will no longer receive any contributions or make any disbursements that would otherwise qualify it as a political committee may terminate, provided that such committee has no outstanding debts and obligations. In addition to the Notice, the committee shall also provide a final report of receipts and disbursements, which report shall include a statement as to the purpose for which such residual funds will be used, including a statement as to whether such residual funds will be used to defray expenses incurred in connection with an individual's duties as a holder of federal office.

* * * * *

PART 104—REPORTS BY POLITICAL COMMITTEES AND OTHER PERSONS (52 U.S.C. 30104)

■ 10. The authority citation for part 104 is revised to read as follows:

Authority: 52 U.S.C. 30101(1), 30101(8), 30101(9), 30102(g) and (i), 30104, 30111(a)(8) and (b), 30114, 30116, 36 U.S.C. 510.

■ 11. Amend § 104.3 by revising paragraph (e)(5) as follows:

§ 104.3 Contents of reports (52 U.S.C. 30102(g), 30104(b), 30114).

* * * * *

(e) * * *

(5) A committee using pseudonyms shall send a list of such pseudonyms under separate cover directly to the Reports Analysis Division, Federal Election Commission, at the street address identified in the definition of ''Commission'' in § 1.2 of this chapter, on or before the date on which any report containing such pseudonyms is filed with the Commission. The Commission shall maintain the list, but shall exclude it from the public record. A committee shall not send any list of pseudonyms to any Secretary of State or equivalent state officer.

* * * * *

■ 12. Amend § 104.4 by removing paragraph (e)(2), redesignating paragraph (e)(3) as paragraph (e)(2) and revising it, and redesignating paragraph (e)(4) as paragraph (e)(3) and revising it.

The revisions read as follows:

§ 104.4 Independent expenditures by political committees (52 U.S.C. 30102(g), 30104(b), (d), and (g)).

* * * * *

(e) * * *

(2) For independent expenditures in support of, or in opposition to, a candidate for the U.S. Senate or the House of Representatives: With the Commission and the Secretary of State for the State in which the candidate is seeking election.

(3) Notwithstanding the requirements of paragraphs (e)(1) and (2) of this section, political committees and other persons shall not be required to file reports of independent expenditures with the Secretary of State if that State has obtained a waiver under 11 CFR 108.1(b).

* * * * *

■ 13. Amend § 104.5 by revising paragraph (f) to read as follows:

§ 104.5 Filing dates (52 U.S.C. 30102(g), 30104(a)(2)).

* * * * *

(f) *48-hour notification of contributions.* If any contribution of

$1,000 or more is received by any authorized committee of a candidate after the 20th day, but more than 48 hours, before 12:01 a.m. of the day of the election, the principal campaign committee of that candidate shall notify the Commission and the Secretary of State, as appropriate, within 48 hours of receipt of the contribution. The notification shall be in writing and shall include the name of the candidate and office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution. The notification shall be filed in accordance with 11 CFR 100.19. The notification shall be in addition to the reporting of these contributions on the post-election report.

* * * * *

■ 14. Amend § 104.14 by revising paragraph (c) to read as follows:

§ 104.14 Formal requirements regarding reports and statements.

* * * * *

(c) Acknowledgements by the Commission of the receipt of Statements of Organization, reports or other statements filed under 11 CFR parts 101, 102, and 104 are intended solely to inform the person filing the report of its receipt and neither the acknowledgement nor the acceptance of a report or statement shall constitute express or implied approval, or in any manner indicate that the contents of any report or statement fulfill the filing or other requirements of the Act or of these regulations.

* * * * *

■ 15. Amend § 104.18 by revising paragraphs (a)(1) introductory text and (b) to read as follows:

§ 104.18 Electronic filing of reports (52 U.S.C. 30102(d) and 30104(a)(11)).

(a) * * *

(1) Political committees and other persons required by the Act to file reports with the Commission, as provided in 11 CFR parts 101, 102, 104, 105, 107, and 109, must do so in an electronic format that meets the requirements of this section if—

* * * * *

(b) *Voluntary.* A political committee or other person who files reports with the Commission and who is not required to file electronically under paragraph (a) of this section, may choose to file its reports in an electronic format that meets the requirements of this section (internet forms included). If a political committee or other person chooses to file its reports electronically, all electronically filed reports must pass the Commission's validation program in accordance with paragraph (e) of this section. The committee or other person must continue to file in an electronic format all reports covering financial activity for that calendar year, unless the Commission determines that extraordinary and unforeseeable circumstances have made it impracticable for the political committee or other person to continue filing electronically.

* * * * *

■ 16. Amend § 104.22 by revising paragraph (d) to read as follows:

§ 104.22 Disclosure of bundling by Lobbyist/Registrants and Lobbyist/Registrant PACs (52 U.S.C. 30102(g), 30104(i)).

* * * * *

(d) *Where to file.* Reporting committees shall file with the Federal Election Commission.

* * * * *

PART 105—DOCUMENT FILING (52 U.S.C. 30102(g))

■ 17. The authority citation for part 105 continues to read as follows:

Authority: 52 U.S.C. 30102(g), 30104, 30111(a)(8).

■ 18. Revise § 105.1 to read as follows:

§ 105.1 Place of filing (52 U.S.C. 30102(g), 30104(g)).

All designations, statements, reports, and notices, as well as any modification(s) or amendment(s) thereto, required to be filed under the Act shall be filed in original form with, and received by, the Commission as defined in § 1.2.

§§ 105.2, 105.3, 105.4, and 105.5 [Removed and Reserved]

■ 19. Remove and reserve §§ 105.2, 105.3, 105.4, and 105.5.

PART 108—FILING COPIES OF REPORTS AND STATEMENTS WITH STATE OFFICERS (52 U.S.C. 30113)

■ 20. The authority citation for part 108 is revised to read as follows:

Authority: 52 U.S.C. 30102(g), 30104(a)(2), 30111(a)(8), 30113, 30143.

■ 21. Revise § 108.8 to read as follows:

§ 108.8 Exemption for the District of Columbia (52 U.S.C. 30102(g))

Any copy of a report required to be filed with the equivalent officer in the District of Columbia shall be deemed to be filed if the original has been filed with the Commission.

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

■ 22. The authority citation for part 110 is revised to read as follows:

Authority: 52 U.S.C. 30101(8), 30101(9), 30102(c)(2) and (g), 30104(i)(3), 30111(a)(8), 30116, 30118, 30120, 30121, 30122, 30123, 30124, and 36 U.S.C. 510.

■ 23. Amend § 110.6 by revising paragraphs (c)(1)(i) and (ii) to read as follows:

§ 110.6 Earmarked contributions (52 U.S.C. 30102(g), 30116(a)(8)).

* * * * *

(c) * * *

(1) * * *

(i) The intermediary or conduit of the earmarked contribution shall report the original source and the recipient candidate or authorized committee to the Commission and to the recipient candidate or authorized committee.

(ii) The report to the Commission shall be included in the conduit's or intermediary's report for the reporting period in which the earmarked contribution was received, or, if the conduit or intermediary is not required to report under 11 CFR part 104, by letter to the Commission within thirty days after forwarding the earmarked contribution.

* * * * *

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

■ 24. The authority citation for part 114 continues to read as follows:

Authority: 52 U.S.C. 30101(8), 30101(9), 30102, 30104, 30107(a)(8), 30111(a)(8), 30118.

■ 25. Amend § 114.6 by revising paragraphs (d)(3)(i) and (d)(5) to read as follows:

§ 114.6 Twice yearly solicitations.

* * * * *

(d) * * *

(3) * * *

(i) Make the records of persons making a single contribution of $50 or less, or multiple contributions aggregating $200 or less, in a calendar year, available to any person other than representatives of the Federal Election Commission and law enforcement officials or judicial bodies.

* * * * *

(5) Notwithstanding the prohibitions of paragraph (d)(1) of this section, the custodian may be employed by the separate segregated fund as its treasurer and may handle all of its contributions, provided that the custodian preserves

the anonymity of the contributors as required by this section. The custodian shall file the required reports with the Federal Election Commission. A custodian who serves as treasurer is subject to all of the duties, responsibilities, and liabilities of a treasurer under the Act, and may not participate in the decision making process whereby the separate segregated fund makes contributions and expenditures.

* * * * *

On behalf of the Commission,

Ellen L. Weintraub,

Chair, Federal Election Commission.

[FR Doc. 2019–08874 Filed 5–1–19; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2019–0152; Special Conditions No. 25–744–SC]

Special Conditions: Greenpoint Technologies, Inc., Boeing Model 787–8 Airplane; Dynamic Test Requirements for Single-Occupant, Side-Facing Seats With Airbag Devices in Shoulder Belts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Boeing Model 787–8 airplane. This airplane, as modified by Greenpoint Technologies, Inc. (Greenpoint), will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is single-occupant, side-facing seats with airbag devices in shoulder belts, and a floor-level, leg-flail-prevention device to limit the axial rotation of the upper leg. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Greenpoint Technologies, Inc. on May 2, 2019. Send comments on or before June 17, 2019.

ADDRESSES: Send comments identified by Docket No. FAA–2019–0152 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket website, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478).

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 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: Shannon Lennon, Airframe & Cabin Safety Section, AIR–675, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax 206–231–3209; email *shannon.lennon@faa.gov.*

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions is impracticable because the substance of these special conditions has been published in the **Federal Register** for public comment in several prior instances with no substantive comments received. The FAA therefore finds it unnecessary to delay the effective date and finds that good cause exists for making these special conditions effective upon publication in the **Federal Register**.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On June 15, 2017, Greenpoint applied for a supplemental type certificate for single-occupant, side-facing seats with airbag devices in shoulder belts, and a floor-level, leg-flail-prevention device to limit the axial rotation of the upper leg, installed in Boeing Model 787–8 airplanes. The Boeing Model 787–8 airplane, which is a derivative of the Boeing Model 787 currently approved under Type Certificate No. T00021SE, is a twin-engine, transport-category airplane with a maximum takeoff weight of 502,500 pounds. The airplanes, as modified by Greenpoint, will have a business-jet interior with a maximum seating capacity of 41.

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, Greenpoint must show that the Boeing Model 787–8 airplane, as changed, continues to meet the applicable provisions of the regulations listed in Type Certificate No. T00021SE, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 787–8 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 787–8 airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

The Boeing Model 787–8 airplane, as modified by Greenpoint, will incorporate the following novel or unusual design features:

Single-occupant, side-facing seats with airbag devices in shoulder belts.

Discussion

Amendment 25–64, dated June 16, 1988, revised the emergency-landing conditions that must be considered in the design of the airplane. It revised the static-load conditions in § 25.561 and added a new § 25.562, requiring dynamic testing for all seats approved for occupancy during takeoff and landing. The intent was to provide an improved level of safety for occupants on transport-category airplanes. Because most seating on transport-category airplanes is forward-facing, the pass/fail criteria developed in Amendment 25–64 focused primarily on forward-facing seats. Therefore, the testing specified in the rule did not provide a complete measure of occupant injury in seats that are not forward-facing, although § 25.785 does require occupants of all seats that are occupied during taxi, takeoff, and landing not suffer serious injury as a result of the inertia forces specified in §§ 25.561 and 25.562.

For some time the FAA granted exemptions for the multiple-place side-facing-seat installations because the existing test methods and acceptance criteria did not produce a level of safety equivalent to the level of safety provided for forward- and aft-facing seats. These exemptions were subject to many conditions that reflected the injury-evaluation criteria and mitigation strategies available at the time of the exemption issuance. The FAA also issued special conditions to address single-place side-facing seats because we believed that those conditions provided the same level of safety as for forward- and aft-facing seats.

Continuing concerns regarding the safety of side-facing seats prompted the FAA to conduct research to develop an acceptable method of compliance with §§ 25.562 and 25.785(b) for side-facing seat installations. That research has identified injury considerations and evaluation criteria in addition to those previously used to approve side-facing seats (see published report DOT/FAA/AR–09/41, July 2011). One particular concern that was identified during the FAA's research program, but not addressed in the previous special conditions, was the significant leg injuries that can occur to occupants of both single- and multiple-place side-facing seats. Because this type of injury does not occur on forward- and aft-facing seats, the FAA determined that, to achieve the level of safety envisioned in Amendment 25–64, additional requirements would be needed as compared to previously issued special conditions. Nonetheless, the research has now allowed the development of a single set of special conditions applicable to all fully side-facing seats.

On November 5, 2012, the FAA released PS–ANM–25–03–R1, ''Technical Criteria for Approving Side-Facing Seats,'' to update existing FAA certification policy on §§ 25.562 and 25.785(a) at Amendment 25–64 for single- and multiple-place side-facing seats. This policy addresses both the technical criteria for approving side-facing seats and the implementation of those criteria. The FAA methodology detailed in PS–ANM–25–03–R1 has been used to establish a new set of proposed special conditions.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to Boeing Model 787–8 airplanes modified by Greenpoint. Should Greenpoint apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. T00021SE to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on one model of airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 787–8 airplanes modified by Greenpoint.

In addition to the airworthiness standards in §§ 25.562 and 25.785, special conditions 1 and 2 apply to all side-facing seat installations, and special conditions 3 through 16 apply to side-facing seats equipped with an airbag system in the shoulder-belt system and an airbag system in the leg-flail arresting device.

1. Additional requirements applicable to tests or rational analysis conducted to show compliance with §§ 25.562 and 25.785 for side-facing seats:

a. The longitudinal test(s) conducted in accordance with § 25.562(b)(2) to show compliance with the seat-strength requirements of § 25.562(c)(7) and (8), and these special conditions must have an ES–2re Anthropomorphic Test Dummy (ATD) (49 CFR part 572, subpart U) or equivalent, or a Hybrid-II ATD (49 CFR part 572, subpart B, as specified in § 25.562) or equivalent, occupying each seat position and including all items contactable by the occupant (*e.g.,* armrest, interior wall, or furnishing) if those items are necessary to restrain the occupant. If included, the floor representation and contactable items must be located such that their relative position, with respect to the center of the nearest seat place, is the same at the start of the test as before floor misalignment is applied. For example, if floor misalignment rotates the centerline of the seat place nearest the contactable item 8 degrees clockwise about the airplane x-axis, then the item and floor representations must be rotated by 8 degrees clockwise also to maintain the same relative position to the seat place. Each ATD's relative position to the seat after application of floor misalignment must be the same as before misalignment is applied. To ensure proper loading of the seat by the occupants, the ATD pelvis must remain supported by the seat pan, and the restraint system must remain on the pelvis and shoulder of the ATD until rebound begins. No injury-criteria evaluation is necessary for tests conducted only to assess seat-strength requirements.

b. The longitudinal test(s) conducted in accordance with § 25.562(b)(2), to show compliance with the injury assessments required by § 25.562(c) and these special conditions, may be conducted separately from the test(s) to show structural integrity. In this case, structural-assessment tests must be conducted as specified in paragraph 1a, above, and the injury-assessment test must be conducted without yaw or floor misalignment. Injury assessments may be accomplished by testing with ES–2re ATD (49 CFR part 572, subpart U) or equivalent at all places. Alternatively, these assessments may be accomplished by multiple tests that use an ES–2re at the seat place being evaluated, and a Hybrid-II ATD (49 CFR part 572, subpart B, as specified in § 25.562) or equivalent used in all seat places forward of the one being assessed, to evaluate occupant interaction. In this case, seat places aft of the one being assessed may be unoccupied. If a seat installation includes adjacent items that are contactable by the occupant, the injury potential of that contact must be assessed. To make this assessment, tests may be conducted that include the actual item, located and attached in a representative fashion. Alternatively, the injury potential may be assessed by a combination of tests with items having the same geometry as the actual item, but having stiffness characteristics that would create the worst case for injury (injuries due to both contact with the item and lack of support from the item).

c. If a seat is installed aft of structure (*e.g.,* an interior wall or furnishing) that does not have a homogeneous surface contactable by the occupant, additional analysis and/or test(s) may be required to demonstrate that the injury criteria are met for the area which an occupant could contact. For example, different yaw angles could result in different injury considerations and may require additional analysis or separate test(s) to evaluate.

d. To accommodate a range of occupant heights (5th percentile female to 95th percentile male), the surface of items contactable by the occupant must be homogenous 7.3 inches (185 mm) above and 7.9 inches (200 mm) below the point (center of area) that is contacted by the 50th percentile male size ATD's head during the longitudinal test(s) conducted in accordance with paragraphs a, b, and c, above. Otherwise, additional head-injury criteria (HIC) assessment tests may be necessary. Any surface (inflatable or otherwise) that provides support for the occupant of any seat place must provide that support in a consistent manner regardless of occupant stature. For example, if an inflatable shoulder belt is used to mitigate injury risk, then it must be demonstrated by inspection to bear against the range of occupants in a similar manner before and after inflation. Likewise, the means of limiting lower-leg flail must be demonstrated by inspection to provide protection for the range of occupants in a similar manner.

e. For longitudinal test(s) conducted in accordance with § 25.562(b)(2) and these special conditions, the ATDs must be positioned, clothed, and have lateral instrumentation configured as follows:

i. ATD positioning—Lower the ATD vertically into the seat while simultaneously:

1. Aligning the midsagittal plane (a vertical plane through the midline of the body; dividing the body into right and left halves) with approximately the middle of the seat place.

2. Applying a horizontal x-axis direction (in the ATD coordinate system) force of about 20 lb (89 N) to the bottom of the feet of the ES–2re Hybrid-II, to compress the seat back cushion.

3. Keeping the lower and upper legs nearly horizontal by supporting at the bottom of the feet.

ii. Once all lifting devices have been removed from the ATD:

1. Rock it slightly to settle it in the seat.

2. Bend the knees of the ATD.

3. Separate the knees by about 4 inches (100 mm).

4. Set the ES–2re's head at approximately the midpoint of the available range of z-axis rotation (to align the head and torso midsagittal planes).

5. Position the ES–2re's arms at the joint's mechanical detent that puts them at approximately a 40 degree angle with respect to the torso. Position the Hybrid-II ATD hands on top of its upper legs.

6. Position the feet such that the centerlines of the lower legs are approximately parallel to a lateral vertical plane (in the airplane coordinate system).

iii. *ATD clothing:* Clothe each ATD in form-fitting, mid-calf-length (minimum) pants and shoes (size 11E) weighing about 2.5 lb (1.1 kg) total. The color of the clothing should be in contrast to the color of the restraint system. The ES–2re jacket is sufficient for torso clothing, although a form-fitting shirt may be used in addition if desired.

iv. ES–2re ATD lateral instrumentation: The rib-module linear slides are directional, *i.e.,* deflection occurs in either a positive or negative ATD y-axis direction. The modules must be installed such that the moving end of the rib module is toward the front of the airplane. The three abdominal-force sensors must be installed such that they are on the side of the ATD toward the front of the airplane.

f. The combined horizontal/vertical test, required by § 25.562(b)(1) and these special conditions, must be conducted with a Hybrid II ATD (49 CFR part 572, subpart B, as specified in § 25.562), or equivalent, occupying each seat position.

g. Restraint systems:

i. If inflatable shoulder and leg-flail restraint systems are used, they must be active during all dynamic tests conducted to show compliance with § 25.562.

ii. The design and installation of seat-belt buckles must prevent unbuckling due to applied inertial forces or impact of the hands/arms of the occupant during an emergency landing.

2. Additional performance measures applicable to tests and rational analysis conducted to show compliance with §§ 25.562 and 25.785 for side-facing seats:

a. *Body-to-body contact:* Contact between the head, pelvis, torso, or shoulder area of one ATD with the adjacent-seated ATD's head, pelvis, torso, or shoulder area is not allowed. Contact during rebound is allowed.

b. *Thoracic:* The deflection of any of the ES–2re ATD upper, middle, and lower ribs must not exceed 1.73 inches (44 mm). Data must be processed as defined in Federal Motor Vehicle Safety Standards (FMVSS) 571.214.

c. *Abdominal:* The sum of the measured ES–2re ATD front, middle, and rear abdominal forces must not exceed 562 lbs (2,500 N). Data must be processed as defined in FMVSS 571.214.

d. *Pelvic:* The pubic symphysis force measured by the ES–2re ATD must not exceed 1,350 lbs (6,000 N). Data must be processed as defined in FMVSS 571.214.

e. *Leg:* Axial rotation of the upper-leg (femur) must be limited to 35 degrees in either direction from the nominal seated position. The leg-flail-prevention mechanism must:

i. Be shown to function as intended in consideration of post-structural deformation of the seat assembly.

ii. Retract such that it does not impede rapid egress of occupants.

f. *Neck:* As measured by the ES–2re ATD and filtered at CFC 600 as defined in SAE J211:

i. The upper-neck tension force at the occipital condyle (O.C.) location must be less than 405 lbs (1,800 N).

ii. The upper-neck compression force at the O.C. location must be less than 405 lbs (1,800 N).

iii. The upper-neck bending torque about the ATD x-axis at the O.C. location must be less than 1,018 in-lbs (115 Nm).

iv. The upper-neck resultant shear force at the O.C. location must be less than 186 lbs (825 N).

g. *Occupant (ES–2re ATD) retention:* The pelvic restraint must remain on the ES–2re ATD's pelvis during the impact and rebound phases of the test. The upper-torso restraint straps (if present) must remain on the ATD's shoulder during the impact.

h. *Occupant (ES–2re ATD) support:*

i. *Pelvis excursion:* The load-bearing portion of the bottom of the ATD pelvis must not translate beyond the edges of its seat's bottom seat-cushion supporting structure.

ii. *Upper-torso support:* The lateral flexion of the ATD torso must not exceed 40 degrees from the normal upright position during the impact.

3. For seats with a shoulder and leg-flail airbag system, the shoulder and leg-flail airbag system must deploy and provide protection under crash conditions where it is necessary to prevent serious injury. The means of protection must take into consideration a range of stature from a 2-year-old child to a 95th percentile male. The airbag systems in the shoulder belts must provide a consistent approach to energy absorption throughout that range of occupants. At some buttock popliteal length and effective seat-bottom depth, the lower legs will not be able to form a 90-degree angle with the upper leg; at this point, the lower-leg flail would not occur. The leg-flail airbag system must provide a consistent approach to prevention of leg flail throughout that range of occupants whose lower legs can form a 90-degree angle relative to the upper legs when seated upright in the seat. Items that need to be considered include, but are not limited to, the range of occupants' popliteal height, the range of occupants' buttock popliteal length, the design of the seat effective height above the floor, and the effective depth of the seat bottom cushion. When the seat system includes an airbag system, that system must be included in each of the certification tests as it would be installed in the airplane. In addition, the following situations must be considered:

a. The seat occupant is holding an infant.

b. The seat occupant is a pregnant woman.

4. The airbag system in the shoulder belt must provide adequate protection for each occupant regardless of the number of occupants of the seat assembly, considering that unoccupied seats may have an active airbag system in the shoulder belt.

5. The design must prevent the airbag system in the shoulder belt from being either incorrectly buckled or incorrectly installed, such that the airbag system in the shoulder belt would not properly deploy. Alternatively, it must be shown that such deployment is not hazardous to the occupant, and will provide the required injury protection.

6. It must be shown that the shoulder and leg-flail airbag system is not susceptible to inadvertent deployment as a result of wear and tear, or inertial loads resulting from in-flight or ground maneuvers (including gusts and hard landings), and other operating and environmental conditions (vibrations, moisture, etc.) likely to occur in service.

7. Deployment of the shoulder and leg-flail airbag system must not introduce injury mechanisms to the seated occupant, or result in injuries that could impede rapid egress. This assessment should include an occupant whose belt is loosely fastened.

8. It must be shown that inadvertent deployment of the shoulder and leg-flail airbag system, during the most critical part of the flight, will either meet the requirement of § 25.1309(b) or not cause a hazard to the airplane or its occupants. This also includes preventing inadvertent airbag deployment from a static discharge.

9. If the airbag system is connected to the dynamic seat and must inflate through 9g static structure, then the static structure must not fail in such a way that it could impede egress or otherwise present a hazard to the occupants or to the airbag system.

10. The shoulder and leg-flail airbag system must be protected from lightning and high-intensity radiated fields (HIRF). The threats to the airplane specified in existing regulations regarding lighting, § 25.1316, and HIRF, § 25.1317, are incorporated by reference for the purpose of measuring lightning and HIRF protection.

11. The shoulder and leg-flail airbag system must function properly after loss of normal airplane electrical power, and after a transverse separation of the fuselage at the most critical location. A separation at the location of the airbag system in the shoulder belt does not have to be considered.

12. It must be shown that the shoulder and leg-flail airbag system will not release hazardous quantities of gas, sharp injurious metal fragments, or particulate matter into the cabin.

13. The shoulder and leg-flail airbag system installation must be protected from the effects of fire such that no hazard to occupants will result.

14. A means must be available for a crewmember to verify the integrity of the shoulder and leg-flail airbag system activation system prior to each flight, or it must be demonstrated to reliably operate between inspection intervals. The FAA considers that the loss of the airbag-system deployment function alone (*i.e.,* independent of the conditional event that requires the airbag-system deployment) is a major-failure condition.

15. The inflatable material may not have an average burn rate of greater than 2.5 inches/minute when tested using the horizontal flammability test defined in part 25, appendix F, part I, paragraph (b)(5).

16. The shoulder and leg-flail airbag system, once deployed, must not adversely affect the emergency-lighting system (*i.e.,* block floor proximity lights to the extent that the lights no longer meet their intended function).

Issued in Des Moines, Washington, on April 23, 2019.

Victor Wicklund,

Manager, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2019–08973 Filed 5–1–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0792; Product Identifier 2018–NM–090–AD; Amendment 39–19581; AD 2019–03–29]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–100–1A10 airplanes. This AD was prompted by an incident of uncommanded nose wheel steering (NWS) in-service; subsequent investigation revealed that the steering selector valve (SSV) is susceptible to jamming in the open position due to particulate contamination of the hydraulic system. This AD requires modifying the left-hand hydraulic system of the NWS control system and, for certain airplanes, torqueing the

fittings on a certain tube assembly. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 6, 2019.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 6, 2019.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 200 Côte-Vertu Road West, Dorval, Québec H4S 2A3, Canada; North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; email *ac.yul@aero.bombardier.com*; internet *http://www.bombardier.com*. You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0792.

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–2018–0792; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model BD–100–1A10 airplanes. The NPRM published in the **Federal Register** on September 17, 2018 (83 FR 46895). The NPRM was prompted by an incident of uncommanded NWS in-service; subsequent investigation revealed that the SSV is susceptible to jamming in the open position due to particulate contamination of the hydraulic system. The NPRM proposed to require modifying the left-hand hydraulic system of the NWS control system and, for certain airplanes, torqueing the fittings on a certain tube assembly.

We are issuing this AD to address jamming of the SSV after independent failure of a second component of the NWS control system, which could result in uncommanded NWS and a possible runway excursion.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2018–11, dated April 5, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model BD–100–1A10 airplanes. The MCAI states:

> An incident of uncommanded nose wheel steering occurred in-service. Subsequent investigation revealed that the steering selector valve (SSV) was vulnerable to jamming in the open position due to particulate contamination of the hydraulic system. If not corrected, a jam of the SSV, following the independent failure of a second component of the nose wheel steering system, could result in uncommanded nose wheel steering and a risk of runway excursion.
>
> This [Canadian] AD requires the incorporation of a hydraulic fluid filter in the line supplying pressure from the direct current motor pump to the nose wheel steering system [and, for certain airplanes, torqueing the fittings on a certain tube assembly].

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0792.

Comments

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

Request To Correct a Date for Receipt of Comments

Bombardier requested that we correct a typographical error in the **DATES** section of the proposed AD. The proposed AD stated ''We must receive comments on this proposed AD by November 1, 20181.'' Bombardier noted that the sentence should state ''We must receive comments on this proposed AD by November 1, 2018.''

We acknowledge this typographical error. However, the section containing this statement does not get carried over to this final rule. Therefore, we have not changed this AD regarding this issue.

Request To Update Contact Information

Bombardier requested that we update their contact information in the **ADDRESSES** and Related Information sections of the proposed AD. Bombardier noted that their email and street addresses changed recently and updating them in our final rule would allow operators to contact Bombardier with questions.

We agree with the commenter's request for the reasons stated. We have updated the contact information for Bombardier in the **ADDRESSES** section and paragraph (k)(3) of this AD.

Request To Provide an Exception to Certain Actions

NetJets requested that we provide an exception to paragraph (g) of the proposed AD for airplanes having serial numbers 20720 and 20722. NetJets noted that the actions specified in Bombardier Service Bulletin 350–32–007 were incorporated in accordance with Bombardier Service Bulletin 350–32–007 on those airplanes during production. NetJets added that the actions required by paragraph (h) of the proposed AD would still apply to those airplanes.

We agree to clarify. Paragraph (g) of this AD only applies to airplanes not identified in paragraph (h) of this AD. Any airplane that has incorporated Bombardier Service Bulletin 350–32–007 dated January 4, 2018; Revision 01, dated January 23, 2018; or Revision 02, dated March 14, 2018, as of the effective date of this AD must complete the actions required by paragraph (h) in this AD, but does not have to complete the actions specified in paragraph (g) of this AD. Therefore, this AD has not been changed with regard to this request.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

Bombardier has issued Service Bulletin 100–32–31, Revision 03; and Service Bulletin 350–32–007, Revision 03; both dated March 27, 2018. This service information describes procedures for modifying the left-hand hydraulic system of the NWS control system by installing a hydraulic filter into the hydraulic line between the direct current motor pump and the SSV and, for certain airplanes, torqueing the fittings on a certain tube assembly. These documents are distinct since they apply to different airplane configurations.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 534 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
25 work-hours × $85 per hour = $2,125	$13,196	$15,321	$8,181,414

According to the manufacturer, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all known costs in our cost estimate.

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 transport category airplanes and associated appliances to the Director of the System Oversight Division.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–03–29 Bombardier, Inc.: Amendment 39–19581; Docket No. FAA–2018–0792; Product Identifier 2018–NM–090–AD.

(a) Effective Date

This AD is effective June 6, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model BD–100–1A10 airplanes, certificated in any category, serial numbers 20002 through 20744 inclusive.

(d) Subject

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

(e) Reason

This AD was prompted by an incident of uncommanded nose wheel steering (NWS) in-service; subsequent investigation revealed that the steering selector valve (SSV) is susceptible to jamming in the open position due to particulate contamination of the hydraulic system. We are issuing this AD to address jamming of the SSV after independent failure of a second component of the NWS control system, which could result in uncommanded NWS and a possible runway excursion.

(f) Compliance

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

(g) Modify Hydraulic System

Except for airplanes identified in paragraph (h) of this AD: Within 2,000 flight cycles or 60 months after the effective date of this AD, whichever occurs first, modify the left-hand hydraulic system of the NWS control system by installing a hydraulic filter into the hydraulic line between the direct current motor pump and the SSV, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 100–32–31, Revision 03; or Bombardier Service Bulletin 350–32–007, Revision 03; both dated March 27, 2018; as applicable.

(h) Additional Action for Certain Airplanes

For airplanes that have incorporated Bombardier Service Bulletin 100–32–31,

dated January 4, 2018; Bombardier Service Bulletin 100–32–31, Revision 01, dated January 23, 2018; Bombardier Service Bulletin 100–32–31, Revision 02, dated March 14, 2018; Bombardier Service Bulletin 350–32–007, dated January 4, 2018; Bombardier Service Bulletin 350–32–007, Revision 01, dated January 23, 2018; or Bombardier Service Bulletin 350–32–007, Revision 02, dated March 14, 2018; as applicable, as of the effective date of this AD: Within 50 flight hours after the effective date of this AD, torque the fittings on any tube assembly having part number K1000070395–401, in accordance with the ''Retroactive Action'' instructions of Bombardier Service Bulletin 100–32–31, Revision 03, or Bombardier Service Bulletin 350–32–007, Revision 03, both dated March 27, 2018, as applicable.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2018–11, dated April 5, 2018, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0792.

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

(k) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 100–32–31, Revision 03, dated March 27, 2018.

(ii) Bombardier Service Bulletin 350–32–007, Revision 03, dated March 27, 2018.

(3) For service information identified in this AD, contact Bombardier, Inc., 200 Côte-Vertu Road West, Dorval, Québec H4S 2A3, Canada; North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; email *ac.yul@aero.bombardier.com;* internet *http://www.bombardier.com.*

(4) You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued in Des Moines, Washington, on February 22, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–08915 Filed 5–1–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0763; Product Identifier 2018–NM–052–AD; Amendment 39–19626; AD 2019–08–05]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 787–8 and 787–9 airplanes. This AD was prompted by a determination that certain areas in the tire/wheel threat zones could be susceptible to damage, which could result in loss of braking on one main landing gear (MLG) truck, loss of nose wheel steering, and loss of directional control on the ground when below rudder effectiveness speed. This AD requires installing hydraulic tubing, a pressure-operated check valve, and new flight control software. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 6, 2019.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 6, 2019.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0763.

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–2018–0763; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Kelly McGuckin, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th Street, Des Moines, WA 98198; phone and fax: 206–231–3546; email: *Kelly.McGuckin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 787–8 and 787–9 airplanes. The NPRM published in the **Federal Register** on August 31, 2018 (83 FR 44508). The NPRM was prompted by a determination that certain areas in the tire/wheel threat zones could be susceptible to damage, which could result in loss of braking on one MLG truck, loss of nose wheel steering, and loss of directional control on the ground when below rudder effectiveness speed.

The NPRM proposed to require installing hydraulic tubing, a pressure-operated check valve, and new flight control software.

We are issuing this AD to address damage from a MLG thrown tire tread or tire burst event, which could result in loss of directional control on the ground and consequent runway excursion.

Comments

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

Support for the NPRM

The Air Line Pilots Association, International (ALPA) stated it agrees with the intent of the NPRM. Boeing stated it concurs with the contents of the NPRM.

Request To Include Service Information Notice in Paragraph (g)(1) of the Proposed AD

American Airlines asked that Boeing Information Notice B787–A–29–00–0032–01A–931E–D, Issue 001, dated June 12, 2018, be added to paragraph (g)(1) of the proposed AD as an additional source of service information for accomplishing the required actions. American Airlines stated that the information notice contains corrections to Boeing Alert Service Bulletin B787–81205–SB290032–00, Issue 001, dated November 17, 2017, including to the aircraft configuration and accomplishment instructions. American Airlines added that, as written, the proposed AD would require an alternative method of compliance for operators to accomplish the modification following the instructions in this service information.

We agree to address the corrections in Boeing Information Notice B787–A–29–00–0032–01A–931E–D, Issue 001, dated June 12, 2018, in this AD. Boeing has issued Boeing Alert Service Bulletin B787–81205–SB290032–00, Issue 002, dated February 1, 2019, which includes the corrections and clarifications specified in Boeing Information Notice B787–A–29–00–0032–01A–931E–D, Issue 001, dated June 12, 2018. We have determined these corrections and clarifications to the service information do not change the substantive requirements of this AD but rather make the requirements more accurate and understandable. We have further determined that Issue 002 of Boeing Alert Service Bulletin B787–81205–SB290032–00 does not require additional work for airplanes on which the actions specified in Issue 001 have been done.

Therefore, we revised the ''Related Service Information under 1 CFR part 51'' paragraph of this final rule, and paragraphs (c)(1) and (g)(1) of this AD, to refer to Boeing Alert Service Bulletin B787–81205–SB290032–00 Issue 002, dated February 1, 2019. We also provide credit in this AD for using Boeing Alert Service Bulletin B787–81205–SB290032–00, Issue 001, dated November 17, 2017; and for using Boeing Alert Service Bulletin B787–81205–SB290032–00, Issue 001, dated November 17, 2017, in conjunction with Boeing Information Notice B787–A–29–00–0032–01A–931E–D, Issue 001, dated June 12, 2018.

Request To Address Service Information Errors

Japan Airlines requested that we refer to a revised service bulletin to address two errors found in Boeing Alert Service Bulletin B787–81205–SB290033–00, Issue 001, dated November 17, 2017. Japan Airlines stated that there are incorrect part numbers in multiple locations in Figure 10 and Figure 11. Japan Airlines stated it contacted Boeing to correct the errors, and Boeing stated that a revision was in work.

We agree we should address the errors identified by the commenter in this AD. We have confirmed the errors with Boeing; however, Boeing has not yet issued revised service information. We have included the corrections to the service information, including the part number corrections identified by the commenter, as exceptions in this AD.

Request To Include Credit for Service Information Notice for Paragraph (g)(2) of the Proposed AD

United Airlines asked that Boeing Information Notice B787–A–27–00–0039–01A–931E–D, Issue 001, dated September 7, 2017, be approved as an additional source of service information for accomplishing the required actions (in paragraph (g)(2) of the proposed AD). United Airlines stated that the information notice contains corrections to Boeing Alert Service Bulletin B787–81205–SB270039–00, Issue 001, dated July 31, 2017, but noted the required software part numbers did not change.

We agree with the commenter since the information notice provides the correct software location identification for a couple of steps and refers to an alternative method of compliance to a different AD. We have provided credit in this AD for using Boeing Alert Service Bulletin B787–81205–SB270039–00, Issue 001, dated July 31, 2017, in conjunction with Boeing Information Notice B787–A–27–00–0039–01A–931E–D, Issue 001, dated September 7, 2017.

Change to Paragraph (g)(2) of This AD

Paragraph (g)(2) of the proposed AD specifies to install new software as specified in Boeing Alert Service Bulletin B787–81205–SB270039–00, Issue 002, dated March 8, 2018, for certain Model 787–9 airplanes. In addition to the software identified in Boeing Alert Service Bulletin B787–81205–SB270039–00, Issue 002, dated March 8, 2018, we have determined that later-approved software versions are acceptable for compliance, provided those later-approved versions meet certain conditions. We have revised paragraph (g)(2) of this AD to allow later-approved software versions.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletins B787–81205–SB290032–00, Issue 002, dated February 1, 2019, and B787–81205–SB290033–00, Issue 001, dated November 17, 2017. This service information describes procedures for installing hydraulic tubing and installing a pressure-operated check valve. These documents are distinct since they apply to different airplane models.

We also reviewed Boeing Alert Service Bulletin B787–81205–SB270039–00, Issue 002, dated March 8, 2018. This service information describes procedures for installing new flight control software.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 87 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Number of affected airplanes	Cost on U.S. operators
Tubing and Pressure-operated Check Valve installation for Model 787–8 airplanes (Groups 1 and 3).	37 work-hours × $85 per hour = $3,145.	$55,940	$59,085	7	$413,595
Tubing and Pressure-operated Check Valve installation for Model 787–8 airplanes (Group 2).	36 work-hours × $85 per hour = $3,060.	55,940	59,000	0	0
Tubing and Pressure-operated Check Valve installation for Model 787–8 airplanes (Groups 4 through 6).	33 work-hours × $85 per hour = $2,805.	55,940	58,745	47	2,761,015
Tubing and Pressure-operated Check Valve installation for Model 787–9 airplanes (Groups 1 through 4).	36 work-hours × $85 per hour = $3,060.	55,940	59,000	33	1,947,000
Software installation for Model 787–9 airplanes ..	2 work-hours × $85 per hour = $170.	0	170	33	5,610

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 transport category airplanes and associated appliances to the Director of the System Oversight Division.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2019–08–05 The Boeing Company: Amendment 39–19626; Docket No. FAA–2018–0763; Product Identifier 2018–NM–052–AD.

(a) Effective Date

This AD is effective June 6, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company airplanes, certificated in any category, as identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Model 787–8 airplanes identified in Boeing Alert Service Bulletin B787–81205–SB290032–00, Issue 002, dated February 1, 2019.

(2) Model 787–9 airplanes identified in Boeing Alert Service Bulletin B787–81205–SB290033–00, Issue 001, dated November 17, 2017.

(d) Subject

Air Transport Association (ATA) of America Code 29, Hydraulic Power.

(e) Unsafe Condition

This AD was prompted by a determination that certain areas in the tire/wheel threat zones could be susceptible to damage, which could result in loss of braking on one main landing gear (MLG) truck, loss of nose wheel steering, and loss of directional control on the ground when below rudder effectiveness speed. We are issuing this AD to address damage from a MLG thrown tire tread or tire burst event, which could result in loss of directional control on the ground and consequent runway excursion.

(f) Compliance

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

(g) Required Actions

(1) At the applicable time specified in paragraph 5., ''Compliance,'' of Boeing Alert Service Bulletin B787–81205–SB290032–00, Issue 002, dated February 1, 2019 (for Model 787–8 airplanes); or Boeing Alert Service Bulletin B787–81205–SB290033–00, Issue

001, dated November 17, 2017 (for Model 787–9 airplanes); except as specified in paragraph (h)(1) of this AD: Do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB290032–00, Issue 002, dated February 1, 2019; or Boeing Alert Service Bulletin B787–81205–SB290033–00, Issue 001, dated November 17, 2017, as applicable; except as specified in paragraphs (h)(2) through (h)(8) of this AD.

(2) For Model 787–9 airplanes: Prior to or concurrently with accomplishing the actions required by paragraph (g)(1) of this AD, do all applicable actions (including software installation) identified as RC in and, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB270039–00, Issue 002, dated March 8, 2018; except where Boeing Alert Service Bulletin B787–81205–SB270039–00, Issue 002, dated March 8, 2018, specifies installing required software, this AD requires installing that software or later-approved software versions. Later-approved software versions are only those Boeing software versions that are approved as a replacement for the applicable software, and are approved as part of the type design by the FAA or the Boeing Commercial Airplanes Organization Designation Authorization (ODA) after issuance of Boeing Alert Service Bulletin B787–81205–SB270039–00, Issue 002, dated March 8, 2018.

(h) Exceptions to Service Information

(1) For purposes of determining compliance with the requirements of this AD: Where the service information identified in paragraph (g)(1) of this AD uses the phrase ''the Issue 001 date on [/of] this service bulletin'' this AD requires using ''the effective date of this AD.''

(2) Where step 8 in Table 1 of Task 12 of the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB290033–00, Issue 001, dated November 17, 2017, identifies the part as ''652Z1591–95,'' use part ''652Z1591–764.''

(3) Where step 10 in Table 1 of Task 12 of the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB290033–00, Issue 001, dated November 17, 2017, identifies the part as ''652Z1591–94,'' use part ''652Z1591–95.''

(4) Where step 11 in Table 1 of Task 12 of the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB290033–00, Issue 001, dated November 17, 2017, identifies the part as ''652Z1591–764,'' use part ''652Z1591–94.''

(5) Where step 12 in Table 1 of Task 12 of the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB290033–00, Issue 001, dated November 17, 2017, identifies the part as ''658Z1593–48,'' use part ''BACC10MU06100000EP1.''

(6) Where step 12 in Table 1 of Task 12 of the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB290033–00, Issue 001, dated November 17, 2017, identifies the part as ''BACS47H3370G200K,'' use part ''BACS47H2370G200K.''

(7) Where step 12 in Table 1 of Task 13 of the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB290033–00, Issue 001, dated November 17, 2017, identifies the part as ''658Z1593–48,'' use part ''BACC10MU06100000EP1.''

(8) Where step 12 in Table 1 of Task 13 of the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB290033–00, Issue 001, dated November 17, 2017, identifies the part as ''BACS47H3370G200K,'' use part ''BACS47H2370G200K.''

(i) Credit for Previous Actions

(1) This paragraph provides credit for the actions specified in paragraph (g)(1) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin B787–81205–SB290032–00, Issue 001, dated November 17, 2017.

(2) This paragraph provides credit for the actions specified in paragraph (g)(1) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin B787–81205–SB290032–00, Issue 001, dated November 17, 2017, in conjunction with Boeing Information Notice B787–A–29–00–0032–01A–931E–D, Issue 001, dated June 12, 2018.

(3) This paragraph provides credit for the actions specified in paragraph (g)(2) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin B787–81205–SB270039–00, Issue 001, dated July 31, 2017.

(4) This paragraph provides credit for the actions specified in paragraph (g)(2) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin B787–81205–SB270039–00, Issue 001, dated July 31, 2017, in conjunction with Boeing Information Notice B787–A–27–00–0039–01A–931E–D, Issue 001, dated September 7, 2017.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes ODA that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) For service information that contains steps that are labeled as RC, the provisions of paragraphs (j)(4)(i) and (j)(4)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled ''RC Exempt,'' then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(k) Related Information

(1) For more information about this AD, contact Kelly McGuckin, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3546; email: *Kelly.McGuckin@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (l)(3) and (l)(4) of this AD.

(l) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin B787–81205–SB270039–00, Issue 002, dated March 8, 2018.

(ii) Boeing Alert Service Bulletin B787–81205–SB290032–00, Issue 002, dated February 1, 2019.

(iii) Boeing Alert Service Bulletin B787–81205–SB290033–00, Issue 001, dated November 17, 2017.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.*

(4) You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued in Des Moines, Washington, on April 17, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–08916 Filed 5–1–19; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 433

RIN 3084–AB16

Trade Regulation Rule Concerning Preservation of Consumers' Claims and Defenses

AGENCY: Federal Trade Commission.

ACTION: Confirmation of rule.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') has completed its regulatory review of the Trade Regulation Rule Concerning Preservation of Consumers' Claims and Defenses (''Holder Rule'' or ''Rule'') as part of the agency's regular review of all its regulations and guides, and has determined to retain the Rule in its present form.

DATES: This action is effective May 2, 2019 and is applicable as of April 23, 2019.

ADDRESSES: Relevant portions of the record of this proceeding, including this document, are available at *https://www.ftc.gov.*

FOR FURTHER INFORMATION CONTACT: Stephanie Rosenthal, (202) 326–3332, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave. NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Introduction

The Federal Trade Commission previously requested comments on the Holder Rule as part of its comprehensive regulatory review program.[1] Specifically, the Commission sought comments on the Holder Rule's costs and benefits, and on whether there is a continuing need for it. Commenters uniformly supported the Rule, and a few suggested restating a previously announced advisory opinion of the Rule, clarifying portions of the Rule, or expanding the reach of the Rule. After considering the comments and evidence, the Commission has determined to retain the Rule without modification.

Background

On November 14, 1975, the Commission promulgated its Trade Regulation Rule Concerning the Preservation of Consumers' Claims and Defenses. The Holder Rule protects consumers who enter into credit contracts with a seller of goods or services by preserving their right to assert claims and defenses against any holder of the contract, even if the seller subsequently assigns the contract or works with a third-party creditor who finances the sale. It requires sellers that arrange for or offer credit to finance consumers' purchases to include the following Notice in at least ten-point, bold face type in their contracts: ''ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED . . . WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.''[2] A creditor or assignee of the contract is thus subject to any claims or defenses that the consumer could assert against the seller. The Commission adopted the Rule to provide recourse to consumers who otherwise would be legally obligated to make full payment to a creditor or assignee despite breach of warranty, misrepresentation, or even fraud on the part of the seller.[3]

Regulatory Review Comments and Analysis

The Commission received nineteen comments in response to its **Federal Register** notice.[4] Three comments were from consumer groups and legal advocacy organizations, three comments were from offices of State Attorneys General, five comments were from industry and trade association groups, four comments were from credit unions and a credit union association, and four comments were from consumers. As discussed below, all commenters who addressed the issue agreed that the Commission should retain the Rule, although some suggested modifying or clarifying the Rule.

The Commission discusses the comments in three sections. In Section A, the Commission discusses the comments that support retaining the Rule. Section B discusses the comments concerning affirmative recoveries and the Commission's 2012 advisory opinion on that topic. In Section C, the Commission analyzes the comments that propose modifications to the Rule.[5] The Commission has analyzed the proposed benefits to consumers of proposed changes to the Rule's coverage, including any evidence provided of those benefits, and balanced those proposed benefits against the cost of implementing the changes, the need for the change, and alternative means of providing these benefits for consumers, such as consumer education materials.

A. Support for the Rule

All of the commenters who addressed the issue supported maintaining the Rule; none advocated rescinding it. For example, a comment on behalf of consumer groups stated, ''The Holder Rule is one of the most important actions the Commission has ever taken in preventing and remedying unfair and deceptive practices in the marketplace.''[6] This comment also noted, ''The Holder Rule has resulted in no cost to consumers and only minimal cost to businesses.''[7] Another comment stated that ''[c]onsumer advocates have described the Holder Rule as the 'FTC's most effective tool against fraud.' ''[8] NACA stated that the Rule ''protects consumers in the marketplace from unscrupulous vendors by providing a valuable avenue for redress when sellers

[1] The Commission publishes this schedule annually, with adjustments in response to public input, changes in the marketplace, and resource demands. For more information, see *https://www.ftc.gov/enforcement/rules/retrospective-review-ftc-rules-guides.*

[2] 16 CFR 433.2. The Rule does not apply to financing by credit card issuers. 16 CFR 433.1(c).

[3] *See* 40 FR 53506, 53507 (Nov. 18, 1975) (''The rule is directed at what the Commission believes to be an anomaly. . . . The creditor may assert his right to be paid by the consumer despite misrepresentation, breach of warranty or contract, or even fraud on the part of the seller, and despite the fact that the consumer's debt was generated by the sale.'')

[4] A table at the end of this notice lists the organizations that commented. All nineteen comments are available on the Commission's website at *https://www.ftc.gov/policy/public-comments/initiative-631.*

[5] A few comments urged clarifications of the Rule or discussed interpretative staff guidance. For example, several comments urged the Commission to confirm or reject 1976 staff guidelines regarding exempt transactions. Bingham (opposing $25,000 exemption ''made in 1976''); NCLC at 6 (commenting that Commission should clarify the Rule's application to large transactions because 1976 staff statement describing such an exemption was misconceived); AFSA at 3, 5 (urging the Commission to confirm 1976 staff guidelines and arguing that transactions that exceed $50,000 are exempt). The Commission has not formally reviewed or adopted the staff views discussed in these comments. *See* 41 FR 20022 (1976). Staff will review the 1976 informal guidelines and educational materials in light of these comments. Because these comments do not advocate or provide evidence for modification or rescission of the Rule, they are beyond the scope of this review. *See* 80 FR 75019 (describing the Commission's Regulatory Review Program).

[6] National Consumer Law Center (''NCLC'').

[7] *Id.*

[8] National Association of Consumer Advocates (''NACA'').

act badly.'' [9] The Iowa Attorney General's office described how the Rule has benefitted consumers in Iowa, and encouraged the Commission to retain the Rule.[10] Industry members and credit unions also supported maintaining the Rule. The American Financial Services Association (''AFSA'') and National Independent Automobile Dealers Association (''NIADA'') urged the Commission not to make any changes to the Rule.[11] The National Auto Dealer Association (''NADA'') similarly supported retention of the Rule as is, citing wide industry compliance with the Rule in its current form.[12] The Heartland Credit Union Association (''Heartland'') supported the consumer protection goals of the Rule and ''supports compliance with the Holder Rule.'' [13]

In light of the comments received, and in the absence of any opposition, the Commission concludes that a continuing need exists for the Rule. The comments indicate that the Rule benefits consumers and does not impose significant costs, and the Commission has no evidence to the contrary. Accordingly, the Commission has decided to retain the Rule.

B. Reiteration of the Commission's 2012 Advisory Opinion Regarding Affirmative Recoveries

Two commenters asked the Commission to reiterate the Commission's May 3, 2012 advisory opinion concerning affirmative recoveries.[14] The Commission restates that opinion as part of this rule review.[15] In particular, the Rule does not limit affirmative recovery to circumstances where rescission is warranted or where the goods or services sold to the consumer are worthless. Indeed, the Rule places no limits on a consumer's right to an affirmative recovery other than limiting recovery to a refund of monies paid under the contract. As the Commission previously stated, to give full effect to the Commission's original intent to shift seller misconduct costs away from consumers, consumers must have the right to recover funds already paid under the contract if such recovery is necessary to fully compensate the consumer for the misconduct—even if rescission of the transaction is not warranted.

One commenter further urged the Commission to affirm that the ability of consumers to bring an affirmative claim based on the Holder Rule does not depend upon whether state law authorizes affirmative actions against holders.[16] The commenter was specifically concerned with the Eighth Circuit's decision in *LaBarre* v. *Credit Acceptance Corp.,* in which the court concluded that a Minnesota consumer could not rely on the Holder Rule Notice to bring an action against an assignee because a state consumer protection statute that provided similar protections specified that consumers may raise the statutory protections only as a defense or set-off.[17] Although the Minnesota statute stated that this restriction on the manner in which consumers could assert rights applied to ''the rights of the consumer under this subdivision,'' the Eighth Circuit applied this restriction to a claim based on the Holder Rule Notice in the consumer's contract. In our judgment, the court erred by limiting recovery under the Holder Rule to defense or set-off under the Minnesota statute. The Minnesota statutory limitation might apply to claims and defenses asserted under the specific subdivision of the Minnesota Code, but would not apply to other claims and defenses that a consumer might assert against the seller.[18]

C. Proposed Modifications of the Rule

Several commenters supported the Rule and additionally suggested modifications to the Rule. As discussed in detail below, none of the comments that proposed changing the Rule provided the Commission with specific evidence of the potential costs and benefits of such modifications.

1. Comments Regarding Contractual Language and Other Notices to and Communications With Consumers

Several commenters suggested modifying the contractual language notifying consumers of their rights under the Rule and requiring additional notices to consumers. The Office of the New York Attorney General, joined by the Attorneys General of Idaho, Iowa, Kentucky, Louisiana, Maine, Maryland, Minnesota, Virginia, and Washington (''Joint Attorneys General'') recommended amending the Rule to use ''less 'legalistic' language,'' to ''explicitly state that the consumer's right to an affirmative recovery is unqualified,'' and to require that collection notices include a notice advising consumers of their rights under the Rule.[19] The Office of the District of Columbia Attorney General (''DC AG'') also recommended modifying the ''legalistic'' wording of the Rule and requiring the Rule's notice in collection notices.[20] Other commenters recommended modifying the Rule to require lenders to notify consumers of their rights under the Rule and ''proactively and meaningfully respond to consumer complaints.'' [21]

None of the comments proposing these modifications to the Rule provided the Commission with evidence showing how and the extent to which these changes would benefit consumers, and they did not address whether the benefits to consumers would outweigh the potential increased costs in adopting such changes. Industry commenters noted that businesses would pass any increased costs of compliance with the Holder Rule along to consumers.[22]

The Commission believes that the record does not support modification of the Rule language. To assist with consumers' understanding of the Rule, however, the Commission will review and consider revising its existing consumer education materials to help

[9] *Id.*

[10] Iowa Attorney General's office; *see also* Nadine Brown.

[11] AFSA, NIADA.

[12] NADA.

[13] Heartland. *See also* Illinois Credit Union League (noting that not a large number of their members' transactions are affected by the Rule).

[14] NACA and NCLC.

[15] Letter to Jonathan Sheldon and Carolyn Carter, NCLC (May 3, 2012), available at *https://www.ftc.gov/policy/advisory-opinions/16-cfr-part-433-federal-trade-commission-trade-regulation-rule-concerning.*

[16] NCLC.

[17] 174 F.3d 640, 644 (8th Cir. 1999) (citing Minn. Stat. sec. 325G.16, sub. 3). The Minnesota statute provides:

Claims and defenses. Any assignee of the contract or obligation relating to the consumer credit sale shall be subject to all claims and defenses of the consumer against the seller arising from the sale, notwithstanding any agreement to the contrary. Provided, however, that the assignee's liability under this subdivision shall not exceed the amount owing to the assignee at the time the claim or defense is asserted against the assignee. The rights of the consumer under this subdivision can only be asserted as a matter of defense to or set off against a claim by the assignee.

Minn. Stat. sec. 325G.16, sub. 3. A ''Consumer credit sale'' is defined as a sale of goods or services in which:

(a) Credit is granted by a seller who regularly engages as a seller in credit transactions of the same kind;

(b) the buyer is a natural person; and

(c) the goods or services are purchased primarily for a personal, family or household purpose, and not for commercial, agricultural, or business purpose.

Id. sec. 325G.15, sub. 2.

[18] *See Eachen* v. *Scott Housing Systems, Inc.,* 630 F. Supp. 162, 165–67 (M.D. Ala. 1986) (Holder Rule and state statute that provides that consumer rights can only be asserted as defense or set off are not in conflict because consumers premised their suit on Holder Rule, and state limitation is applicable only to consumer claims under that section of state law).

[19] Joint Attorneys General.

[20] DC AG.

[21] *See* MFY Legal Services (''MFY'').

[22] *See* AFSA; Mortgage Bankers Association (''MBA'').

inform consumers of the Rule's protections.

2. Comments Regarding Application to Leases

Three comments discussed the Rule's application to leases. Two comments advocated for the Rule's application to leases, and one of these commenters proposed a rulemaking to extend the Rule to consumer motor vehicle leases.[23] A third comment urged the Commission to confirm that the Rule applies only to consumer credit contracts.[24] NCLC noted that courts generally have found that the Rule does not apply to leases. NCLC further asserted that leases today (in contrast to 1976) are widespread, and the Rule's protections are just as essential for leasing as consumer credit. This comment also indicated that, under state law, lessees typically can bring seller-related defenses but cannot assert claims against the assignee. AFSA, however, stated that the ''plain language of the Rule does not apply to consumer vehicle leases'' and urged the Commission not to amend or expand the Rule's application to leases.[25]

The Commission appreciates the information provided by these comments and notes that the Rule does apply to certain leases. Certain contracts labelled as ''leases'' are credit transactions in which a consumer repays debt by paying the lease installments. Such contracts, when used in the sale or lease of goods or services, are subject to the Rule.[26] None of the comments that advocated expanding coverage to all leases provided evidence as to how such a change would benefit consumers.[27] Furthermore, none of the comments addressed the increased costs to businesses, if any, that would result from modifying the Rule to cover all leases. Thus, the Commission does not propose changing the Rule.[28]

3. Comments Regarding Recovery of Attorney's Fees

Six comments addressed whether the Rule's limitation on recovery to ''amounts paid by the debtor'' allows or should allow consumers to recover attorneys' fees above that cap: Four comments supported having no cap on recovery of attorneys' fees, while one opposed it and one proposed a set fee schedule in some circumstances.[29] According to the comments, some courts have permitted fees above the cap, while others have not. NCLC argued that liability for attorneys' fees under fee-shifting statutes is independent from an assignee's derivative liability under the Holder Rule, and therefore is not capped by the Rule's limitation to ''recovery hereunder.'' NCLC further argued that the purpose of fee-shifting statutes is to encourage settlement and make it feasible for consumers to pursue cases through small claims actions—which NCLC asserted would be ineffective if attorneys' fee recoveries were limited by the Rule to amounts paid by the debtor. This comment noted that the Staff Guidelines indicate that the holder is liable both for seller misconduct under the Holder Rule and for its own conduct independent of any cap:

> The words 'recovery hereunder' . . . refer specifically to a recovery under the Notice. If a larger affirmative recovery is available against a creditor as a matter of state law, the consumer would retain this right.''[30]

AFSA, however, argued that the plain language of the Rule limits all recovery, including interests, costs, and attorneys' fees, to the amount that the consumer has paid under the contract.[31]

We conclude that if a federal or state law separately provides for recovery of attorneys' fees independent of claims or defenses arising from the seller's misconduct, nothing in the Rule limits such recovery. Conversely, if the holder's liability for fees is based on claims against the seller that are preserved by the Holder Rule Notice, the payment that the consumer may recover from the holder—including any recovery based on attorneys' fees—cannot exceed the amount the consumer paid under the contract. Claims against the seller for attorneys' fees or other recovery may also provide a basis for set off against the holder that reduces or eliminates the consumer's obligation. The Commission does not believe that the record supports modifying the Rule to authorize recovery of attorneys' fees from the holder, based on the seller's conduct, if that recovery exceeds the amount paid by the consumer.[32] Additionally, one commenter suggested that the Commission use the Rule to establish a schedule of attorneys' fees and circumstances under which the fees could be awarded.[33] Such measures, however, are beyond the scope of the Rule, and not supported by any showing

[23] *See* NCLC, Bingham.

[24] AFSA.

[25] AFSA.

[26] The Rule applies when a seller, ''[i]n connection with any sale or lease of goods to consumers'' takes or receives ''a consumer credit contract'' or accepts proceeds from ''a consumer credit contract'' made in connection with a purchase money loan. 16 CFR 433.2; *see also* 16 CFR 433.1(j) (''Seller'' subject to the Holder Rule means a person who ordinarily ''sells or leases'' goods or services). Some leases satisfy the Rule's definition of ''consumer credit contract,'' which encompasses ''[a]ny instrument which evidences or embodies a debt arising from'' the transactions defined in the Rule as a ''Purchase money loan'' and ''Financing a sale.'' 16 CFR 433.1(i). ''Financing a sale'' is defined as extending credit in connection with a ''Credit sale'' within the meaning of TILA and Regulation Z. 16 CFR 433.1(e). Under the TILA and Regulation Z, a ''credit sale'' includes a contract in the form of a ''bailment or lease'' if the contract is not terminable at will by the consumer, and the consumer both contracts ''to pay as compensation for use a sum substantially equivalent to, or in excess of, the total value of the property and service involved,'' and will become (or has the option to become), for no additional consideration or for nominal consideration, the owner of the property upon compliance with the agreement. 15 U.S.C. 1602(h); 12 CFR 226.2(a)(16); 12 CFR 1026.2(a)(16). Leases that satisfy these conditions are covered by the Holder Rule; leases that do not are not ''consumer credit contracts'' and are not subject to the Rule.

[27] During an FTC-hosted roundtable on automobile leases in November 2011, one panelist discussed the Holder Rule, stating that it was not clear whether the Rule applied to leasing. None of the panelists specifically advocated for modifying the Rule to include all leases. *See* The Road Ahead: Selling, Financing & Leasing Motor Vehicles, A Roundtable (November 17, 2011), *https://www.ftc.gov/sites/default/files/documents/public_events/road-ahead-3rd-roundtable-november-17th/dc_sess1.pdf; https://www.ftc.gov/sites/default/files/documents/public_events/road-ahead-3rd-roundtable-november-17th/dc-agenda-final.pdf.*

[28] NACA also suggested that the FTC consider eliminating the real estate mortgage exclusion from the Holder Rule so that it would apply to such transactions. This suggestion was offered without a discussion of the benefits to consumers or cost to business from the proposed change and, therefore, the Commission does not have sufficient information to consider such a modification. Wells Fargo commented that it would be inappropriate to extend the Rule to home mortgages and ''strongly urge[d] the FTC to carefully study the potential impacts of any expansion, and to engage with participants in all aspects of the residential mortgage market.''

[29] *See* 16 CFR 433.2(a) and (b). For comments supporting no cap on attorneys' fees recovery, *see* NCLC, NACA, Anderson, and MFY. For comments opposing having no cap on attorneys' fees recovery or otherwise limiting the scope of attorneys' fees in some situations, *see* AFSA, CU Direct Corporation (''CU Direct''). Some commenters recommended full elimination of the liability cap. *See, e.g.,* MFY.

[30] *See* NCLC (quoting Staff Guidelines, 41 FR at 20023); *see also* NACA. The Staff Guidelines also state that the Rule does not eliminate any other rights the consumer may have as a matter of local, state, or federal law. 41 FR at 20023.

[31] AFSA.

[32] Relatedly, AFSA argued that the language of the Holder Rule stating that recovery shall not exceed amounts paid by the debtor ''prevents using the Rule to impose an injunction on Holders.'' In support of this contention, AFSA cited precedents that discuss the distinction between a legal cause of action and the remedies (such as an injunction) that may be available for a cause of action. Neither the precedents cited nor the text of the Holder Rule support AFSA's contention that the Holder Rule does not allow the issuance of an injunction. The final sentence of the Holder Rule Notice does not restrict the types of remedies available when a claim or defense is preserved; it simply states that the money that a consumer may obtain from a holder based on the Notice may not exceed amounts paid. The Commission affirms that the plain language of the Rule does not limit the types of relief a court may award against a holder.

[33] *See* CU Direct.

that such an expansion of the Rule is necessary to achieve its objectives.

4. Comments Regarding Application of Rule in Absence of Written Notice

Some commenters asked the Commission to modify the Rule language so that Holder Rule protections would apply even where the consumer credit contract does not include the Holder Rule Notice.[34] According to the comments, if the contract does not contain the Holder Notice, consumers may not be able to preserve claims and defenses in all the circumstances contemplated by the Rule.

This issue would arise only in those instances where sellers make contracts or accept the proceeds from purchase money loans that omit a required Holder Rule Notice. The comments do not provide evidence that such violations are widespread.[35] Moreover, where such violations occur, a consumer may be able assert claims and defenses against a holder. Several state laws build upon the Holder Rule by providing that, if an instrument is used to finance consumer transactions subject to the Holder Rule, a holder's rights against a consumer are subject to the limitations imposed by the Holder Rule Notice—just as if the Notice was included in the instrument.[36] The comments do not provide evidence that there are a significant number of transactions in which sellers violate the Holder Rule and, despite laws limiting holders' remedies, the sellers' violations allow a holder to cut off consumer claims and defenses. Therefore, the Commission declines to propose modifying the Rule to address these concerns.

5. Comments Regarding Waiver of Right To Assert Claims

Two comments urged that the FTC state that consumers' rights under the Rule cannot be waived.[37] These commenters, however, did not describe specific ''waiver''-related practices that they believed were not adequately addressed by the current Rule, or provide evidence of unfair practices involving waivers.

The Holder Rule was adopted, in part, to prevent the use of contractual waivers to cut off consumer claims and defenses.[38] Courts have recognized that the contractual provision required by the Rule makes unenforceable other provisions that purport to waive or otherwise undermine the consumers' ability to assert the claims or defenses.[39] Some states have also recognized a private right of action under state law against sellers, lenders or holders that attempt to undermine the Rule through contractual provisions or notices that might be described as a waiver.[40] Moreover, the Commission, in an unlitigated settlement of an enforcement action, indicated that it is an unfair or deceptive practice under federal law for a creditor to represent that consumers waive their rights under the Holder Rule if they do not give the creditor written notice of their complaints about sellers.[41]

Thus, practices that purport to waive a consumer's rights under the Holder Rule are contrary to its purpose, and companies that engage in such practices risk liability under federal and state laws. Because the current record does not provide examples of misconduct associated with waivers that is occurring despite the existing law, the Commission is not convinced that these comments warrant considering changes to the Rule. However, the Commission staff will continue to monitor this issue.[42]

6. Comments Regarding Modifying the Rule To Apply More Broadly to Lenders

Two comments recommended that the Commission expand the Rule to cover lenders, in addition to retail ''sellers.''[43] Specifically, these comments urged the Commission to require lenders to include Holder Rule language in their contracts because they assert that most credit contracts are drafted by the assignee, rather than the seller, and both the seller and the lender should have joint responsibility to include the Holder Rule Notice.[44] However, industry commenters explained that expanding the requirements to lenders under the Rule would have meaningful costs to lenders that would ultimately be passed on to consumers.[45] Upon review of the comments, the Commission concludes that the record does not include sufficient evidence to support proposing an expansion of the Rule to apply to lenders.[46]

Conclusion

The comments uniformly favored retention of the Rule and stated that there is a continuing need for the Rule; that the Rule benefits consumers; that

[34] *See, e.g.* DC AG, Joint Attorneys General.

[35] To the contrary, commenter NADA cited an FTC press release that stated an FTC investigation into 50 automobile dealers ''found broad compliance with the Rule among auto dealers.'' NADA (citing FTC, Press Release, *FTC Finds Broad Compliance Among Auto Dealers with Rule That Protects Consumers with Car Loans* (May 16, 2011), *available at https://www.ftc.gov/news-events/press-releases/2011/05/ftc-finds-broad-compliance-among-auto-dealers-rule-protects*).

[36] *See, e.g.,* Tex. Bus. & Com. Code section 3.305(e) (in a consumer transaction, an instrument that omits statement required by law preserving claims and defenses has the same effect as if the statement was included, based on Uniform Commercial Code, rev. art. 3, section 3–305(e) (2002), adopted by seven states); Uniform Commercial Code section 9–403(d) (1999) (same for record of debt in a consumer transaction that is a secured transaction); *Assocs. Home Equity Servs., Inc.* v. *Troup,* 343 N.J. Super. 254, 276, 778 A.2d 529, 542 (App. Div. 2001) (implying Holder Rule Notice in contract from which it was omitted). A few states also have consumer protection statutes that provide remedies against creditors that are similar or the same as those contemplated by the Holder Rule, and are not dependent on the presence of the Holder Rule Notice in the loan document. *See* Iowa Code § 537.3405 (preserving claims and defenses in specified transactions as a matter of law); Md. Code, Com. Law section 12–309 (same); Mass. Gen. Laws ch. 255D, section 25A (same); N.Y. Gen. Bus. Law section 253 (same); Kan. Stat. sections 16a-3–404, 16a-3–405 (same, based on Uniform Consumer Credit Code, 1974).

[37] DC AG (''I also recommend that the Holder Rule Notice state that a consumer's right to assert claims is unconditional and cannot be waived, so that consumers will be less subject to deceptive statements that state otherwise.''); Joint Attorneys General (''The FTC should also clarify that the holder rule cannot be waived.'')

[38] 40 FR at 53508, 53510, 53512 (describing practice in which consumers rights are cut off by inserting a waiver of defenses clause in the consumer's sales agreement with the seller); *see also id.* at 53523 (''[T]he use of promissory notes, waivers of defenses, and vendor-related loan financing to foreclose consumer claims and defenses in credit sale transactions constitutes an unfair practice under 15 U.S.C. 45, as amended.'')

[39] *Hinojosa* v. *Castellow Chevrolet Oldsmobile,* 678 SW2d 707, 709–10 (Tex. Ct. App. Corpus Christi 1984); *Hernandez* v. *Forbes Chevrolet Co.,* 680 SW2d 75, 76–77 (Tex. Ct. App. 13th Dist.1984); *but see Blackmon* v. *Hindrew,* 824 SW2d 85, 88 (Mo. Ct. App. 1992) (reaching contrary result by giving effect to contract recitals inconsistent with the Holder Notice).

[40] *Heastie* v. *Community Bank,* 727 F. Supp. 1133 (N.D. Ill.1989); *Jaramillo* v. *Gonzales,* 50 P.3d 554, 561–62 (N.M. Ct. App. 2002) (bank's alleged refusal to acknowledge its liability under the FTC Holder Rule stated a claim for violation of the state's Unfair Practices Act).

[41] *Beneficial Corporation,* 96 F.T.C. 120 (1980) (alleging that Beneficial's notices to consumers stating that the consumers' ability to assert claims or notices would be waived unless the consumer provided written notification within a certain period ''has the tendency and capacity to deter consumers from asserting valid claims and defenses'' and violates Section 5 of the FTC Act).

[42] Two commenters urged the Commission to list specific practices related to the operation of the Holder Rule that are unfair or deceptive under Section 5 of the FTC Act. NCLC; NACA. The Commission declines to enumerate such a list, which is beyond the scope of this regulatory review, but will continue to use its enforcement authority to combat unfair and deceptive practices.

[43] *See, e.g.,* MFY, NCLC.

[44] *See* NCLC.

[45] *See* AFSA, MBA.

[46] The Commission previously considered amending the Rule to extend it to third-party creditors, but ultimately declined to do so because the evidence was ''inadequate to support'' such an amendment. Regulatory Flexibility Act Review of the Trade Regulation Rule Concerning Preservation of Consumers' Claims and Defenses, 53 FR 44456, 44457 (Nov. 3, 1988). In particular, the Commission found that ''the record contains little evidence of consumer injury occurring after the Holder Rule became effective and little evidence to suggest that creditor participation in cutting off consumers' claims is prevalent.'' *Id.*

the Rule does not impose substantial economic burdens; and that the benefits outweigh the minimal costs the Rule imposes. Although commenters recommended that the Commission modify certain aspects of the Rule, none of the comments provided sufficient evidence demonstrating that such modifications were necessary and would, in fact, help consumers. Moreover, none of the comments proposing such modifications analyzed the associated costs.

The FTC plans to review and consider revising our consumer education materials to address the concerns raised in the comments submitted pursuant to this rule review to ensure that consumers more easily understand the Rule's protections. Furthermore, as noted in both NCLC's and NACA's comments, the Commission has a variety of enforcement tools available to help ensure compliance.[47] If, at a later date, the Commission concludes that the Rule, case law interpreting the Rule, and the FTC's other enforcement tools do not provide adequate guidance and protection for consumers in the marketplace, it can then consider, based on a further record, whether and how to amend the Rule. Accordingly, the Commission has determined to retain the current Rule and is terminating this review.

By direction of the Commission.

Julie A. Mack,

Acting Secretary.

LIST OF COMMENTING ORGANIZATIONS AND SHORT-NAMES/ACRONYMS

Short-name/acronyms	Commenter
AFSA	American Financial Services Association.
CU Direct	CU Direct Corporation.
CUNA	Credit Union National Association.
DC AG	Attorney General for the District of Columbia.
Heartland	Heartland Credit Union Association.
ICUL	Illinois Credit Union League.
Iowa AG	Iowa Attorney General's Office.
Joint Attorney Generals	Attorneys General of New York, Idaho, Iowa, Kentucky, Louisiana, Maine, Maryland, Minnesota, Virginia and Washington.
MBA	Mortgage Bankers Association.
MFY	MFY Legal Services, Inc., Lincoln Square Legal Services, Inc., and Fordham Law School's Feerick Center for Social Justice.
NACA	National Association of Consumer Advocates.
NADA	National Automobile Dealers Association.
NCLC	National Consumer Law Center, Americans for Financial Reform, The Center for Responsible Lending, Consumer Action, Consumer Federation of America, Consumers for Auto Reliability and Safety, Consumers Union, NAACP, NACA, The Institute for College Access & Success, U.S. Public Interest Research Group, Alabama Appleseed, Arizona Community Action Association, Arkansans Against Abusive Payday Lending, Arkansas Community Organizations, Community Legal Services, Connecticut Association for Human Services, Connecticut Citizens Action Group, Housing and Economic Rights Advocates, Kentucky Equal Justice Center, LAF, The Legal Assistance Resource Center of Connecticut, North Carolina Justice Center, Public Justice Center, Public Law Center, Veterans Education Success, Virginia Citizens Consumer Council, and Woodstock Institute.
NIADA	National Independent Automobile Dealers Association.
Wells Fargo	Wells Fargo Bank.

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4041A, 4245, and 4281

RIN 1212–AB38

Terminated and Insolvent Multiemployer Plans and Duties of Plan Sponsors

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation is amending its multiemployer reporting, disclosure, and valuation regulations to reduce the number of actuarial valuations required for smaller plans terminated by mass withdrawal, add a valuation filing requirement and a withdrawal liability reporting requirement for certain terminated plans and insolvent plans, remove certain insolvency notice and update requirements, and reflect the repeal of the multiemployer plan reorganization rules.

DATES: *Effective date:* This rule is effective July 1, 2019.

Applicability dates: The amendments to 29 CFR part 4041A that make changes to the definitions, the content of the notice of termination, and the determination of plan solvency; and the amendments to 29 CFR parts 4245 and 4281 that make changes to the notices of insolvency, notices of insolvency benefit level, and applications for financial assistance will be applicable as of July 1, 2019.

The amendments to 29 CFR parts 4041A and 4245 that require plan sponsors to file with PBGC withdrawal liability information will be applicable for plan years ending after July 1, 2019.

The amendments to 29 CFR parts 4041A and 4245 that change the annual actuarial valuation requirement will be applicable to actuarial valuations prepared for plan years ending after July 1, 2019.

FOR FURTHER INFORMATION CONTACT: Hilary Duke (*duke.hilary@pbgc.gov*), Assistant General Counsel for Regulatory Affairs, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026; 202–326–4400, extension 3839. (TTY users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4400, extension 3839.)

SUPPLEMENTARY INFORMATION:

[47] The Commission encourages all stakeholders and consumers to refer suspected violations of the Holder Rule to the Commission via *ftc.gov/complaints.*

Executive Summary—Purpose of the Regulatory Action

This final rule makes certain reporting and disclosure of multiemployer information to PBGC and interested parties more efficient and reflects the repeal of the multiemployer plan reorganization rules. The rule reduces costs by allowing smaller plans terminated by mass withdrawal to perform actuarial valuations less frequently and by removing certain notice requirements for insolvent plans. This reduces plan administrative costs and, in turn, may reduce financial assistance provided by PBGC.

PBGC's legal authority for this action is based on section 4002(b)(3) of the Employee Retirement Income Security Act of 1974 (ERISA), which authorizes PBGC to issue regulations to carry out the purposes of title IV of ERISA; section 4041A(f)(2) of ERISA, which gives PBGC authority to prescribe reporting requirements for terminated plans; section 4245(e) of ERISA, which directs PBGC to prescribe requirements for notices regarding multiemployer plan insolvency; section 4261 of ERISA, which authorizes PBGC to provide financial assistance to insolvent plans; and section 4281(d)(3) of ERISA, which directs PBGC to prescribe requirements for notices to plan participants and beneficiaries in the event of a benefit suspension by an insolvent plan.

Executive Summary—Major Provisions of the Regulatory Action

Plan Sponsor Duties—Annual Valuation and Withdrawal Liability

The plan sponsor of a multiemployer plan terminated by mass withdrawal is responsible for specific duties, including an annual actuarial valuation of the plan's assets and benefits. This final rule reduces administrative burden by allowing a plan sponsor to perform an actuarial valuation only every 5 years if the present value of the plan's nonforfeitable benefits is $50 million or less. The final rule adds a new requirement for plan sponsors of certain terminated plans and insolvent plans to file actuarial valuations with PBGC. Where the present value of the plan's nonforfeitable benefits is $50 million or less, a plan receiving financial assistance from PBGC may file alternative valuation information.

The plan sponsor of a multiemployer plan also is responsible for determining, giving notice of, and collecting withdrawal liability. The final rule requires plan sponsors of certain terminated plans and insolvent plans to file with PBGC information about withdrawal liability payments and whether any employers have withdrawn but have not yet been assessed withdrawal liability.

Insolvency Notices and Updates

The plan sponsor of a multiemployer plan terminated by mass withdrawal that is insolvent or is expected to be insolvent for a plan year must provide certain notices to PBGC and participants and beneficiaries. Similarly, the plan sponsor of a multiemployer plan that is certified by the plan's actuary to be in critical status and that is expected to become insolvent under section 4245 of ERISA must provide certain notices to PBGC and interested parties. Notices include a notice of insolvency and a notice of insolvency benefit level. The final rule eliminates outdated information included in the notices and changes the frequency of the notices. A plan sponsor is required to provide notices of insolvency if the plan sponsor determines the plan is insolvent in the current plan year or is expected to be insolvent in the next plan year. The final rule also eliminates the requirement to provide most annual updates to the notices of insolvency benefit level.

Background

The Pension Benefit Guaranty Corporation (PBGC) administers two insurance programs for private-sector defined benefit pension plans under title IV of the Employee Retirement Income Security Act of 1974 (ERISA): A single-employer plan termination insurance program and a multiemployer plan insolvency insurance program. In general, a multiemployer pension plan is a collectively bargained plan involving two or more unrelated employers. This final rule deals with multiemployer plans.

Under section 4041A of ERISA, a mass withdrawal termination of a plan occurs when all employers withdraw or cease to be obligated to contribute to the plan. A plan terminated by mass withdrawal continues to pay all vested benefits from existing plan assets and withdrawal liability payments from withdrawn employers. PBGC's financial assistance to the terminated plan starts only if and when the plan sponsor determines that the plan is insolvent under section 4281(d) of ERISA. PBGC also provides financial assistance to certain plans in critical status that are not terminated or are terminated by plan amendment [1] if the plan sponsor determines that the plan is insolvent under section 4245 of ERISA.

Before 2015, financially troubled multiemployer plans entered a ''reorganization'' status if their funding was below a certain level. Plans in reorganization status were subject to certain rules affecting plan funding, benefits, and reporting and disclosure. The plan sponsor of a plan in reorganization that determined the plan was insolvent or was expected to be insolvent for a plan year was required to provide PBGC and interested parties notices regarding the plan's insolvency. The Pension Protection Act of 2006 established critical and endangered statuses for underfunded plans and provided new tools to help multiemployer plans in those statuses improve plan funding but did not repeal the reorganization rules. Section 108 of the Multiemployer Pension Reform Act of 2014 (MPRA) repealed the rules on reorganization under section 4241 of ERISA effective for plan years beginning after December 31, 2014. MPRA also amended the notice requirements under section 4245(e) of ERISA and 418E(e) of the Internal Revenue Code (Code) to replace the references to a plan in reorganization with references to a plan in critical status. These amendments did not substantively change the notice requirements.

On July 16, 2018 (at 83 FR 32815), PBGC published a proposed rule to reduce reporting and disclosure requirements for multiemployer plans that are terminated by mass withdrawal or in critical status and that are, or are expected to be, insolvent.[2] PBGC identified the proposed amendments as part of its ongoing retrospective review under Executive Order 13563 ''Improving Regulation and Regulatory Review.'' Executive Order 13563 provides for Federal regulations to use less burdensome means to achieve policy goals, and for agencies to give careful consideration to the benefits and costs of those regulations. Comments received from one commenter in response to PBGC's July 2017 Request for Information [3] support the changes to reduce notice requirements for insolvent plans.

In response to PBGC's proposed rule, two commenters submitted comments

[1] Termination of a multiemployer plan by plan amendment is determined under section 4041A(a)(1) of ERISA.

[2] In 2014, PBGC amended its regulations to reduce the number of actuarial valuations required for certain smaller terminated plans and remove certain insolvency notice and update requirements. *See* 79 FR 30459 (May 28, 2014). This rulemaking is a continuation of that effort to reduce plan burden.

[3] PBGC Regulatory Planning and Review of Existing Regulations, Request for Information (82 FR 34619, July 26, 2017).

generally supporting PBGC's efforts to reduce regulatory burden. These commenters also made some suggestions and recommendations for changes. In response to the comments, PBGC is making modifications to the forms and instructions associated with this final rule, but the final rule is substantially the same as the proposed rule. The public comments, PBGC's responses, including modifications to the forms and instructions, and the provisions of this final rule are discussed below.

Regulatory Changes

Annual Valuation Requirement

PBGC's regulation on Termination of Multiemployer Plans (29 CFR part 4041A) establishes rules for the administration of multiemployer plans that have terminated by mass withdrawal, including basic duties of plan sponsors of plans terminated by mass withdrawal. Among the requirements, the plan sponsor of a plan terminated by mass withdrawal must value the plan's nonforfeitable benefits and assets as of the last day of the plan year in which the plan terminates and the last day of each plan year thereafter. The details of the annual actuarial valuation requirement are provided in subpart B of PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281).

The plan sponsor of a plan terminated by mass withdrawal uses the annual actuarial valuation to determine whether the value of nonforfeitable benefits exceeds the value of assets. If benefits exceed assets, the plan may need to reduce benefits. If no benefits are subject to reduction, the plan sponsor will continue to make periodic determinations of plan solvency. The final rule revises § 4041A.25 of the multiemployer termination regulation to clarify the timing of the plan sponsor's determinations of plan solvency by combining similar provisions to eliminate repetition and by removing potentially confusing language.

The plan sponsor of a plan in critical status must also make determinations of plan solvency. If the plan sponsor determines under section 4245(d) of ERISA that the plan is expected to be insolvent for a plan year, the plan sponsor must file a notice with PBGC, including a copy of the most recent actuarial valuation for the plan. PBGC uses the annual actuarial valuation to estimate the liabilities PBGC will incur when the plan becomes insolvent and for purposes of its financial statements.

The final rule reduces the number of plans terminated by mass withdrawal that are required to prepare an annual actuarial valuation. Section 4041A.24 of the multiemployer termination regulation provides that if the value of nonforfeitable benefits for a plan terminated by mass withdrawal is $25 million or less as determined for a plan year, the plan sponsor may use the actuarial valuation for the next two years and perform a new actuarial valuation for the third plan year. The final rule increases the threshold requirement for plan sponsors and allows them to use less frequent actuarial valuations. A plan sponsor may use an actuarial valuation for 5 years if the present value of the plan's nonforfeitable benefits is $50 million or less and be in compliance with the statutory requirement that there be an annual written determination of the value of the plan's nonforfeitable benefits and the plan's assets.

If the present value of a plan's nonforfeitable benefits exceeds $50 million, the plan sponsor continues to be required to perform actuarial valuations annually.[4] Plans may move in and out of the 5-year or annual valuation cycle, as applicable, as the value of nonforfeitable benefits changes. Thus, a plan sponsor that had been using an actuarial valuation for 5 years is required to perform actuarial valuations annually if the most recent actuarial valuation indicates that the present value of the plan's nonforfeitable benefits exceeds $50 million. Similarly, a plan sponsor that had been performing the actuarial valuation annually may use the actuarial valuation for 5 years if the most recent actuarial valuation shows the present value of the plan's nonforfeitable benefits to be $50 million or less.

To estimate PBGC's multiemployer plan liabilities, PBGC is adding the annual actuarial valuation requirement for plan sponsors of insolvent plans receiving financial assistance from PBGC (whether terminated or not terminated) and plan sponsors of plans terminated by plan amendment that are expected to become insolvent.[5] The provision allowing smaller plans to use less frequent actuarial valuations is available to these plan sponsors. In addition, where the present value of the plan's nonforfeitable benefits is $50 million or less, a plan receiving financial assistance from PBGC may comply with the actuarial valuation requirement by filing alternative information as specified in valuation instructions on PBGC's website.

SUMMARY OF ACTUARIAL VALUATION FILING REQUIREMENTS

Size of plan according to most recent actuarial valuation	Frequency of actuarial valuation: terminated plans and insolvent plans	Alternative information permitted to be filed: plans receiving financial assistance
Present Value of Plan's Nonforfeitable Benefits is $50 Million or Less	Every 5 Years	Yes.
Present Value of Plan's Nonforfeitable Benefits Exceeds $50 Million	Each Year	No.

PBGC received two comments with respect to its proposed changes to the actuarial valuation filing requirements. One commenter supported PBGC's proposed change to allow plan sponsors of plans terminated by mass withdrawal to use an actuarial valuation for 5 years if the present value of the plan's nonforfeitable benefits is $50 million or less. A second commenter raised concerns about the annual actuarial valuation requirement for plan sponsors of insolvent plans receiving financial assistance from PBGC. The commenter suggested that plan sponsors of plans receiving financial assistance from PBGC be able to comply with the actuarial valuation requirement by filing every 5 years the alternative information specified in instructions. The commenter stated that requiring actuarial valuations from plan sponsors of insolvent plans with nonforfeitable benefits exceeding $50 million is not an effective use of PBGC's limited resources.

[4] No valuation is required for a plan year in which the plan is closed out in accordance with subpart D of part 4041A.

[5] Section 4041A.24(a)(2) of PBGC's termination regulation currently excludes plans receiving financial assistance from PBGC from the annual actuarial valuation requirement.

PBGC considered the comment, PBGC's need for data to measure its liabilities, and the minimal cost of requiring plans to file actuarial valuations, and decided to adopt in the final rule its proposed changes to the annual actuarial valuation requirements. The final rule enables PBGC to continue to have reasonably reliable data to measure its liabilities, while reducing burden on plans that present smaller exposure to PBGC. While PBGC currently obtains actuarial valuations for plans receiving financial assistance by contacting plan sponsors, a change in process is needed because of the increasing number of insolvent plans. The final rule requires a plan sponsor to file the plan's actuarial valuation or alternative valuation information with PBGC within 180 days after the end of the plan year. Having plans file the actuarial valuation or alternative valuation information within that time period provides for a more efficient process for plan sponsors and PBGC and is a more effective use of PBGC's resources.

The final rule also adopts the proposed rule's clarifications and other editorial changes to part 4041A.

Withdrawal Liability Payments

The plan sponsor of a multiemployer plan is required to determine and collect withdrawal liability in accordance with section 4219 of ERISA. The plan sponsor assesses withdrawal liability by issuing a notice to an employer, including the amount of the employer's liability and a schedule of payments. The plan sponsor of a plan terminated by mass withdrawal must file with PBGC a certification that notices have been provided to employers.[6]

PBGC uses information about withdrawal liability payments and settlements, and whether employers have withdrawn from the plan but have not yet been assessed withdrawal liability, to estimate PBGC's multiemployer liabilities for purposes of its financial statements and to provide financial assistance to plans.[7] It is particularly important for PBGC to identify all sources of available funding given the declining financial position of the multiemployer program. In the year ended September 30, 2018, there were 78 insolvent plans that received financial assistance from PBGC and 64 terminated plans not yet receiving financial assistance.[8] The number of plans receiving and expected to receive financial assistance led PBGC to examine the way it obtains withdrawal liability information.

PBGC's rulemaking requires plan sponsors of plans subject to the actuarial valuation requirement (plans terminated by mass withdrawal, plans terminated by plan amendment that are expected to become insolvent, and insolvent plans receiving financial assistance from PBGC (whether terminated or not terminated)), to file with PBGC information about withdrawal liability, in the aggregate and by employer, that the plan has or has not yet assessed withdrawn employers. The information is specified in the withdrawal liability instructions on PBGC's website. For each employer not yet assessed withdrawal liability, information includes the name of the employer, contribution owed in the plan year before withdrawal, and the reasons the employer has not yet been assessed withdrawal liability. For each employer assessed withdrawal liability, information includes the name of the employer and whether there are scheduled periodic payments or there has been a lump-sum settlement. For periodic payments, information includes the start date, end date, frequency of payment (monthly, quarterly, annually), amount of payment, and whether the employer is current on making its payments. For lump sum settlements, information includes the amount and date of payment. To satisfy the filing requirement for employers assessed withdrawal liability, a plan sponsor may choose to file documents already prepared containing the withdrawal liability information for each employer, such as withdrawal liability notices setting forth scheduled payments or withdrawal liability settlement agreements.

The final rule requires a plan sponsor to file the withdrawal liability information with PBGC within 180 days after the earlier of the end of the plan year in which the plan terminates or becomes insolvent and each plan year thereafter. If a plan sponsor has previously filed the withdrawal liability information with PBGC, the plan sponsor may satisfy the filing requirement by submitting a statement that there is no change in the information from what was filed in a previous year. Having plan sponsors file the withdrawal liability information electronically and within the time period provides for an efficient process for plan sponsors and PBGC.

The two commenters expressed concerns about the scope of the withdrawal liability information required to be filed with PBGC, including whether a plan is required to provide information as to its entire historical experience. In response to these comments, PBGC is modifying the withdrawal liability instructions to clarify that withdrawal liability information for plan years ending before the effective date of the final rule will not be required to be filed. For a plan year filing, information will be required for each employer that withdrew during the plan year and has not yet been assessed withdrawal liability. For each employer that has been assessed withdrawal liability, information will be required on payments received in the plan year and/or expected to be received in future plan years. In addition, PBGC is clarifying in the withdrawal liability instructions that a plan sponsor is not required to file withdrawal liability information already filed with PBGC. In December 2018, PBGC sent a withdrawal liability survey to plan sponsors of terminated plans and insolvent plans with 500 or more participants to obtain information about withdrawal liability assessed and not yet assessed withdrawn employers.[9] The information obtained from this survey will provide PBGC information about withdrawal liability that contributing employers owe or owed in prior plan years.

The commenters also expressed concerns about the withdrawal liability information becoming publicly available, especially with respect to individual settlement of withdrawal liability and withdrawal liability not yet assessed withdrawn employers. One commenter suggested that PBGC collect aggregated information, or, if PBGC collects information about a given employer's withdrawal liability, that reasonable safeguards be put in place to ensure the protection of confidential and proprietary information. PBGC considered these comments and decided to adopt in the final rule the proposed amendment to require filing of withdrawal liability information and to modify the withdrawal liability instructions. As explained above, the withdrawal liability information is required to be filed in the aggregate and on an employer basis. PBGC needs this information, including by employer, to estimate with more precision PBGC's

[6] *See* 29 CFR 4219.17.

[7] PBGC may prescribe reporting requirements for terminated plans under section 4041A(f)(2) of ERISA.

[8] *See* PBGC FY 2018 Annual Report, page 93 at *https://www.pbgc.gov/sites/default/files/pbgc-annual-report-2018.pdf.*

[9] OMB control number 1212–0071 (expires November 30, 2021).

current and projected future financial assistance needs and the financial position of the multiemployer insurance program. PBGC will use employer information to corroborate filed information to financial assistance requests and other plan records, which will allow for more utility of information received. PBGC's rules providing and restricting access to its records are set forth in PBGC's regulation on Examination and Copying of PBGC Records (29 CFR part 4901). If PBGC receives a request for confidential information, it notifies the submitter of the records, and affords them a reasonable period of time to object to the disclosure, pursuant to PBGC procedures and as required under Executive Order 12600, Predisclosure Notification Procedures for Confidential Commercial Information. If PBGC decides not to sustain a submitter's objection in any request, it provides the submitter with a written statement explaining why it has determined to disclose the information within a reasonable number of days before a specified disclosure date. PBGC is adding this explanation about its rules providing and restricting access to records to the Paperwork Reduction Act notice included with the withdrawal liability instructions.

Finally, one of the commenters stated that the information collected on why employers may not have been assessed withdrawal liability suggests that PBGC may use the information for purposes outside of its authority. PBGC's authority for requiring withdrawal liability information to be filed by terminated plans and insolvent plans and use of the information are amply explained in this preamble and in the supporting statement for the information collection.

Terminated Plan and Insolvent Plan Notices

The plan sponsor of a multiemployer plan terminated by mass withdrawal must make determinations of insolvency annually in accordance with section 4281 of ERISA and the plan sponsor of a multiemployer plan in critical status must make determinations of insolvency in accordance with section 4245(d) of ERISA. When the plan sponsor of a multiemployer plan determines that the plan's resources are not sufficient to pay the promised level of benefits stated in the plan when due during the plan year, the plan sponsor must suspend benefits above the amount that assets will cover. However, benefits may not be reduced to an amount less than the PBGC guarantee level. Plan sponsors that are not able to pay benefits at the promised level of benefits stated in the plan are required to notify PBGC and plan participants and beneficiaries.

The notice requirements for plans that have terminated by mass withdrawal are provided under subpart D of PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281). Similar notice requirements are provided for plans that are in critical status under PBGC's regulation on Notice of Insolvency (29 CFR part 4245). Under the latter, in addition to notifying PBGC and participants and beneficiaries, plan sponsors must notify other interested parties, including employers required to contribute to the plan and employee organizations that, for collective bargaining purposes, represent participants employed by such employers.

There are two types of notice that plan sponsors must provide: a ''notice of insolvency,'' stating the plan year that the plan is insolvent or is expected to be insolvent, and a ''notice of insolvency benefit level,'' stating the level of benefits that will be paid during a plan year in which a plan is insolvent. The final rule requires the plan sponsor of a critical status plan or of a plan terminated by mass withdrawal to provide notices of insolvency if it determines that the plan is insolvent in the current plan year or is expected to be insolvent in the next plan year. The timing of the delivery of the notice of insolvency and the notice of insolvency benefit level is the same—by the later of 90 days before the beginning of the insolvency year or 30 days after the date the insolvency determination is made. In addition, the final rule allows the plan sponsor to provide one combined notice for the same insolvency year.

PBGC's regulations currently require plan sponsors to provide the notice of insolvency benefit level annually. PBGC's experience has been that virtually all multiemployer plans that become insolvent will remain so. Thus, once a plan sponsor has provided the initial notice of insolvency benefit level, there is little need to require the plan sponsor to provide similar subsequent notices. Consequently, PBGC's final rule eliminates most of the annual updates to the notices of insolvency benefit level. The plan sponsor is required to provide updated notices to PBGC and to all participants and beneficiaries only if there is a change in the amount of benefits paid that affects participants and beneficiaries generally. If a participant or beneficiary enters pay status or is reasonably expected to enter pay status during the insolvency year, or there is a change in benefit level that affects only one participant or beneficiary or a participant class, a notice is only required to be provided to PBGC and to each affected person. For example, in the latter case, if a participant enters pay status or a participant's death results in the payment of benefits to the participant's beneficiary, only PBGC and those affected participants and beneficiaries are provided notices. One commenter encouraged PBGC to finalize these changes to eliminate redundant notice requirements for terminated plans and insolvent plans.

Plan sponsors are required to electronically file notices of termination, notices of insolvency, and notices of insolvency benefit level.[10] The final rule moves the content requirements for these notices filed with PBGC from the regulations to instructions available on PBGC's website. PBGC generally considers it preferable to describe information to be filed only in the filing instructions, and not in the regulation prescribing the filing, to avoid having two authoritative descriptions of the same requirements and to make it easier for filers to find the information they need in one place.

One commenter expressed concern that the approach of moving information from the rule to instructions will not give interested parties enough notice about changes or the opportunity to comment on recommended changes. PBGC does not agree. Although changes to the forms and instructions need not always go through notice and comment rulemaking under the Administrative Procedure Act, they often would still be open to public comment and reviewed by OMB under the Paperwork Reduction Act (PRA). The PRA requires two sequential public notices to be published in the **Federal Register**, each with their own comment periods, resulting in a total of 90 days for the public to comment. PBGC posts Paperwork Reduction Act submissions on its website and generally flags material changes to forms and instructions in its regular ''What's New'' postings. Moving the information to the forms and instructions will allow PBGC to be more flexible in responding to future developments, such as changes in information technology.

The final rule also makes changes to the contents of the notice of insolvency and notice of insolvency benefit level by eliminating outdated information and,

[10] Section 4000.3(b)(4) of PBGC's regulation on Filing, Issuance, Computation of Time, and Record Retention requires, with exceptions, filings to PBGC under parts 4041A, 4245, and 4281 to be made electronically in accordance with the instructions on PBGC's website, except as otherwise provided by PBGC.

consistent with MPRA, by removing references to reorganization in the notice of insolvency regulation. The final rule changes the permissible methods of issuance to alternate payees for the notices in parts 4245 and 4281 to exclude the methods of posting the notice at participants' work sites or publishing the notice in a union newsletter or in a newspaper of general circulation in the area or areas where participants reside. The final rule also adopts the proposed rule's clarifications and other editorial changes to parts 4245 and 4281.

Application for Financial Assistance

The plan sponsor of a multiemployer plan must apply to PBGC for financial assistance if the plan sponsor determines that the plan's resource benefit level will be below the level of benefits guaranteed by PBGC or that the plan will be unable to pay guaranteed benefits when due for any month during the year. Section 4281.47 of PBGC's duties of plan sponsor regulation requires a plan sponsor to file an initial application with PBGC at the same time that it files a notice of insolvency benefit level. When the plan sponsor determines an inability to pay guaranteed benefits for any month, the plan sponsor must file a recurring application within 15 days after the plan sponsor makes the determination.

To provide PBGC adequate time to review applications for financial assistance, the final rule requires an initial application to be filed no later than 90 days before the first day of the month for which the plan sponsor has determined that the resource benefit level will be below the level of guaranteed benefits. The final rule requires a recurring application to be filed as soon as practicable after the plan sponsor determines the plan will be unable to pay guaranteed benefits when due for a month and makes other editorial changes. The contents of the applications for financial assistance are moved from the regulations to instructions on PBGC's website. One commenter suggested that the final rule require a statement to be added to the annual funding notice when a plan sponsor submits an application for financial assistance to alert participants about the status of the plan. Because the annual funding notice is an ERISA title I disclosure, PBGC does not have the authority to require such a statement. However, as discussed earlier in the preamble, the notice of insolvency and notice of insolvency benefit level contain similar information to notify participants about the solvency of the plan and, under the final rule, are required to be issued by the later of 90 days before the beginning of the insolvency year, or 30 days after the date the insolvency determination is made.

Executive Orders 12866, 13563, and 13771

PBGC has determined that this rulemaking is not a ''significant regulatory action'' under Executive Order 12866 and Executive Order 13771. Accordingly, this final rule is exempt from Executive Order 13771 and OMB has not reviewed the rule under Executive Order 12866.

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 costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule is associated with PBGC's ongoing retrospective review program to identify and ameliorate inconsistencies, inaccuracies, and requirements made irrelevant over time.

Although this is not a significant regulatory action under Executive Order 12866, PBGC has examined the economic implications of this final rule and has concluded that the amendments to the annual actuarial valuation requirements and notice of insolvency and notice of insolvency benefit level will reduce costs for multiemployer plans by approximately $540,400. The analysis is as follows.

Annual Actuarial Valuation Requirement

PBGC has estimated the value of this final rule for the annual actuarial valuation requirements for plans terminated by mass withdrawal that are not insolvent. PBGC has assumed an annual actuarial valuation cost of $12,000 per plan for plans whose nonforfeitable benefits have a present value of $25 million or less and a cost of $30,000 per plan for plans whose nonforfeitable benefits have a present value in the range of $25 to $50 million.[11] In the year ended September 30, 2018, there were 64 terminated plans that were not insolvent. Of that total, there were 46 plans whose nonforfeitable benefits have a present value of $25 million or less that will be able to use an actuarial valuation for 5 years instead of 3 years for annual savings of approximately $73,600 (46 × $12,000 × .1333 (1/3–1/5)) and 9 plans whose nonforfeitable benefits have a present value in the range of $25 to $50 million that will be able to use an actuarial valuation for 5 years instead of 1 year for annual savings of approximately $216,000 (9 × $30,000 × .8 (1–1/5)). PBGC estimates annual aggregate savings of approximately $289,600 to these plans. In the year ended September 30, 2018, there were 78 insolvent plans. Of that total, there were 14 insolvent plans whose nonforfeitable benefits have a present value exceeding $50 million. As PBGC currently obtains actuarial valuations from these insolvent plans and provides financial assistance for the cost of performing the actuarial valuations, PBGC believes there is no additional cost under this final rule for performing insolvent plan actuarial valuations.

The savings under the final rule are offset by the annual cost of the actuarial valuation and alternative valuation filing requirements. PBGC estimates that each year, approximately 34 plans will file actuarial valuations and approximately 12 plans will file alternative valuation information. As discussed below under the Paperwork Reduction Act analysis, PBGC estimates an annual aggregate hour burden of 20 hours at an estimated dollar equivalent of $1,500 and an annual aggregate cost burden of $8,000.

The annual aggregate savings offset by the annual cost of the filing requirements is $280,100 ($289,600 − $1,500 − $8,000).

Withdrawal Liability Filing

Under the final rule, PBGC expects to receive withdrawal liability information from approximately 140 plans. As discussed below under the Paperwork Reduction Act analysis, PBGC estimates an annual hour burden of 140 hours at an estimated dollar equivalent of $10,500 and an annual cost burden of $56,000.

Annual Notice Updates

As discussed below under the Paperwork Reduction Act analysis, PBGC estimates that the annual hour burden of preparing the notice of insolvency and notice of insolvency benefit level without the final rule is approximately 1,320 hours (20 + 1,300) at an estimated dollar equivalent of $99,000 and the annual aggregate cost is

[11] The cost of an actuarial valuation varies greatly by plan size. Based on plan actuary experience, an actuarial valuation for a smaller plan where the present value of the plan's nonforfeitable benefits is $50 million or less may cost approximately $10,000 to $35,000.

approximately $627,400 ($12,000 + $615,400). This estimate is based on an estimated 11 plans required to issue the notice of insolvency and 55 plans required to issue an annual update to the notice of insolvency benefit level. Allowing plans to issue a combined notice and eliminating most of the annual updates to the notice of insolvency benefit level reduces the annual hour burden to 256 hours (16 + 240) at an estimated dollar equivalent of $19,200 and the annual aggregate cost to $380,400 ($10,000 + $370,400), saving plans approximately $326,800 ($99,000 − $19,200 + $627,400 − $380,400).

Regulatory Flexibility Act

The Regulatory Flexibility Act imposes certain requirements with respect to rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act and that are likely to have a significant economic impact on a substantial number of small entities. Unless an agency determines that a rule is not likely to have a significant economic impact on a substantial number of small entities, section 603 of the Regulatory Flexibility Act requires that the agency present a regulatory flexibility analysis at the time of the publication of the final rule describing the impact of the rule on small entities and seeking public comment on such impact. Small entities include small businesses, organizations and governmental jurisdictions.

Small Entities

For purposes of the Regulatory Flexibility Act requirements with respect to this final rule, PBGC considers a small entity to be a plan with fewer than 100 participants. This is substantially the same criterion PBGC uses in other regulations [12] and is consistent with certain requirements in title I of ERISA [13] and the Code,[14] as well as the definition of a small entity that the Department of Labor has used for purposes of the Regulatory Flexibility Act.[15]

Thus, PBGC believes that assessing the impact of the final rule on small plans is an appropriate substitute for evaluating the effect on small entities. The definition of small entity considered appropriate for this purpose differs, however, from a definition of small business based on size standards promulgated by the Small Business Administration (13 CFR 121.201) pursuant to the Small Business Act. PBGC therefore requested comments on the appropriateness of the size standard used in evaluating the impact on small entities of the proposed amendments. PBGC did not receive any such comments.

Certification

On the basis of its definition of small entity, PBGC certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that the amendments in this rule will not have a significant economic impact on a substantial number of small entities. Based on data for the 2018 fiscal year, PBGC estimates that only 15 small plans of the approximately 1,400 plans covered by PBGC's multiemployer program will be required to file withdrawal liability information and an actuarial valuation or alternative valuation information under the final rule. While this is not a substantial number of small plans, the final rule provides less burdensome filing requirements for small plans. Most small plans are not required to file actuarial valuations. An estimated 12 of the small plans are insolvent and have nonforfeitable benefits less than $50 million, enabling these plans to file alternative valuation information. In addition, the final rule will reduce administrative burden for preparing notices for terminated plans and insolvent plans, including small plans. An estimated three small plans will be relieved of the burden to prepare and distribute an annual notice of insolvency benefit level update to participants and beneficiaries. Accordingly, as provided in section 605 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), sections 603 and 604 do not apply.

Paperwork Reduction Act

PBGC is submitting the information requirements under this final rule to the Office of Management and Budget (OMB) under the Paperwork Reduction Act. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The collection of information in part 4041A is approved under control number 1212–0020 (expires November 30, 2021). PBGC estimates that without the final rule there would be 2,111 notices and responses and that the notice of termination and other requirements in part 4041A would have an annual burden of 69 hours and an annual cost of $50,000.

PBGC estimates that the changes to file withdrawal liability information electronically will have a minimal hour and cost burden as it is expected that the information is easily accessible and that most plans will use documents already prepared containing withdrawal liability information. PBGC estimates that approximately 140 plans will file withdrawal liability information and that it will take each plan sponsor approximately 2 hours to electronically file the information. PBGC further estimates that the filings will be completed by pension fund office staff (50%) and outside attorneys (50%). The total hour burden is approximately 140 hours of pension fund office time at an estimated dollar equivalent of $10,500 (based on an assumed hourly rate of $75 for administrative, clerical, and supervisory time). The total cost burden is approximately $56,000 (based on 140 contracted hours assuming an average hourly rate of $400).

PBGC expects that an estimated 34 plans (23 plans with nonforfeitable benefits that exceed $50 million plus 11 plans with nonforfeitable benefits of $50 million or less) will file actuarial valuations and that it will take each plan 30 minutes to file the information electronically (approximately 17 hours for 34 plans). PBGC expects that an estimated 12 plans receiving financial assistance from PBGC will file alternative valuation information and that it will take each plan 2 hours to file the information electronically (approximately 24 hours for 12 plans). PBGC further estimates that the filings will be completed by pension fund office staff (50%) and outside attorneys (50%). The total estimated hour burden to file the actuarial valuations and to complete and file the alternative valuation information is approximately 20 hours of pension fund office time at an estimated dollar equivalent of $1,500 (based on an assumed hourly rate of $75 for administrative, clerical, and supervisory time). PBGC estimates the total cost burden is $8,000 (based on approximately 20 contracted hours assuming an average hourly rate of $400).

PBGC estimates that with the final rule there will be approximately 2,300 notices and responses each year and that the total annual burden of the collection of information is an hour burden of about 229 hours for pension

[12] *See, e.g.,* special rules for small plans under part 4007 (Payment of Premiums).

[13] *See, e.g.,* ERISA section 104(a)(2), which permits the Secretary of Labor to prescribe simplified annual reports for pension plans that cover fewer than 100 participants.

[14] *See, e.g.,* Code section 430(g)(2)(B), which permits plans with 100 or fewer participants to use valuation dates other than the first day of the plan year.

[15] *See, e.g.,* Department of Labor's final rule on Prohibited Transaction Exemption Procedures, 76 FR 66637, 66644 (Oct. 27, 2011).

fund office time (69 + 140 + 20) at an estimated dollar equivalent of $17,175 and a cost burden for work by outside consultants of $114,000 ($50,000 + $56,000 + $8,000).

The collection of information in part 4245 is approved under control number 1212–0033 (expires November 30, 2021). PBGC estimates that only 1 plan will issue new notices of insolvency under part 4245 and that each year there will be 1,038 notices or combined notices issued to participants and beneficiaries, PBGC, and other interested parties. PBGC estimates that without the final rule the annual hour burden would be 20 hours and the annual cost burden would be $12,000. The final rule will reduce the burden by allowing plans to combine the notice of insolvency and the notice of insolvency benefit level and by eliminating most of the annual updates to participants and beneficiaries. PBGC estimates that the final rule will reduce the annual hour burden to 16 hours of pension fund office time at an estimated dollar equivalent of $1,200 and the annual cost burden for work by outside consultants to $10,000.

The collection of information in part 4281 is approved under control number 1212–0032 (expires November 30, 2021). PBGC expects to receive the following notices under part 4281: 1 notice of benefit reduction; 10 notices of insolvency; 55 notices of insolvency benefit level; 10 initial applications for financial assistance; and 300 non-initial applications for financial assistance. PBGC estimates that without the final rule the annual hour burden would be 1,300 hours at an estimated dollar equivalent of $97,500 and the annual cost burden would be $615,400. Under the final rule, most of the annual updates to the notice of insolvency benefit level will be eliminated unless there is a change in benefit level. PBGC estimates the change will reduce the number of plans issuing notices of insolvency benefit level from 55 plans to approximately 5 plans. PBGC estimates that 13,826 notices and applications will be issued annually under part 4281. PBGC estimates that the final rule will reduce the annual hour burden of pension fund office time to 240 hours at an estimated dollar equivalent of $18,000 and the annual cost burden for work by outside consultants to $370,400.

List of Subjects in 29 CFR Parts 4041A, 4245, and 4281

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

For the reasons given above, PBGC is amending 29 CFR parts 4041A, 4245, and 4281 as follows:

PART 4041A—TERMINATION OF MULTIEMPLOYER PLANS

■ 1. The authority citation for part 4041A is revised to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1341a, 1431, 1441.

■ 2. In § 4041A.2:
■ a. Revise the introductory text;
■ b. Remove the phrase ''In addition, for purposes of this part:'';
■ c. Add in alphabetical order a definition for ''Actuarial valuation'';
■ d. Amend the definition of ''Available resources'' by removing '', for a plan year,'';
■ e. Amend the definition of ''Benefits subject to reduction'' by removing ''the PBGC's'' and adding in its place ''PBGC's'';
■ f. Amend the definition of ''Financial assistance'' by removing ''the PBGC'' and adding in its place ''PBGC'';
■ g. Amend the definition of ''Insolvency benefit level'' by removing ''the PBGC'' and adding in its place ''PBGC'';
■ h. Amend the definition of ''Insolvent'' by removing in the first sentence ''that a plan is'' and by removing the second sentence; and
■ i. Amend the definition of ''Nonguaranteed benefits'' by removing ''the PBGC's'' and adding in its place ''PBGC's''.

The revision and addition read as follows:

§ 4041A.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: annuity, ERISA, insurer, IRS, mass withdrawal, multiemployer plan, nonforfeitable benefit, PBGC, plan, and plan year. In addition, for purposes of this part:

Actuarial valuation means a report submitted to a plan of a valuation of plan assets and liabilities that is performed in accordance with subpart B of part 4281 of this chapter.

* * * * *

§ 4041A.11 [Amended]

■ 3. In § 4041A.11:
■ a. Amend paragraph (a) by removing ''A Notice of Termination shall be filed with the PBGC'' and adding in its place ''A notice of termination must be filed with PBGC'';
■ b. Amend paragraph (b) by:
■ i. In the paragraph heading, removing ''shall'' and adding in its place ''must''; and
■ ii. Removing ''shall sign and file the Notice'' and adding in its place ''must sign and file the notice'';
■ c. Amend paragraphs (c)(1) and (2) by removing ''the Notice shall be filed with the PBGC'' and adding in its place ''the notice must be filed with PBGC''; and
■ d. Amend paragraph (d) by removing ''Filings to PBGC'' and adding in its place ''Filings with PBGC''.

■ 4. Revise § 4041A.12 to read as follows:

§ 4041A.12 Contents of notice.

(a) *Information to be contained in notice.* A notice of termination under § 4041A.11 required to be filed with PBGC must contain the information and certification specified in the instructions for the notice of termination on PBGC's website (*www.pbgc.gov*).

(b) *Additional information.* In addition to the information required under paragraph (a) of this section, PBGC may require the submission of any other information that PBGC determines is necessary for review of a notice of termination.

§ 4041A.21 [Amended]

■ 5. In § 4041A.21:
■ a. Amend the first sentence by removing ''shall'' and adding in its place ''must''; and
■ b. Amend the second sentence by removing ''shall be'' and adding in its place ''is''.

■ 6. In § 4041A.23:
■ a. Revise the section heading;
■ b. Designate the undesignated text as paragraph (a) and add a heading for newly designated paragraph (a);
■ c. Amend newly designated paragraph (a) by:
■ i. Removing ''the PBGC'' and adding in its place ''PBGC'';
■ ii. Removing ''shall be responsible for determining, imposing and collecting'' and adding in its place ''must determine, give notice of, and collect''; and
■ iii. Removing ''part 4219, subpart C,'' and adding in its place ''subpart C of part 4219''; and
■ d. Add paragraph (b).

The revision and additions read as follows:

§ 4041A.23 Withdrawal liability.

(a) *Collection of withdrawal liability.* * * *

(b) *Filing of withdrawal liability information.* For each employer that has withdrawn from the plan, the plan sponsor must file with PBGC, not later than 180 days after the end of the plan year in which the plan terminates and

each plan year thereafter, the information specified in the withdrawal liability instructions on PBGC's website (*www.pbgc.gov*).

■ 7. Revise § 4041A.24 to read as follows:

§ 4041A.24 Plan valuations and monitoring.

(a) *Annual valuation requirement.* The plan sponsor of a plan must have actuarial valuations performed in accordance with this section and with subpart B of part 4281 of this chapter.

(1) *Termination year valuation.* The plan sponsor of a plan must have an actuarial valuation performed for the plan for the plan year in which the plan terminates.

(2) *High-obligation valuations.* If the present value of a plan's nonforfeitable benefits exceeds $50 million according to the most recent actuarial valuation under this paragraph (a), the plan sponsor must have an actuarial valuation performed for the plan for each plan year.

(3) *Low-obligation valuations.* If the present value of a plan's nonforfeitable benefits does not exceed $50 million according to the most recent actuarial valuation under this paragraph (a), the plan sponsor may treat that actuarial valuation as the actuarial valuation for each of the four plan years following the plan year for which the actuarial valuation was performed.

(4) *Timing and filing.* Each actuarial valuation under this paragraph (a) must be performed within 150 days after the end of the plan year for which it is performed and must be filed with PBGC within 180 days after the end of that plan year in accordance with the valuation instructions on PBGC's website (*www.pbgc.gov*).

(5) *Exception for plans closing out.* Notwithstanding paragraphs (a)(1) through (4) of this section, no actuarial valuation is required for the plan year in which a plan closes out under subpart D of this part.

(b) *Plan monitoring; benefit reductions*—(1) *Applicability.* This paragraph (b) applies to a plan that is not receiving financial assistance from PBGC for the plan year following the plan year for which an actuarial valuation is performed under paragraph (a) of this section.

(2) *Funding level determination.* Upon the plan sponsor's receipt of each actuarial valuation under paragraph (a) of this section, the plan sponsor must determine whether the value of nonforfeitable benefits exceeds the value of plan assets (including withdrawal liability claims). If it does, then the plan sponsor must—

(i) Amend the plan to reduce benefits subject to reduction (if any) in accordance with the procedures in subpart C of part 4281 of this chapter to the extent necessary to ensure that the plan's assets are sufficient to discharge when due all of the plan's obligations with respect to nonforfeitable benefits or, if that result cannot be achieved, to the maximum extent possible; and

(ii) If, after implementing the provisions of paragraph (b)(2)(i) of this section, the plan's assets are insufficient to discharge when due all of the plan's obligations with respect to nonforfeitable benefits, make determinations of plan solvency in accordance with § 4041A.25.

(3) *Notices of benefit reduction.* The plan sponsor of a plan that is amended to reduce benefits under paragraph (b)(2)(i) of this section must provide participants and beneficiaries and PBGC notice of the benefit reduction in accordance with § 4281.32 of this chapter.

(c) *Alternative method of compliance*—(1) *Applicability.* This paragraph (c) applies to a plan that meets both of the following requirements—

(i) The plan is receiving financial assistance from PBGC for the plan year following the plan year for which an actuarial valuation is required under paragraph (a) of this section.

(ii) The present value of the plan's nonforfeitable benefits does not exceed $50 million according to the most recent actuarial valuation under paragraph (a) of this section.

(2) *Alternative compliance requirements.* A plan sponsor is considered to comply with the actuarial valuation and filing requirements of paragraph (a) of this section if both—

(i) The plan sponsor files with PBGC the information in paragraph (c)(3) of this section within the time required for filing the actuarial valuation under paragraph (a)(4) of this section; and

(ii) If, within 90 days after the plan sponsor makes the filing described in paragraph (c)(2)(i) of this section, PBGC requests other information reasonably required to determine the plan's assets and liabilities, the plan sponsor files such other information within 60 days after PBGC's request.

(3) *Information to be provided.* The information the plan sponsor must file with PBGC under paragraph (c)(2)(i) of this section is all of the following:

(i) The most recent summary plan description of the plan or the date the document was previously filed with PBGC.

(ii) The most recent actuarial valuation of the plan or the date the document was previously filed with PBGC.

(iii) Information reasonably necessary for PBGC to prepare an actuarial valuation as specified in the valuation instructions on PBGC's website (*www.pbgc.gov*).

■ 8. In § 4041A.25:

■ a. Revise paragraphs (a) and (b);

■ b. Amend paragraph (c) by removing ''shall'' and adding in its place ''must''; and

■ c. Revise paragraph (d).

The revisions read as follows:

§ 4041A.25 Periodic determinations of plan solvency.

(a) *Annual insolvency determination.* A plan that has no benefits subject to reduction and has assets insufficient to discharge when due all of the plan's obligations with respect to nonforfeitable benefits must make periodic determinations of plan solvency in accordance with this paragraph (a). No later than six months before the beginning of the applicable plan year described in this paragraph (a), or as soon as practicable after the plan sponsor determines the applicable plan year, and no later than six months before each plan year thereafter, the plan sponsor must determine in writing whether the plan is expected to be insolvent for such plan year. The applicable plan year is—

(1) For a plan that had no benefits subject to reduction when it terminated, the plan year the plan terminated; or

(2) For a plan that eliminated benefits subject to reduction by amendment after termination, the plan year in which the amendment that eliminated all (or all remaining) benefits subject to reduction is effective.

(b) *Other determination of insolvency.* Whether or not a prior determination of plan insolvency has been made under paragraph (a) of this section (or under section 4245 of ERISA), a plan sponsor that has reason to believe, taking into account the plan's recent and anticipated financial experience, that the plan is insolvent in the current plan year or is expected to be insolvent in the next plan year must determine in writing whether the plan is or is expected to be insolvent for that plan year.

* * * * *

(d) *Insolvency notices.* If the plan sponsor determines that the plan is insolvent in the current plan year or is expected to be insolvent in the next plan year it must provide notices of insolvency and notices of insolvency benefit level to PBGC and to participants and beneficiaries in

accordance with subpart D of part 4281 of this chapter.

■ 9. Under the authority of 29 U.S.C. 1302(b)(3), revise the heading for subchapter J to read as follows:

SUBCHAPTER J—INSOLVENCY, TERMINATION, AND OTHER RULES APPLICABLE TO MULTIEMPLOYER PLANS

PART 4245—DUTIES OF PLAN SPONSOR OF AN INSOLVENT PLAN

■ 10. The authority citation for part 4245 is revised to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1341a, 1431, 1426(e).

■ 11. Revise the heading for part 4245 to read as set forth above.

■ 12. Revise § 4245.1 to read as follows:

§ 4245.1 Purpose, scope, and filing and issuance rules.

(a) *Purpose and scope.* This part prescribes insolvency notice requirements and financial assistance requirements pertaining to critical status plans. Plan sponsors of plans that have terminated by mass withdrawal under section 4041A(a)(2) of ERISA are required to file and issue similar insolvency notices under part 4281 of this chapter and withdrawal liability and actuarial valuation information under part 4041A of this chapter.

(b) *Filing and issuance rules*—(1) *Method of filing.* Filing with PBGC under this part must be made by a method permitted under the rules in subpart A of part 4000 of this chapter.

(2) *Method of issuance.* The issuance of the required notices to interested parties under this part must be made by one of the following methods—

(i) A method permitted under the rules in subpart B of part 4000 of this chapter.

(ii) For interested parties other than participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year for which the notice is given, and other than alternate payees, the plan sponsor may post the notice at participants' work sites or publish the notice in a union newsletter or in a newspaper of general circulation in the area or areas where participants reside. Except with respect to an alternate payee, notice to a participant is deemed notice to that participant's beneficiary or beneficiaries.

(3) *Filing and issuance dates.* The date that a filing is sent and the date that an issuance is provided are determined under the rules in subpart C of part 4000 of this chapter.

(4) *Where to file.* Filings with PBGC under this part must be made as described in § 4000.4 of this chapter.

(5) *Computation of time.* The time period for filing or issuance under this part must be computed under the rules in subpart D of part 4000 of this chapter.

■ 13. In § 4245.2:

■ a. Revise the introductory text;

■ b. Remove the phrase ''In addition, for purposes of this part:'';

■ c. Revise the definition of ''Actuarial valuation'';

■ d. Amend the definition of ''Available resources'' by removing '', for a plan year,'';

■ e. Amend the definition of ''Benefits subject to reduction'' by removing ''the PBGC's'' and adding in its place ''PBGC's'';

■ f. Amend the definition of ''Financial assistance'' by removing ''the PBGC'' and adding in its place ''PBGC'';

■ g. Amend the definition of ''Insolvency benefit level'' by removing ''the PBGC'' and adding in its place ''PBGC'';

■ h. Amend the definition of ''Insolvent'' by removing in the first sentence ''that a plan is'' and by removing the second sentence;

■ i. Add in alphabetical order a definition for ''Interested parties''; and

■ j. Remove the definition of ''Reorganization''.

The revisions and addition read as follows:

§ 4245.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: Employer, ERISA, IRS, multiemployer plan, nonforfeitable benefit, PBGC, person, plan, and plan year. In addition, for purposes of this part:

Actuarial valuation means a report submitted to a plan of a valuation of plan assets and liabilities that is performed in accordance with subpart B of part 4281 of this chapter.

* * * * *

Interested parties means, with respect to a plan—

(1) Employers required to contribute to the plan;

(2) Employee organizations that, for collective bargaining purposes, represent plan participants employed by such employers; and

(3) Plan participants and beneficiaries.

* * * * *

■ 14. Revise § 4245.3 to read as follows:

§ 4245.3 Notice of insolvency.

(a) *Requirement of notice.* The plan sponsor of a plan that determines that the plan is insolvent in the current plan year or is expected to be insolvent in the next plan year must file with PBGC a notice of insolvency containing the information described in § 4245.4(a) and must issue to interested parties a notice of insolvency containing the information described in § 4245.4(b). Once notices of insolvency with respect to a plan have been provided as required, no notices of insolvency need be provided with respect to the plan for any subsequent plan year. A notice of insolvency may be combined with a notice of insolvency benefit level under § 4245.5 for the same plan year.

(b) *When to provide notice.* The plan sponsor must provide the notices of insolvency under paragraph (a) of this section at the time described in § 4281.43(b) of this chapter.

■ 15. Revise § 4245.4 to read as follows:

§ 4245.4 Contents of notice of insolvency.

(a) *Notice to PBGC.* A notice of insolvency under § 4245.3 required to be filed with PBGC must contain the information and certification specified in the notice of insolvency instructions on PBGC's website (*www.pbgc.gov*).

(b) *Notices to interested parties.* A notice of insolvency under § 4245.3 required to be given to interested parties must contain all of the following information—

(1) The information set forth in § 4281.44(b)(1) through (4) of this chapter.

(2) The estimated total amount of annual benefit payments under the plan (determined without regard to the insolvency) for the insolvency year.

(3) The estimated amount of the plan's available resources for the insolvency year.

■ 16. Revise § 4245.5 to read as follows:

§ 4245.5 Notice of insolvency benefit level.

(a) *Requirement of notice.* The plan sponsor of an insolvent plan must file with PBGC and issue to interested parties notices of insolvency benefit level containing the information described in § 4245.6 in each of the following circumstances—

(1) For the initial insolvency year, provide the notices of insolvency benefit level to PBGC and to interested parties.

(2) For any insolvency year following the initial insolvency year—

(i) If there is a change in the insolvency benefit level that affects plan payees generally, provide the notices of insolvency benefit level to PBGC and to plan payees (which, for purposes of this section, means participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year).

(ii) If there is a change in the insolvency benefit level that affects only one plan payee or a class of plan payees but not plan payees generally (treating commencement of a person's benefits for this purpose as a change in the insolvency benefit level for that person), provide the notices of insolvency benefit level to PBGC and to each affected plan payee.

(b) *Combined notices.* The plan sponsor may combine a notice of insolvency benefit level and a notice of insolvency under § 4245.3 for the same plan year.

(c) *When to provide notice.* The plan sponsor must provide the required notices under this section at the time described in § 4281.45(c) of this chapter.

■ 17. Revise § 4245.6 to read as follows:

§ 4245.6 Contents of notice of insolvency benefit level.

(a) *Notice to PBGC.* A notice of insolvency benefit level under § 4245.5(a) required to be filed with PBGC must contain the information and certification specified in the notice of insolvency benefit level instructions on PBGC's website (*www.pbgc.gov*).

(b) *Notices to interested parties other than participants and beneficiaries in or entering pay status.* A notice of insolvency benefit level under § 4245.5(a) required to be delivered to interested parties, other than to participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year, must include all of the following information—

(1) The name of the plan.

(2) The plan year for which the notice is issued.

(3) The estimated amount of annual benefit payments under the plan (determined without regard to the insolvency) for the insolvency year.

(4) The estimated amount of the plan's available resources for the insolvency year.

(5) The amount of financial assistance, if any, requested from PBGC.

(c) *Notices to participants and beneficiaries in or entering pay status.* A notice of insolvency benefit level under § 4245.5(a) required to be delivered to participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year for which the notice is given must include the information set forth in § 4281.46(b)(1) through (7) of this chapter.

■ 18. Revise § 4245.7 to read as follows:

§ 4245.7 Successor plan.

The plan sponsor of a successor plan created by a partition order under § 4233.14 of this chapter must issue to participants and beneficiaries any notice required under the partition order and is not required to file or issue notices under § 4245.3 or § 4245.5.

■ 19. Revise § 4245.8 to read as follows:

§ 4245.8 Financial assistance.

(a) *Application for financial assistance.* If the plan sponsor of a plan determines that the plan's resource benefit level for an insolvency year is below the level of benefits guaranteed by PBGC or that the plan will be unable to pay guaranteed benefits when due for any month during the year, the plan sponsor must apply to PBGC for financial assistance pursuant to section 4261 of ERISA and in accordance with § 4281.47 of this chapter.

(b) *Actuarial valuations and withdrawal liability.* The plan sponsor of an insolvent plan or a terminated plan that is expected to become insolvent under section 4245 of ERISA must—

(1) File withdrawal liability information with PBGC in accordance with § 4041A.23 of this chapter. The filing under § 4041A.23(b) of this chapter must be not later than 180 days after the earlier of the end of the plan year in which the plan becomes insolvent or terminates and each plan year thereafter.

(2) Have performed and file with PBGC actuarial valuations in accordance with § 4041A.24 of this chapter, except that if a plan is not terminated, the termination year valuation under § 4041A.24(a)(1) of this chapter must be performed for the plan for the plan year in which the plan becomes insolvent.

PART 4281—DUTIES OF PLAN SPONSOR FOLLOWING MASS WITHDRAWAL

■ 20. The authority citation for part 4281 is revised to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1341(a), 1399(c)(1)(D), 1431, and 1441.

■ 21. In § 4281.2:

■ a. Revise the introductory text;

■ b. Remove the phrase ''In addition, for purposes of this part:'';

■ c. Add in alphabetical order a definition for ''Actuarial valuation'';

■ d. Amend the definition of ''Available resources'' by removing '', for a plan year,'';

■ e. Amend the definition of ''Benefits subject to reduction'' by removing ''the PBGC's'' and adding in its place ''PBGC's'';

■ f. Amend the definition of ''Financial assistance'' by removing ''the PBGC'' and adding in its place ''PBGC'';

■ g. Amend the definition of ''Insolvency benefit level'' by removing ''the PBGC'' and adding in its place ''PBGC'';

■ h. Amend the definition of ''Insolvent'' by removing in the first sentence ''that a plan is'' and by removing the second sentence; and

■ i. Amend the definition of ''Pro rata'' by removing ''shall'' and adding in its place ''must''.

The revision and addition read as follows:

§ 4281.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: annuity, employer, ERISA, fair market value, IRS, insurer, irrevocable commitment, mass withdrawal, multiemployer plan, nonforfeitable benefit, normal retirement age, PBGC, person, plan, plan administrator, and plan year. In addition, for purposes of this part:

Actuarial valuation means a report submitted to a plan of a valuation of plan assets and liabilities that is performed in accordance with subpart B of this part.

* * * * *

■ 22. Revise § 4281.3 to read as follows:

§ 4281.3 Filing and issuance rules.

(a) *Method of filing.* Filing with PBGC under this part must be made by a method permitted under the rules in subpart A of part 4000 of this chapter.

(b) *Method of issuance.* The notices under this part must be issued to participants and beneficiaries by the methods provided in § 4281.32(c) for notices of benefit reductions, § 4281.43(c) for notices of insolvency, and § 4281.45(d) for notices of insolvency benefit level.

(c) *Filing and issuance dates.* The date that a filing is sent and the date that an issuance is provided are determined under the rules in subpart C of part 4000 of this chapter.

(d) *Where to file.* Filings with PBGC under this part must be made as described in § 4000.4 of this chapter.

(e) *Computation of time.* The time period for filing or issuance under this part must be computed under the rules in subpart D of part 4000 of this chapter.

§ 4281.11 [Amended]

■ 23. In § 4281.11:

■ a. Amend paragraph (a) by:

■ i. In the paragraph heading, removing ''Annual valuations'' and adding in its place ''Annual actuarial valuation'';

■ ii. Removing ''annual valuation'' and adding in its place ''annual actuarial valuation'';

■ iii. Removing ''shall be'' and adding in its place ''are''; and

■ iv. Removing ''year thereafter'' and adding in its place ''year thereafter for which an actuarial valuation is required to be performed under § 4041A.24 of this chapter''; and

■ b. Amend paragraph (b) introductory text by removing ''shall be'' and adding in its place ''is''.

§ 4281.13 [Amended]

■ 24. In § 4281.13:

■ a. Amend the introductory text by removing ''shall'' and adding in its place ''must''; and

■ b. Amend paragraph (b) by removing ''described in § 4281.14'' and by adding in its place ''under § 4044.53 of this chapter''.

§ 4281.14 [Removed and Reserved]

■ 25. Section 4281.14 is removed and reserved.

§ 4281.32 [Amended]

■ 26. In § 4281.32(c):

■ a. Amend the paragraph heading by removing ''to interested parties'' and adding in its place ''to participants and beneficiaries''; and

■ b. Remove in two places ''interested parties'' and add in their place ''participants and beneficiaries''.

■ 27. Revise § 4281.43 to read as follows:

§ 4281.43 Notice of insolvency.

(a) *Requirement of notice.* The plan sponsor of a plan that determines that the plan is insolvent in the current plan year or is expected to be insolvent in the next plan year must file with PBGC a notice of insolvency containing the information described in § 4281.44(a) and issue to plan participants and beneficiaries a notice of insolvency containing the information described in § 4281.44(b). Once notices of insolvency with respect to a plan have been provided as required, no notice of insolvency need be provided with respect to the plan for any subsequent year. A notice of insolvency may be combined with a notice of insolvency benefit level under § 4281.45 for the same plan year.

(b) *When to provide notice.* (1) Except as provided in paragraph (b)(2) of this section, the plan sponsor must file or issue the notices of insolvency under paragraph (a) of this section by the later of—

(i) Ninety (90) days before the beginning of the insolvency year; or

(ii) Thirty (30) days after the date the insolvency determination is made.

(2) The plan sponsor may deliver the notices of insolvency under paragraph (a) of this section to participants and beneficiaries in pay status concurrently with the first benefit payment made after the date the insolvency determination is made.

(c) *Method of issuance to participants and beneficiaries.* The issuance of the notice of insolvency to participants and beneficiaries must be made by one of the following methods—

(1) A method permitted under the rules in subpart B of part 4000 of this chapter.

(2) For participants and beneficiaries, other than those in pay status or reasonably expected to enter pay status during the insolvency year for which the notice is given, and other than alternate payees, the plan sponsor may post the notice at participants' work sites or publish the notice in a union newsletter or in a newspaper of general circulation in the area or areas where participants reside. Except with respect to an alternate payee, notice to a participant is deemed notice to that participant's beneficiary or beneficiaries.

■ 28. Revise § 4281.44 to read as follows:

§ 4281.44 Contents of notice of insolvency.

(a) *Notice to PBGC.* A notice of insolvency required under § 4281.43(a) to be filed with PBGC must contain the information and certification specified in the notice of insolvency instructions on PBGC's website (*www.pbgc.gov*).

(b) *Notice to participants and beneficiaries.* A notice of insolvency required under § 4281.43(a) to be issued to plan participants and beneficiaries must contain all of the following information—

(1) The name of the plan.

(2) A statement of the plan year for which the plan sponsor has determined that the plan is or is expected to be insolvent.

(3) A statement that benefits above the amount that can be paid from available resources or the level guaranteed by PBGC, whichever is greater, will be suspended during the insolvency year, with a brief explanation of which benefits are guaranteed by PBGC under section 4022A of ERISA.

(4) The name, address, and telephone number of the plan administrator or other person designated by the plan sponsor to answer inquiries concerning benefits.

■ 29. Revise § 4281.45 to read as follows:

§ 4281.45 Notice of insolvency benefit level.

(a) *Requirement of notice.* The plan sponsor of an insolvent plan must file with PBGC a notice of insolvency benefit level containing the information described in § 4281.46(a) and issue to plan payees (which, for purposes of this section, means participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year) a notice of insolvency benefit level containing the information described in § 4281.46(b) in each of the following circumstances—

(1) Except as provided in paragraph (a)(2) of this section, for the initial insolvency year and for any insolvency year following the initial insolvency year, if there is a change in insolvency benefit level that affects plan payees generally, provide the notices of insolvency benefit level to PBGC and to plan payees.

(2) For any insolvency year following the initial insolvency year, if there is a change in the insolvency benefit level that affects only one plan payee or a class of plan payees but not plan payees generally (treating commencement of a person's benefits for this purpose as a change in the insolvency benefit level for that person), provide the notices of insolvency benefit level to PBGC and to each affected plan payee.

(b) *Combined notices.* The plan sponsor may combine a notice of insolvency benefit level under this section and a notice of insolvency under § 4281.43 for the same plan year.

(c) *When to provide notice.* (1) Except as provided in paragraph (c)(2) of this section, the plan sponsor must provide the notices under this section by the later of—

(i) Ninety (90) days before the beginning of the insolvency year; or

(ii) Thirty (30) days after the date the insolvency determination is made.

(2) The plan sponsor may deliver the notices required under this section to participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year for which the notice is given concurrently with the first benefit payment made after the date the insolvency determination is made.

(d) *Method of issuance to participants and beneficiaries.* The issuance of the notice of insolvency benefit level to participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year for which the notice is given must be made by a method permitted under the rules in subpart B of part 4000 of this chapter.

■ 30. Revise § 4281.46 to read as follows:

§ 4281.46 Contents of notice of insolvency benefit level.

(a) *Notice to PBGC.* A notice of insolvency benefit level required by § 4281.45(a) to be filed with PBGC must contain the information and certification specified in the notice of insolvency benefit level instructions on PBGC's website (*www.pbgc.gov*).

(b) *Notice to participants and beneficiaries in or entering pay status.* A notice of insolvency benefit level required by § 4281.45(a) to be delivered to plan participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year must contain all of the following information—

(1) The name of the plan.

(2) The insolvency year for which the notice is being sent.

(3) The monthly benefit that the participant or beneficiary may expect to receive during the insolvency year.

(4) A statement that in subsequent plan years, depending on the plan's available resources, this benefit level may be increased or decreased but not below the level guaranteed by PBGC, and that the participant or beneficiary will be notified in advance of the new benefit level if it is less than the participant's full nonforfeitable benefit under the plan.

(5) The amount of the participant's or beneficiary's monthly nonforfeitable benefit under the plan.

(6) The amount of the participant's or beneficiary's monthly benefit that is guaranteed by PBGC.

(7) The name, address, and telephone number of the plan administrator or other person designated by the plan sponsor to answer inquiries concerning benefits.

■ 31. In § 4281.47:

■ a. Amend paragraph (a) by:

■ i. In the first sentence, removing ''plan sponsor determines'' and adding in its place ''plan sponsor of a plan determines'' and removing ''shall apply to the PBGC'' and adding in its place ''must apply to PBGC'';

■ ii. In the second sentence, removing ''shall'' and adding in its place ''must'' and removing ''prescribed in paragraph (b) of this section'' and adding in its place ''specified under paragraph (b) of this section and must contain the information under paragraph (c) of this section''; and

■ iii. Removing the third and fourth sentences;

■ b. Revise paragraphs (b) and (c); and

■ c. Remove paragraphs (d) and (e).

The revisions read as follows:

§ 4281.47 Application for financial assistance.

* * * * *

(b) *When, how, and where to apply*—(1) *Initial application.* Except as provided in the next sentence, a plan sponsor must apply for financial assistance no later than 90 days before the first day of the month for which the plan sponsor has determined the resource benefit level will be below the level of guaranteed benefits. If a plan sponsor cannot practicably apply for financial assistance by the date in the preceding sentence, the application must be made as soon as practicable after the plan sponsor has made the determination in the preceding sentence.

(2) *Recurring application.* A plan sponsor must apply for financial assistance as soon as practicable after the plan sponsor determines that the plan will be unable to pay guaranteed benefits when due for a month.

(3) *How and where to apply.* Application to PBGC for financial assistance must be made in accordance with the rules in subpart A of part 4000 of this chapter. See § 4000.4 of this chapter for information on where to apply.

(c) *Contents of application*—(1) *Initial application.* A plan sponsor applying for financial assistance because the plan's resource benefit level is below the level of guaranteed benefits must file an application that includes the information specified in the instructions for an application for initial financial assistance on PBGC's website (*www.pbgc.gov*).

(2) *Recurring application.* A plan sponsor applying for financial assistance because the plan is unable to pay guaranteed benefits for any month must file an application that includes the information specified in the instructions for an application for recurring financial assistance on PBGC's website (*www.pbgc.gov*).

(3) *Additional information.* PBGC may request any additional information that it needs to calculate or verify the amount of financial assistance necessary as part of the conditions of granting financial assistance pursuant to section 4261 of ERISA.

Issued in Washington, DC.

William Reeder,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2019–08977 Filed 5–1–19; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2019–0014]

RIN 1625–AA08

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

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending and updating its special local regulations relating to recurring marine parades, regattas, and other events that take place in the Coast Guard Sector Ohio Valley area of responsibility (AOR). This rule informs the public of regularly scheduled events that require additional safety measures through the establishing of a special local regulation. Through this rulemaking the current list of recurring special local regulations is updated with revisions, additional events, and removal of events that no longer take place in Sector Ohio Valley's AOR. When these special local regulations are enforced, certain restrictions are placed on marine traffic in specified areas.

DATES: This rule is effective May 2, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0014 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 Riley Jackson, Sector Ohio Valley, U.S. Coast Guard; telephone (502) 779–5347, email *Riley.S.Jackson@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
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Captain of the Port Sector Ohio Valley (COTP) is establishing, amending, and updating its current list

of recurring special local regulations codified under 33 CFR 100.801 in Table no. 1, for the COTP Ohio Valley zone.

On March 28, 2019, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Sector Ohio Valley Annual and Recurring Special Local Regulations Update (84 FR 11688). During the comment period that ended April 12, 2019, zero comments were received.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is necessary to respond to the potential safety hazards associated with these marine events.

III. Legal Authority and Need for Rule

The Coast Guard's authority for establishing a special local regulation is contained at 33 U.S.C. 1233. The Coast Guard is amending and updating the special local regulations under 33 CFR part 100 to include the most up to date list of recurring special local regulations for events held on or around navigable waters within the Sector Ohio Valley AOR. These events include marine parades, boat races, swim events, and others. The current list under 33 CFR 100.801 requires amending to provide new information on existing special local regulations, include new special local regulations expected to recur annually or biannually, and to remove special local regulations that are no longer required. Issuing individual regulations for each new special local regulation, amendment, or removal of an existing special local regulation creates unnecessary administrative costs and burdens. This rulemaking reduces administrative overhead and provides the public with notice through publication in the **Federal Register** of the upcoming recurring special local regulations.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received zero comments on our NPRM published March 28, 2019. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

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.

The Coast Guard expects the economic impact of this rule to be minimal, and therefore a full regulatory evaluation is unnecessary. This rule establishes special local regulations limiting access to certain areas under 33 CFR 100 within Sector Ohio Valley's AOR. The effect of this rulemaking will not be significant because these special local regulations are limited in scope and duration. Deviation from the special local regulations established through this proposed rulemaking may be requested from the appropriate COTP and requests will be considered on a case-by-case basis. Broadcast Notices to Mariners and Local Notices to Mariners will inform the community of these special local regulations so that they may plan accordingly for these short restrictions on transit. Vessel traffic may request permission from the COTP Ohio Valley or a designated representative to enter the restricted areas.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the 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.

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the special local regulation areas during periods of enforcement. The special local regulations will not have a significant economic impact on a substantial number of small entities because they are limited in scope and will be in effect for short periods of time. Before the enforcement period, the Coast Guard COTP will issue maritime advisories widely available to waterway users. Deviation from the special local regulations established through this rulemaking may be requested from the appropriate COTP and requests will be considered on a case-by-case basis.

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 Order13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of special local regulations related to marine event permits for marine parades, regattas, and other marine events. It is categorically excluded from further review under paragraph L61 of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated in the **ADDRESSES** section of this preamble.

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, and Waterways.

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

PART 100— SAFETY OF LIFE ON NAVIGABLE WATERWAYS

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

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

■ 2. Amend § 100.801 by revising table 1 to read as follows:

§ 100.801 Annual Marine Events in Sector Ohio Valley's AOR.

* * * * *

TABLE 1 TO § 100.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING MARINE EVENTS

Date	Event/sponsor	Ohio valley location	Regulated area
1. 3 days—Second or third weekend in March.	Oak Ridge Rowing Association/Cardinal Invitational.	Oak Ridge, TN	Clinch River, Mile 48.5–52.0 (Tennessee).
2. 1 day—Third weekend in March	Vanderbilt Rowing/Vanderbilt Invite	Nashville, TN	Cumberland River, Mile 188.0–192.7 (Tennessee).
3. 2 days—Fourth weekend in March	Oak Ridge Rowing Association/Atomic City Turn and Burn.	Oak Ridge, TN	Clinch River, Mile 48.5–52.0 (Tennessee).
4. 1 day—One weekend in April	Lindamood Cup	Marietta, OH	Muskingum River, Mile 0.5–1.5 (Ohio).
5. 3 days—Third weekend in April	Oak Ridge Rowing Association/SIRA Regatta.	Oak Ridge, TN	Clinch River, Mile 48.5–52.0 (Tennessee).
6. 2 days—Third Friday and Saturday in April.	Thunder Over Louisville	Louisville, KY	Ohio River, Mile 597.0–604.0 (Kentucky).
7. 1 day—During the last week of April or first week of May.	Great Steamboat Race	Louisville, KY	Ohio River, Mile 595.0–605.3 (Kentucky).
8. 3 days—Fourth weekend in April	Oak Ridge Rowing Association/Dogwood Junior Regatta.	Oak Ridge, TN	Clinch River, Mile 48.5–52.0 (Tennessee).
9. 3 days—Second weekend in May	Vanderbilt Rowing/ACRA Henley	Nashville, TN	Cumberland River, Mile 188.0–194.0 (Tennessee).
10. 3 days—Second weekend in May	Oak Ridge Rowing Association/Big 12 Championships.	Oak Ridge, TN	Clinch River, Mile 48.5–52.0 (Tennessee).
11. 3 days—Third weekend in May	Oak Ridge Rowing Association/Dogwood Masters.	Oak Ridge, TN	Clinch River, Mile 48.5–52.0 (Tennessee).
12. 1 day—Third weekend in May	World Triathlon Corporation/IRONMAN 70.3	Chattanooga, TN	Tennessee River, Mile 462.7–467.5 (Tennessee).
13. 1 day—During the last weekend in May or on Memorial Day.	Mayor's Hike, Bike and Paddle	Louisville, KY	Ohio River, Mile 601.0–604.5 (Kentucky).
14. 2 days—Last weekend in May or first weekend in June.	Visit Knoxville/Racing on the Tennessee	Knoxville, TN	Tennessee River, Mile 647.0–648.0 (Tennessee).
15. 3 days—First weekend in June	Outdoor Chattanooga/Chattanooga Swim Festival.	Chattanooga, TN	Tennessee River, Mile 454.0–468.0 (Tennessee).
16. 2 days—First weekend of June	Thunder on the Bay/KDBA	Pisgah Bay, KY	Tennessee River, Mile 30.0 (Kentucky).
17. 1 day—First weekend in June	Visit Knoxville/Knoxville Powerboat Classic	Knoxville, TN	Tennessee River, Mile 646.4–649.0 (Tennessee).
18. 1 day—One weekend in June	Tri-Louisville	Louisville, KY	Ohio River, Mile 600.5–604.0 (Kentucky).
19. 2 days—One weekend in June	New Martinsville Vintage Regatta	New Martinsville,WV	Ohio River Mile 127.5–128.5 (West Virginia).
20. 3 days—One of the last three weekends in June.	Lawrenceburg Regatta/Whiskey City Regatta.	Lawrenceburg, IN	Ohio River, Mile 491.0–497.0 (Indiana).
21. 3 days—One of the last three weekends in June.	Hadi Shrine/Evansville Shriners Festival	Evansville, IN	Ohio River, Mile 790.0–796.0 (Indiana).
22. 3 days—Third weekend in June	TM Thunder LLC/Thunder on the Cumberland.	Nashville, TN	Cumberland River, Mile 189.6–192.3 (Tennessee).

TABLE 1 TO § 100.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING MARINE EVENTS—Continued

Date	Event/sponsor	Ohio valley location	Regulated area
23. 1 day—Third or fourth weekend in June	Greater Morgantown Convention and Visitors Bureau/Mountaineer Triathlon.	Morgantown, WV	Monongahela River, Mile 101.0–102.0 (West Virginia).
24. 1 day—Fourth weekend in June	Team Magic/Chattanooga Waterfront Triathlon.	Chattanooga, TN	Tennessee River, Mile 462.7–466.0 (Tennessee).
25. 3 days—The last weekend in June or one of the first two weekends in July.	Madison Regatta	Madison, IN	Ohio River, Mile 554.0–561.0 (Indiana).
26. 1 day—During the first week of July	Evansville Freedom Celebration/4th of July Freedom Celebration.	Evansville, IN	Ohio River, Mile 790.0–797.0 (Indiana).
27. First weekend in July	Eddyville Creek Marina/Thunder Over Eddy Bay.	Eddyville, KY	Cumberland River, Mile 46.0–47.0 (Kentucky).
28. 2 days—One of the first two weekends in July.	Thunder on the Bay/KDBA	Pisgah Bay, KY	Tennessee River, Mile 30.0 (Kentucky).
29. 1 day—Second weekend in July	Bradley Dean/Renaissance Man Triathlon	Florence, AL	Tennessee River, Mile 254.0–258.0 (Alabama).
30. 1 day—Third or fourth Sunday of July	Tucson Racing/Cincinnati Triathlon	Cincinnati, OH	Ohio River, Mile 468.3–471.2 (Ohio).
31. 2 days—One of the last three weekends in July.	Dare to Care/KFC Mayor's Cup Paddle Sports Races/Voyageur Canoe World Championships.	Louisville, KY	Ohio River, Mile 600.0–605.0 (Kentucky).
32. 2 days—Last two weeks in July or first three weeks of August.	Friends of the Riverfront Inc./Pittsburgh Triathlon and Adventure Races.	Pittsburgh, PA	Allegheny River, Mile 0.0–1.5 (Pennsylvania).
33. 1 day—Fourth weekend in July	Team Magic/Music City Triathlon	Nashville, TN	Cumberland River, Mile 189.7–192.3 (Tennessee).
34. 2 days—One weekend in July	Huntington Classic Regatta	Huntington, WV	Ohio River, Mile 307.3–309.3 (West Virginia).
35. 2 days—One weekend in July	Marietta Riverfront Roar Regatta	Marietta, OH	Ohio River, Mile 171.6–172.6 (Ohio).
36. 1 day—Last weekend in July or first weekend in August.	HealthyTriState.org/St. Marys Tri State Kayathalon.	Huntington, WV	Ohio River, Mile 305.1–308.3 (West Virginia).
37. 1 day—first Sunday in August	Above the Fold Events/Riverbluff Triathlon	Ashland City, TN	Cumberland River, Mile 157.0–159.5 (Tennessee).
38. 3 days—First week of August	EQT Pittsburgh Three Rivers Regatta	Pittsburgh, PA	Allegheny River mile 0.0–1.0, Ohio River mile 0.0–0.8, Monongahela River mile 0.5 (Pennsylvania).
39. 2 days—First weekend of August	Thunder on the Bay/KDBA	Pisgah Bay, KY	Tennessee River, Mile 30.0 (Kentucky).
40. 1 day—First or second weekend in August.	Riverbluff Triathlon	Ashland City, TN	Cumberland River, Mile 157.0–159.0 (Tennessee).
41. 1 day—One of the first two weekends in August.	Green Umbrella/Ohio River Paddlefest	Cincinnati, OH	Ohio River, Mile 458.5–476.4 (Ohio and Kentucky).
42. 2 days—Third full weekend (Saturday and Sunday) in August.	Ohio County Tourism/Rising Sun Boat Races.	Rising Sun, IN	Ohio River, Mile 504.0–508.0 (Indiana and Kentucky).
43. 3 days—Second or Third weekend in August.	Kittanning Riverbration Boat Races	Kittanning, PA	Allegheny River mile 42.0–46.0 (Pennsylvania).
44. 3 days—One of the last two weekends in August.	Thunder on the Green	Livermore, KY	Green River, Mile 69.0–72.5 (Kentucky).
45. 1 day—Fourth weekend in August	Team Rocket Tri-Club/Rocketman Triathlon	Huntsville, AL	Tennessee River, Mile 332.2–335.5 (Alabama).
46. 1 day—Last weekend in August	Tennessee Clean Water Network/Downtown Dragon Boat Races.	Knoxville, TN	Tennessee River, Mile 646.3–648.7 (Tennessee).
47. 3 days—One weekend in August	Pro Water Cross Championships	Charleston, WV	Kanawha River, Mile 56.7–57.6 (West Virginia).
48. 2 days—One weekend in August	POWERBOAT NATIONALS—Ravenswood Regatta.	Ravenswood, WV	Ohio River, Mile 220.5–221.5 (West Virginia).
49. 2 days—One weekend in August	Powerboat Nationals-Parkersburg Regatta/Parkersburg Homecoming.	Parkersburg, WV	Ohio River Mile 183.5–285.5 (West Virginia).
50. 1 day—One weekend in August	YMCA River Swim	Charleston, WV	Kanawha River, Mile 58.3–61.8 (West Virginia).
51. 3 days—One weekend in August	Grand Prix of Louisville	Louisville, KY	Ohio River, Mile 601.0–605.0 (Kentucky).
52. 3 days—One weekend in August	Evansville HydroFest	Evansville, IN	Ohio River, Mile 790.5–794.0 (Indiana).
53. 1 day—First or second weekend of September.	SUP3Rivers The Southside Outside	Pittsburgh, PA	Monongahela River mile 0.0–3.09 Allegheny River mile 0.0–0.6 (Pennsylvania).
54. 1 day—First weekend in September or on Labor Day.	Mayor's Hike, Bike and Paddle	Louisville, KY	Ohio River, Mile 601.0–610.0 (Kentucky).
55. 2 days—Sunday before Labor Day and Labor Day.	Cincinnati Bell, WEBN, and Proctor and Gamble/Riverfest.	Cincinnati, OH	Ohio River, Mile 463.0–477.0 (Kentucky and Ohio) and Licking River Mile 0.0–3.0 (Kentucky).
56. 2 days—Labor Day weekend	Wheeling Vintage Race Boat Association Ohio/Wheeling Vintage Regatta.	Wheeling, WV	Ohio River, Mile 90.4–91.5 (West Virginia).
57. 2 days—One of the first three weekends in September.	Louisville Dragon Boat Festival	Louisville, KY	Ohio River, Mile 602.0–604.5 (Kentucky).
58. 1 day—One of the first three weekends in September.	Cumberland River Compact/Cumberland River Dragon Boat Festival.	Nashville, TN	Cumberland River, Mile 189.7–192.1 (Tennessee).
59. 2 days—One of the first three weekends in September.	State Dock/Cumberland Poker Run	Jamestown, KY	Lake Cumberland (Kentucky).
60. 3 days—One of the first three weekends in September.	Fleur de Lis Regatta	Louisville, KY	Ohio River, Mile 600.0–605.0 (Kentucky).
61. 1 day—Second weekend in September	City of Clarksville/Clarksville Riverfest Cardboard Boat Regatta.	Clarksville, TN	Cumberland River, Mile 125.0–126.0 (Tennessee).
62. 1 day—One Sunday in September	Ohio River Sternwheel Festival Committee Sternwheel race reenactment.	Marietta, OH	Ohio River, Mile 170.5–172.5 (Ohio).
63. 1 Day—One weekend in September	Parkesburg Paddle Fest	Parkersburg, WV	Ohio River, Mile 184.3–188 (West Virginia).
64. 2 days—One of the last three weekends in September.	Madison Vintage Thunder	Madison, IN	Ohio River, Mile 556.5–559.5 (Indiana).

TABLE 1 TO § 100.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING MARINE EVENTS—Continued

Date	Event/sponsor	Ohio valley location	Regulated area
65. 1 day—Third Sunday in September	Team Rocket Tri Club/Swim Hobbs Island	Huntsville, AL	Tennessee River, Mile 332.3–338.0 (Alabama).
66. 1 day—Fourth or fifth weekend in September.	Knoxville Open Water Swimmers/Bridges to Bluffs.	Knoxville, TN	Tennessee River, Mile 641.0–648.0 (Tennessee).
67. 1 day—Fourth or fifth Sunday in September.	Green Umbrella/Great Ohio River Swim	Cincinnati, OH	Ohio River, Mile 468.8–471.2 (Ohio and Kentucky).
68. 1 day—One of the last two weekends in September.	Ohio River Open Water Swim	Prospect, KY	Ohio River, Mile 587.0–591.0 (Kentucky).
69. 2 days—One of the last three weekends in September or the first weekend in October.	Captain Quarters Regatta	Louisville, KY	Ohio River, Mile 594.0–598.0 (Kentucky).
70. 3 days—One of the last three weekends in September or one of the first two weekends in October.	Owensboro Air Show	Owensboro, KY	Ohio River, Mile 754.0–760.0 (Kentucky).
71. 1 day—Last weekend in September	World Triathlon Corporation/IRONMAN Chattanooga.	Chattanooga, TN	Tennessee River, Mile 462.7–467.5 (Tennessee).
72. 3 days—Last weekend of September and/or first weekend in October.	New Martinsville Records and Regatta Challenge Committee.	New Martinsville, WV	Ohio River, Mile 128–129 (West Virginia).
73. 2 days—First weekend of October	Three Rivers Rowing Association/Head of the Ohio Regatta.	Pittsburgh, PA	Allegheny River mile 0.0–5.0 (Pennsylvania).
74. 1 day—First or second weekend in October.	Lookout Rowing Club/Chattanooga Head Race.	Chattanooga, TN	Tennessee River, Mile 463.0–468.0 (Tennessee).
75. 3 days—First or Second weekend in October.	Vanderbilt Rowing/Music City Head Race	Nashville, TN	Cumberland River, Mile 189.5–196.0 (Tennessee).
76. 2 days—One of the first three weekends in October.	Norton Healthcare/Ironman Triathlon	Louisville, KY	Ohio River, Mile 600.5–605.5 (Kentucky).
77. 3 days—First weekend in November	Atlanta Rowing Club/Head of the Hooch Rowing Regatta.	Chattanooga, TN	Tennessee River, Mile 463.0–468.0 (Tennessee).
78. 1 day—One weekend in November or December.	Charleston Lighted Boat Parade	Charleston, WV	Kanawha River, Mile 54.3–60.3 (West Virginia).

* * * * *

Dated: April 29, 2019.

M.A. Wike,

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

[FR Doc. 2019–08986 Filed 5–1–19; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 111

Forms of Identification

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is amending *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) for clarity and consistency in the standards regarding forms of identification.

DATES: *Effective:* June 23, 2019.

FOR FURTHER INFORMATION CONTACT: Karen Key at (202) 268–7492, Catherine Knox at (202) 268–5636, or Garry Rodriguez at (202) 268–7281.

SUPPLEMENTARY INFORMATION: The Postal Service published a notice of proposed rulemaking on March 1, 2019, (84 FR 7005–7010) to amend the DMM in various sections for clarity and consistency in the standards regarding forms of identification.

The Postal Service received 4 formal responses to the proposed rule. Two responses were in agreement with the revisions to provide clarity and consistency regarding forms of identification.

Two responses questioned the proposal to eliminate university identification cards as a form of acceptable photo identification.

Response: The Postal Service has reconsidered its position and will allow U.S. university identification cards as a form of acceptable photo identification for certain retail products and services. Additions to the Proposed Rule are included below in section 608.10.3 and Exhibit 608.10.3.

As discussed in the Proposed Rule, the Postal Service is adding a new section 608.10.0, *Forms of Identification.* This new section will act as the primary source for consistent standards on forms of acceptable and unacceptable identification. DMM section 608.10.0 will include subsections that: (1) Provide a table of the products and services that require forms of acceptable identification and the number of forms (primary and secondary) required, (2) provide a description of ''primary'' forms of acceptable identification and include a table of which ''primary'' forms are acceptable for each product and service, (3) provide a description of ''secondary'' forms of acceptable identification, and (4) provide examples of forms of unacceptable identification.

Changes to the ''primary'' forms of acceptable identification will also specify that some forms of foreign identification are accepted, including for establishing Post Office Box service.

The Postal Service is also amending the applicable product and service sections to point to new section 608.10.0. This will remove inconsistent and redundant text from the DMM. This includes amending current section 507.2.1.4a to expressly require a ''primary'' form of acceptable identification under 608.10.3 when presenting Form 3575, *Mail Forwarding Change of Address Order,* at a Post Office. Other than requiring a ''primary'' form of acceptable identification when Form 3575 is presented at a Post Office, the filing methods for a change-of-address will remain the same (*i.e.,* mail, presenting at a Post Office, or using internet Change of Address (ICOA) at *https://moversguide.usps.com*). The Postal Service will also update Form 3575 to reflect this requirement.

In addition, the Postal Service will update *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM®) and Publication 52, *Hazardous, Restricted, and Perishable Mail,* under separate cover.

We believe these revisions will ensure clarity and consistency enabling the Postal Service to provide a superb customer experience from sender to receiver.

The Postal Service adopts the following changes to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM),

incorporated by reference in the *Code of Federal Regulations.* See 39 CFR 111.1.

Accordingly, 39 CFR part 111 is amended as follows:

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

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

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

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

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

* * * * *

500 Additional Mailing Services

503 Extra Services

* * * * *

8.0 USPS Signature Services

8.1 Basic Standards

8.1.1 Description

* * * USPS Signature Services are available as follows:

* * * * *

[Revise the second sentence in the introductory text of item c to read as follows:]

c. * * * Prior to delivery, the recipient must provide a primary form of acceptable identification under 608.10.3. * * *

* * * * *

9.0 Collect on Delivery (COD)

9.1 Basic Standards

9.1.1 Description

[Revise the fourth sentence in 9.1.1 to read as follows:]

* * * The recipient has the option to pay the COD charges (with a single form of payment) by cash, or a personal check or money order made payable to the mailer (accepted by the USPS employee upon the recipient's presentation of a primary form of acceptable identification under 608.10.3). * * *

* * * * *

505 Return Services

1.0 Business Reply Mail (BRM)

* * * * *

1.2 Permits

* * * * *

1.2.2 Application Process

[Revise the text of 1.2.2 by adding a new second sentence to read as follows:]

* * * Customers must provide a primary and secondary form of acceptable identification under 608.10.0 with the completed Form 3615. * * *

* * * * *

3.0 Merchandise Return Service (MRS)

* * * * *

3.2 Basic Standards

* * * * *

3.2.6 Application Process

[Revise the text of 3.2.6 by adding a new second sentence to read as follows:]

* * * Customers must provide a primary and secondary form of acceptable identification under 608.10.0 with the completed Form 3615. * * *

* * * * *

4.0 Parcel Return Service

* * * * *

4.2 Basic Standards

* * * * *

4.2.5 Approval

The manager, Business Mailer Support reviews each request and proceeds as follows:

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

a. If the applicant meets the criteria, the manager, Business Mailer Support approves the letter of request and sends an authorization letter outlining the terms and conditions for the program. PRS permit holders must submit the authorization letter and Form 3801, *Standing Delivery Order,* to each applicable facility. A primary form of acceptable identification under 608.10.3 is required before each pickup.

* * * * *

507 Mailer Services

* * * * *

2.0 Forwarding

2.1 Change-of-Address Order

* * * * *

2.1.4 Methods of Filing

Customers may use one of the following methods to file a change-of-address with the Post Office:

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

a. Mail or present Form 3575 to any Post Office, or as otherwise directed by the Postal Service. A customer must provide a primary form of acceptable identification under 608.10.3 when Form 3575 is presented at the Post Office.

* * * * *

3.0 Hold for Pickup

* * * * *

3.2 Basic Information

3.2.1 Description

[Revise the text of 3.2.1 by adding a new second sentence to read as follows:]

* * * The addressee or designee must provide a primary form of acceptable identification under 608.10.3. * * *

* * * * *

508 Recipient Services

1.0 Recipient Options

1.1 Basic Recipient Concerns

* * * * *

1.1.5 Addressee Identification

[Revise the text of 1.1.5 to read as follows:]

If a person claiming to be the addressee of certain mail is unknown to the delivery employee, the mail may be withheld pending presentation of a primary form of acceptable identification of the claimant under 608.10.3 or suitable under 508.6 for general delivery.

* * * * *

1.1.7 Priority Mail Express and Accountable Mail

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

* * * * *

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

c. A primary form of acceptable identification under 608.10.3 may be required of the recipient before delivery of the mailpiece.

* * * * *

1.1.8 Additional Delivery Standards for Restricted Delivery

[Revise the introductory text of 1.1.8 to read as follows:]

In addition to the standards described under 1.1.7, mail marked ''Restricted Delivery'' is delivered only to the addressee or to the person authorized in writing as the addressee's agent (the USPS may require a primary form of acceptable identification under 608.10.3 from the addressee (or agent) to receive

the mail) and under the following conditions:

* * * * *

1.8 Commercial Mail Receiving Agencies

1.8.1 Procedures

The procedures for establishing a commercial mail receiving agency (CMRA) are as follows:

* * * * *

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

b. Each CMRA must register with the Post Office responsible for delivery. Any person who establishes, owns, or manages a CMRA must provide Form 1583–A, *Application to Act as a Commercial Mail Receiving Agency,* to the postmaster (or designee) responsible for the delivery address. The CMRA owner or manager must complete all entries and sign the Form 1583–A. The CMRA owner or manager must provide a primary and secondary form of acceptable identification under 608.10.0. It must contain sufficient information to confirm that the applicant is who he or she claims to be and is traceable to the bearer. The postmaster (or designee) may retain a photocopy of the acceptable identification for verification purposes and must list and record sufficient information to identify the two types of acceptable identification on Form 1583–A (block 10). Furnishing false information on the application or refusing to give required information is reason for denying the application. When any information required on Form 1583–A changes, the CMRA owner or manager must file a revised application (write ''revised'' on the form) with the postmaster.

* * * * *

1.8.2 Delivery to CMRA

Procedures for delivery to a CMRA are as follows:

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

a. Mail delivery to a CMRA requires that the CMRA owner or manager and each addressee complete and sign Form 1583, *Application for Delivery of Mail Through Agent.* Spouses may complete and sign one Form 1583. Each spouse must provide a primary and secondary form of acceptable identification under 608.10.0. If any information that is required on Form 1583 is different for either spouse it must be entered in the appropriate box. A parent or guardian may receive delivery of a minor's mail by listing the name(s) of each minor on Form 1583 (block 12). The CMRA owner or manager, authorized employee, or a notary public must witness the signature of the addressee. The addressee must complete all entries on Form 1583. The CMRA owner or manager must verify the documentation to confirm that the addressee resides or conducts business at the permanent address shown on Form 1583. The address is verified if there is no discrepancy between information on the application and the identification presented. If the information on the application does not match the identification, the applicant must substantiate to the CMRA that the applicant resides or conducts business at the address shown. A document from a governmental entity or recognized financial institution or a utility bill with the applicant's name and current permanent address may be used for such purpose. If the applicant is unable to substantiate the address, the CMRA must deny the application. Furnishing false information on the application or refusing to give required information is reason for withholding the addressee's mail from delivery to the agent and returning it to the sender. When any information required on Form 1583 changes, the addressee must file a revised application (write ''revised'' on the form) with the CMRA. The addressee must provide a primary and secondary form of acceptable identification under 608.10.0. It must contain sufficient information to confirm that the applicant is who he or she claims to be and is traceable to the bearer. The CMRA owner or manager may retain a photocopy of the identification for verification purposes. The CMRA owner or manager must list and record sufficient information to identify the primary and secondary forms of acceptable identification on Form 1583 (block 8) and write the complete CMRA delivery address used to deliver mail to the addressee on Form 1583 (block 3).

* * * * *

4.0 Post Office Box Service

* * * * *

4.2 Service

4.2.1 Application

[Revise the second sentence in the introductory text of 4.2.1 to read as follows:]

* * * When the application is presented, the applicants (including both spouses or any other individual listed except for minors) each must present two items of valid, current identification; one a primary form of acceptable identification under 608.10.3, and the other a secondary form of acceptable identification under 608.10.4 that must contain sufficient information to confirm the applicant's identity and be traceable to the bearer.

* * *

a. In all cases:

* * * * *

[Delete item a5 in its entirety.]

* * * * *

5.0 Caller Service

* * * * *

5.3 Service

5.3.1 Application

[Revise the text of 5.3.1 to read as follows:]

To reserve a caller number for future use or to apply for caller service, the applicant must complete all relevant spaces on Form 1093–C, *Application for Post Office Caller Service,* and submit it to any postal facility that provides retail service. The facility need not be the one where destination caller service is desired. An incomplete or falsified application is sufficient reason to deny or discontinue service. An application is not considered approved until the USPS verifies the applicant's identity. Primary and secondary forms of acceptable identification can be found under 608.10.0.

* * * * *

5.8 Accelerated Reply Mail (ARM)

* * * * *

5.8.8 Mailer Compliance

[Revise the second sentence of 5.8.8 to read as follows:]

* * * Besides completing Form 1093–C, an applicant for ARM must also complete Form 8061 and submit both forms to the facility where ARM service is desired.

5.8.9 USPS Actions

[Revise the text of 5.8.9 to read as follows:]

ARM service is not provided until the USPS verifies the applicant's primary and secondary forms of acceptable identification under 608.10.0, and service availability at the requested facility, and makes scheme preparations.

* * * * *

7.0 Premium Forwarding Services

* * * * *

7.2 Premium Forwarding Service Residential

* * * * *

7.2.4 Use

Participation in PFS-Residential is subject to the following additional standards:

[Revise item a by adding a new last sentence to read as follows:]

a. * * * Customers must provide a primary and secondary form of acceptable identification under 608.10.0 with the completed Form 8176.

* * * * *

8.0 Firm Holdout

* * * * *

8.2 Obtaining and Using Service

[Revise the text of 8.2 by adding a new third sentence to read as follows:]

* * * Each employee or authorized agent is required to provide a primary form of acceptable identification under 608.10.3. * * *

* * * * *

509 Other Services

* * * * *

3.0 Money Orders

* * * * *

3.2.2 Purchase Restrictions

A postal customer may buy multiple money orders at the same time, in the same or differing amounts, subject to these restrictions:

* * * * *

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

b. Any customer whose daily total of purchased money orders is $3,000 or more, regardless of the number of visits made by the customer to one or more postal facilities, must complete Form 8105–A, Funds Transaction Report (FTR), and show a primary form of acceptable identification under 608.10.3.

* * * * *

3.3 Cashing Money Orders

* * * * *

3.3.2 Redemption

[Revise the third sentence of 3.3.2 to read as follows:]

* * * Any customer whose daily total of cashed money orders exceeds $10,000.00, irrespective of the number of Post Offices visited to cash the money orders, must also complete Form 8105–A, Funds Transaction Report (FTR), and show a primary form of acceptable identification under 608.10.3.

3.3.3 Identification

[Revise the first sentence of 3.3.3 to read as follows:]

When presenting a money order for payment, the customer seeking payment must sign in the presence of a USPS employee; a primary form of acceptable identification under 608.10.3 can be required. * * *

* * * * *

600 Basic Standards for All Mailing Services

* * * * *

604 Postage Payment Methods and Refunds

* * * * *

3.0 Precanceled Stamps

* * * * *

3.2 Permit to Use Precanceled Stamps

3.2.1 Authorization to Use Precanceled Stamps

[Revise the text of 3.2.1 by adding a new second sentence to read as follows:]

* * * Customers must provide a primary and secondary form of acceptable identification under 608.10.0 with the completed Form 3615. * * *

* * * * *

5.0 Permit Imprint (Indicia)

5.1 General Standards

* * * * *

5.1.4 Permit and Application Information

[Revise the text of 5.1.4 by adding a new second sentence to read as follows:]

* * * Customers must provide a primary and secondary form of acceptable identification under 608.10.0 with the completed Form 3615. * * *

* * * * *

9.0 Exchanges and Refunds

9.1 Stamp Exchanges

* * * * *

9.1.4 Purchase Error

[Revise the last sentence of 9.1.4 to read as follows:]

* * * A customer exchanging $250 or more of such stock must provide a primary form of acceptable identification under 608.10.3, and must present the stock for exchange to the postal unit from which his or her mail is delivered.

* * * * *

608 Postal Information and Resources

* * * * *

[Add new section 608.10, Forms of Identification, to read as follows:]

608.10 Forms of Identification

10.1 General

This section describes the products and services that require forms of acceptable identification, the number of forms of acceptable identification (primary and secondary), the acceptable forms of primary and secondary identification, and forms of unacceptable identification as follows:

a. Section 10.2 provides a table of the products and services that require forms of acceptable identification and the number of forms (primary and secondary) required.

b. Section 10.3 provides a description of primary forms of acceptable identification and a table of which forms are acceptable for each product and service.

c. Section 10.4 provides a description of secondary forms of acceptable identification.

d. Section 10.5 provides examples of forms of unacceptable identification.

10.2 Products and Services Requiring Forms of Acceptable Identification

Certain products and services may require forms of acceptable identification in the application process, and/or receipt of an item. When identification is required, the identification presented must be current. Exhibit 10.2 provides a list of the products and services requiring forms of identification and the number of required forms of acceptable identification (primary and secondary).

EXHIBIT 10.2—PRODUCTS AND SERVICES REQUIRING FORMS OF ACCEPTABLE IDENTIFICATION

Products/services	Primary ID	Secondary ID
Caller Service	✓	✓
Certified Mail Services	✓	
Change-of-Address (COA)	✓	
Collect on Delivery (COD)	✓	
Commercial Mail Receiving Agency	✓	✓
Firm Holdout	✓	

EXHIBIT 10.2—PRODUCTS AND SERVICES REQUIRING FORMS OF ACCEPTABLE IDENTIFICATION—Continued

Products/services	Primary ID	Secondary ID
Hold For Pickup	✓	
Hold Mail	✓	
Insurance Services	✓	
Money Order	✓	
Parcel Return Service	✓	
P.O. Box	✓	✓
Premium Forwarding Service	✓	✓
Priority Mail Express	✓	
Registered Mail Services	✓	
Sure Money (DineroSeguro)	✓	
USPS Signature Services	✓	

10.3 Primary Forms of Acceptable Photo Identification

This section provides a description of the acceptable primary forms of photo identification which must include a clear photograph of the individual bearer. Exhibit 10.3 provides a table of the products and services that require a valid primary form of identification and which forms are acceptable for that product or service.

a. *U.S. Government I.D.*—U.S. Government I.D. may be federal, state, or tribal issued. A customer may use a state-issued driver's license or non-driver's identification card, U.S. Armed Forces card or Uniformed Service ID card, U.S. permanent resident or other identification card issued by U.S. Citizenship and Immigration Services, U.S. certificate of citizenship or naturalization, or an identification card issued by a federally or state recognized tribal nation (tribal identification card), as forms of acceptable photo identification.

b. *Passport*—A customer may use a U.S. passport, U.S. passport card, or foreign passport as forms of acceptable photo identification.

c. *Matricula Consular (Mexico)*—A customer may use a Matricula Consular card as a form of acceptable photo identification. A Matricula Consular card is an identification card issued by the Government of Mexico through its consulate offices to Mexican nationals residing outside of Mexico.

d. *NEXUS (Canada)*—A customer may use a NEXUS card as a form of acceptable photo identification. A NEXUS card used as a form of identification for money orders must contain an identification number. NEXUS is a joint Canada Border Services Agency and U.S. Customs and Border Protection operated trusted traveler and expedited border control program.

e. *Corporate Identification*—A customer may use a corporate identification card of a corporation located and organized in good standing in the United States as a form of acceptable photo identification for certain services, as specified in Exhibit 10.3.

f. *U.S. University Identification*—A customer may use a public or private U.S. university identification card as a form of acceptable photo identification for certain retail products and services as specified in Exhibit 10.3.

EXHIBIT 10.3—PRIMARY FORMS OF ACCEPTABLE PHOTO IDENTIFICATION FOR PRODUCTS AND SERVICES

Products/services	U.S. Gov't	U.S./foreign passport	Matricula Consular Mexico	NEXUS Canada	U.S. University	U.S. Corp.
Caller Service	✓	✓	✓	✓	✓	✓
Certified Mail Services	✓	✓	✓	✓	✓	
Change-of-Address (COA)	✓	✓	✓	✓	✓	
Collect on Delivery (COD)	✓	✓	✓	✓	✓	
Commercial Mail Receiving Agency	✓	✓	✓	✓	✓	
Firm Holdout	✓	✓	✓	✓		✓
Hold For Pickup	✓	✓	✓	✓	✓	
Hold Mail	✓	✓	✓	✓	✓	
Insured Mail Services	✓	✓	✓	✓	✓	
Money Order	✓	✓	✓	✓	✓	
Parcel Return Service	✓	✓	✓	✓		✓
P.O. Box	✓	✓	✓	✓	✓	✓
Premium Forwarding Service	✓	✓	✓	✓		
Priority Mail Express	✓	✓	✓	✓	✓	
Registered Mail Services	✓	✓	✓	✓	✓	
Sure Money (DineroSeguro)	✓	✓	✓	✓	✓	
USPS Signature Services	✓	✓	✓	✓	✓	

10.4 Secondary Forms of Acceptable Identification

As provided under 10.2, certain products and services require a secondary form of acceptable identification that is traceable to the bearer, in order to verify the validity of the address provided by the customer when applying or requesting those products and services. A customer may use an additional valid primary form of acceptable identification to meet the secondary form of acceptable identification requirement. A customer may also use a non-photo form of acceptable identification such as: A current lease, mortgage, or deed of trust; voter or vehicle registration card; home or vehicle insurance policy; utility bill; or Form I–94, *Arrival and Departure Record.*

10.5 Forms of Unacceptable Identification

As specified under 608.10.0, forms of acceptable identification provide proof of identity and validation of an address. Social Security cards, birth certificates, credit cards or other similar items are unacceptable as primary or secondary forms of identification.

* * * * *

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

Brittany M. Johnson,

Attorney, Federal Compliance.

[FR Doc. 2019–08991 Filed 5–1–19; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2018–0764; FRL–9993–02–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Allegheny County Reasonably Available Control Technology for the 2008 Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the Pennsylvania Department of Environmental Protection (PADEP) on behalf of the Allegheny County Health Department (ACHD) for the purpose of satisfying the volatile organic compound (VOC) reasonably available control technology (RACT) requirements for source categories covered by control technique guidelines (CTGs) under the 2008 8-hour ozone national ambient air quality standard (NAAQS). EPA is approving these revisions addressing the VOC CTG RACT requirements set forth by the CAA for the 2008 8-hour ozone NAAQS for Allegheny County in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on June 3, 2019.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2018–0764. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Megan Goold, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2027. Ms. Goold can also be reached via electronic mail at *goold.megan@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On February 13, 2019 (84 FR 3742), EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Pennsylvania. In the NPRM, EPA proposed approval of a SIP revision addressing the VOC CTG RACT requirements set forth by the CAA for the 2008 8-hour ozone NAAQS for Allegheny County (the 2018 VOC CTG RACT Submission for Allegheny County). The formal SIP revision was submitted by Pennsylvania on behalf of Allegheny County on July 24, 2018.

II. Summary of SIP Revision and EPA Analysis

On July 24, 2018, PADEP submitted a SIP revision for Allegheny County to address the VOC CTG RACT requirements set forth by the CAA for the 2008 8-hour ozone NAAQS. Specifically, the 2018 VOC CTG RACT Submission for Allegheny County includes: (1) A certification that for certain categories of sources, previously-adopted VOC RACT controls in the Allegheny County portion of Pennsylvania's SIP that were approved by EPA under the 1979 1-hour and 1997 8-hour ozone NAAQS continue to be based on the currently available technically and economically feasible controls, and continue to represent RACT for implementation of the 2008 8-hour ozone NAAQS; and (2) a negative declaration that certain CTG sources of VOC do not exist in Allegheny County, PA. This SIP revision does not cover non-CTG sources in Allegheny County. PADEP will address RACT for major sources of NO_X and for major non-CTG VOC sources for Allegheny County in another SIP submission.

Allegheny County's Regulations and Statutes, under Allegheny County Article XXI 2105.10, 2105.11, 2105.12, 2105.13, 2105.15, 2105.16, 2105.19, 2105.70, 2105.71, 2105.72., 2105.74, 2105.76, 2105.77, 2105.78, 2105.79, 2105.80, 2105.81, 2105.82, 2105.83, 2015.84, 2105.85, and 2105.86 contain the VOC CTG RACT controls that were implemented and approved into Pennsylvania's SIP under the 1-hour and 1997 8-hour ozone NAAQS. PADEP is certifying that these regulations, all previously approved by EPA into the SIP, continue to meet the RACT requirements for the 2008 8-hour ozone NAAQS for CTG-covered sources of VOCs in Allegheny County, PA. PADEP also submitted a negative declaration for the CTGs that have not been adopted because Allegheny County does not contain the affected source categories. More detailed information on these provisions as well as a detailed summary of EPA's review can be found in the Technical Support Document (TSD) for this action which is available on line at *https://www.regulations.gov,* Docket number EPA–R03–OAR–2018–0764.

An explanation of the Clean Air Act requirements, a detailed analysis of the revisions, and EPA's reasons for proposing approval were provided in the NPRM and will not be restated here. No public comments were received on the NPRM.

III. Final Action

EPA is approving Pennsylvania's 2018 VOC CTG RACT Submission for Allegheny County on the basis that it demonstrates that existing regulations in the Allegheny County portion of Pennsylvania's SIP represent RACT for the purposes of compliance with the 2008 8-hour ozone standard for all stationary sources of VOCs covered by a CTG issued prior to July 20, 2014.

IV. Statutory and Executive Order Reviews

A. General Requirements

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

those imposed by state law. For that reason, this action:

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 1, 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 approving the 2018 VOC CTG RACT Submission for Allegheny County may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 18, 2019.

Diana Esher,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by adding the entry ''2008 8-hour Ozone National Ambient Air Quality Standard Reasonably Available Control Technology Standard'' at the end of the table to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(e) * * *

(1) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
2008 8-hour Ozone National Ambient Air Quality Standard Reasonably Available Control Technology Standard.	Allegheny County	07/24/18	5/2/2019, [insert **Federal Register** citation].	This action pertains to sources covered by CTGs issued prior to July 20, 2014.

* * * * *

[FR Doc. 2019–08853 Filed 5–1–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2018–0513; FRL–9993–01–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Commercial Fuel Oil Sulfur Limits for Combustion Units in Allegheny County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania (Pennsylvania). The revision updates Allegheny County's portion of the Pennsylvania SIP by incorporating low sulfur fuel oil provisions. Implementation of these provisions will reduce the amount of sulfur in fuel oils used in combustion units in Allegheny County. EPA is approving this revision to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on June 3, 2019.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2018–0513. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Erin Trouba, Planning and Implementation Branch (3AD30), Air and Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2023. Ms. Trouba can also be reached via electronic mail at *trouba.erin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On February 12, 2019 (84 FR 3387), EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Pennsylvania. In the NPRM, EPA proposed to incorporate low sulfur fuel oil provisions for Allegheny County into the Pennsylvania SIP. These provisions will reduce the amount of sulfur in fuel oils used in combustion units in Allegheny County. The formal SIP revision was submitted by the Allegheny County Health Department (ACHD) through the Pennsylvania Department of Environmental Protection (PADEP) on May 8, 2018.

The SIP revision consists of an amendment to implement the use of low sulfur fuel oils used in combustion units in Allegheny County, adding sampling and testing methods, and amending associated definitions. The SIP revision submittal adds Sections 2104.10 (Commercial Fuel Oil) and 2107.16 (Sulfur in Fuel Oil) of Article XXI to the Pennsylvania SIP and amends, within the SIP, Section 2101.20 (Definitions) of Article XXI.

II. Summary of SIP Revision and EPA Analysis

Section 2104.10 implements low sulfur fuel oil provisions that will reduce the amount of sulfur in fuel oils that are offered for sale, delivered for use, exchanged in trade or permitted to use in Allegheny County, Pennsylvania. Section 2104.10(a) establishes maximum allowable sulfur content for commercial fuel oil, expressed as parts per million (ppm) by weight or percentage by weight, for number 2 and lighter distillate oil to 0.05 percent sulfur content by weight (500 ppm), number 4 residual oil to 0.25 percent sulfur content by weight (2,500 ppm), and 0.5 percent sulfur content by weight (5,000 ppm) for number 5 and number 6 and heavier commercial fuel oils by no later than July 1, 2016. Commercial fuel oil stored by the ultimate consumer in Allegheny County prior to the applicable compliance date may be used after the applicable compliance date if the fuel oil met the applicable maximum allowable sulfur content at the time it was stored. Section 2104.10(c) and (d) of Article XXI establish sampling, testing, recordkeeping, and reporting requirements. Definitions for terminology which relate to reporting and recordkeeping requirements were added and amended. Section 2107.16 of Article XXI establishes the sampling methods that must be used.

Other specific requirements of commercial fuel oil sulfur limits for combustion units in Allegheny County and the rationale for EPA's proposed action are explained in the NPRM and will not be restated here. No adverse public comments were received on the NPRM. One positive comment was received.

III. Final Action

EPA is approving Pennsylvania's May 8, 2018 SIP submittal regarding sulfur limits in fuel oil for combustion units in Allegheny County as a revision to the Pennsylvania SIP.

IV. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Allegheny County's rules regarding sulfur content in commercial fuel oils discussed in Sections I and II of this action. EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

V. Statutory and Executive Order Reviews

A. General Requirements

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735,

[1] 62 FR 27968 (May 22, 1997).

October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 1, 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 which limits the sulfur content in fuel oil used by combustion units in Allegheny County may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 18, 2019.

Diana Esher,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (c)(2) is amended by adding:

■ a. Under ''Part A—General'', a tenth entry for ''2101.20'';

■ b. Under ''Part D—Pollutant Emission Standards'', an entry for ''2104.10''; and

■ c. Under ''Part G—Methods'', an entry for ''2107.16''.

The additions read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(2) * * *

Article XX or XXI citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Part A—General				
*	*	*	*	*
2101.20	Definitions	12/08/2017	5/2/2019, [*Insert **Federal Register** citation*].	Revised and added definitions relating to sale and usage of commercial fuel oil.
*	*	*	*	*
Part D—Pollutant Emission Standards				
*	*	*	*	*
2104.10	Commercial Fuel Oil	12/08/2017	5/2/2019, [*Insert **Federal Register** citation*].	
*	*	*	*	*
Part G—Methods				

Article XX or XXI citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
*	*	*	* *	* *
2107.16	Sulfur in Fuel Oil	12/08/2017	5/2/2019, [*Insert* ***Federal Register*** *citation*].	
*	*	*	* *	* *

* * * * *

[FR Doc. 2019–08854 Filed 5–1–19; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 84, No. 85
Thursday, May 2, 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.

FEDERAL RESERVE SYSTEM

12 CFR Part 231

[Regulation EE; Docket No. R–1661]

RIN 7100–AF 48

Netting Eligibility for Financial Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board of Governors (Board) is seeking comment on a proposal to amend Regulation EE to include certain new entities in the definition of ''financial institution'' contained in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) so that they will be covered by FDICIA's netting provisions. The proposal would also clarify how the existing activities-based test in Regulation EE applies following a consolidation of legal entities.

DATES: Comments must be received on or before July 1, 2019.

ADDRESSES: When submitting comments, please consider submitting your comments by email or fax because paper mail in the Washington, DC area and at the Board may be subject to delay. You may submit comments, identified by Docket No. R–1661, RIN 7100–AF 48, by any of the following methods:

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

All public comments are available from the Board's website at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Evan Winerman, Senior Counsel (202–872–7578), Justyna Bolter, Attorney (202–452–2686), Legal Division. Users of Telecommunication Device for Deaf (TDD) only, call (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 401–407 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) [1] validate netting contracts among financial institutions. Parties to a netting contract agree that they will pay or receive the net, rather than the gross, payment due under the netting contract. FDICIA provides certainty that netting contracts will be enforced, even in the event of the insolvency of one of the parties. FDICIA's netting provisions were designed to promote efficiency and reduce systemic risk within the banking system and financial markets.[2] As market participants generally manage their counterparty risk by setting bilateral exposure limits vis-à-vis other market participants, FDICIA's netting protections allow market participants to rely on net exposure values, thereby enhancing market liquidity and reducing counterparty risk.

The netting provisions apply to bilateral netting contracts between two financial institutions and multilateral netting contracts among members of a clearing organization. FDICIA section 402(9) defines ''financial institution'' to include a depository institution, a securities broker or dealer, a futures commission merchant, or any other institution as determined by the Board. In Regulation EE, the Board broadened the definition of ''financial institution,'' consistent with FDICIA's purpose of enhancing efficiency and reducing systemic risk in the financial markets. In defining ''financial institution'' in Regulation EE, the Board intended to include financial market participants that regularly enter into financial contracts on both sides of a financial market, where the failure of the participant could create systemic problems in the financial markets in terms of losses to counterparties or market confidence and liquidity.[3] Specifically, Regulation EE expands the FDICIA definition of ''financial institution''—and therefore expands FDICIA's netting protections—using an activities-based test that includes a qualitative component and a quantitative component. The qualitative component requires that the person ''represent[ ], orally or in writing, that it will engage in financial contracts as a counterparty on both sides of one or more financial markets.'' [4] A person that makes this representation demonstrates that it is willing to engage in transactions on both sides of the market and is, in effect, holding itself out as a market intermediary.[5] The quantitative component requires that the person have either (1) one or more financial contracts of a total gross dollar value of at least $1 billion in notional principal amount outstanding on any day during the previous 15-month period with counterparties that are not its affiliates or (2) total gross mark-to-market positions of at least $100 million (aggregated across counterparties) in one or more financial contracts on any day during the previous 15-month period with counterparties that are not its affiliates.[6] Since Regulation EE was finalized in 1994, the Board has made only a non-substantive amendment in 1996 to clarify that the representation of financial market intermediary status can be made orally or in writing.

Regulation EE does not expand the definition of ''financial institution'' by rule to include institutions or individuals who are end users and not market intermediaries. However, the

[1] Public Law 102–242; 105 Stat. 2236, 2372–3; 12 U.S.C. 4401–4407.

[2] *See* FDICIA section 401, 12 U.S.C. 4401.

[3] 58 FR 29149, 29150 (May 19, 1993).

[4] 12 CFR 231.3(a). Regulation EE generally defines the term ''financial contract'' by reference to the term ''qualified financial contract'' under section 11(e)(8)(D) of the Federal Deposit Insurance Act, 12 U.S.C. 1821(e)(8)(D). 12 CFR 231.2(c).

[5] 59 FR 4780, 4782 (Feb. 2, 1994).

[6] *Id.*

Board has issued a limited number of case-by-case ''financial institution'' determinations with respect to certain government-sponsored end users and members in a large-value fund transfer system.[7]

Certain payment, clearing, and settlement systems continue to rely on FDICIA's netting provisions to ensure that their netting agreements will be enforceable if a participant in the system becomes insolvent.[8] An organization that relies on the bilateral netting provisions of FDICIA section 403 would require that all of its members qualify as financial institutions under FDICIA's statutory definition or under Regulation EE. An organization that relies on the multilateral netting provisions of FDICIA section 404 would generally require that all of its members qualify as either (1) financial institutions under FDICIA's statutory definition or under Regulation EE or (2) clearing organizations as defined in FDICIA section 402(2).[9]

II. Description of Proposed Rule

The Board proposes to extend ''financial institution'' status for purposes of FDICIA's netting provisions to certain new categories of entities. The Board also proposes to clarify how the existing activities-based test in Regulation EE applies following a consolidation of legal entities.

A. Qualification as a Financial Institution Based on Type of Entity

Consistent with the purposes of FDICIA's netting provisions, the proposal would apply the netting benefits in Regulation EE to entities whose coverage would reduce systemic risk and increase efficiency in the financial markets. (The Board recognizes that some entities that would qualify as financial institutions under the proposal might already qualify as financial institutions under FDICIA's statutory definition or under the existing activities-based test in Regulation EE.)

When the Board promulgated Regulation EE in 1994, the Board chose not to adopt a test for expanding financial institution status based on an entity's regulatory status or charter category. The Board stated at the time that such a test would have been over-inclusive because it would have extended financial institution status to entities that (1) were not market intermediaries and (2) did not engage in a volume of transactions that could create systemic risk.[10] The Board also noted, when it proposed Regulation EE in 1993, that a test based on regulatory status or charter category would have been *under*-inclusive because it would have excluded ''major unregulated market participants, such as swap dealers . . . .''[11]

Since the Board promulgated Regulation EE in 1994, the domestic and global landscape for financial regulation has changed dramatically. For example, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),[12] signed into law on July 21, 2010, imposed or expanded federal supervision and regulation for multiple types of entities that serve as financial market intermediaries or are systemically important, including swap dealers, security-based swap dealers, nonbank financial companies that the Financial Stability Oversight Council (FSOC) has subjected to Board supervision and regulation, and FSOC-designated financial market utilities. In subjecting these entities to higher levels of regulation and supervision due to their activities, transaction volumes, and risks presented to the financial markets, Congress indicated the importance of the smooth functioning of these entities to the financial markets.

In keeping with FDICIA's goals of reducing systemic risk and increasing efficiency in the financial markets, the Board believes that the addition of certain categories of institutions to the definition of ''financial institution'' would benefit financial markets that continue to rely on FDICIA's netting provisions.

1. Swap Dealers and Security-Based Swap Dealers

As noted above, when the Board proposed Regulation EE in 1993, the Board recognized the important role that swap dealers played in the financial markets but stated that swap dealers were ''unregulated.''[13] Congress subsequently imposed extensive new requirements on swap dealers and security-based swap dealers. Specifically, Title VII of the Dodd-Frank Act imposes a variety of requirements on swap dealers and security-based swap dealers, including a requirement to register with the CFTC or the SEC, respectively, when they exceed a de minimis level of dealing activity.[14]

The requirements in Title VII of the Dodd-Frank Act recognize the important role that swap dealers and security-based swap dealers play as intermediaries in derivatives markets. Proposed § 231.3(d)(1) and (2) would clarify that swap dealers registered with the CFTC and security-based swap dealers registered with the SEC are financial institutions.

2. Major Swap Participants and Major Security-Based Swap Participants

Title VII of the Dodd-Frank Act not only imposes new requirements on swap dealers and security-based swap dealers, but also on major swap participants (MSPs) and major security-based swap participants (MSBSPs). MSPs and MSBSPs are, generally, entities that hold large derivatives positions but are not swap dealers or security-based swap dealers.[15] Like swap dealers and security-based swap dealers, MSPs and MSBSPs must, inter alia, register with the CFTC and SEC, respectively.[16] The requirements in Title VII of the Dodd-Frank Act recognize that, while MSPs and MSBSPs are not necessarily intermediaries, they may present an important source of risk in the derivatives markets. Proposed § 231.3(d)(1) and (2) would clarify that

[7] Pursuant to these case-by-case determinations, the Board has granted ''financial institution'' status to certain members of the CHIPS® funds-transfer system and to certain government-sponsored enterprises including Fannie Mae, Freddie Mac, Sallie Mae, the Farm Credit System Banks, and the Federal Home Loan Banks.

[8] The Board recognizes that certain financial institutions and clearing organizations may also rely on provisions of the Bankruptcy Code, the Federal Deposit Insurance Act, and other statutes to ensure the enforceability of netting agreements for particular financial contracts (*e.g.,* swap agreements and repurchase agreements) and master netting agreements for multiple types of financial contracts.

[9] FDICIA section 402(2) generally defines ''clearing organization'' to include entities that provide clearing, netting, and settlement services to their members and in which all members of the entity are themselves financial institutions or clearing organizations. However, certain entities qualify as clearing organizations under FDICIA section 402(2)—and are therefore eligible for the multilateral netting protections under FDICIA section 404—without regard to whether all of their members qualify as financial institutions or clearing organizations. Specifically, an entity automatically qualifies as a clearing organization if it is (1) registered with the Securities and Exchange Commission (SEC) as a clearing agency or has been exempted from registration by SEC order or (2) registered with the Commodity Futures Trading Commission (CFTC) as a derivatives clearing organization or has been exempted from registration by the CFTC.

[10] 59 FR 4780, 4783 (Feb. 2, 1994).

[11] 58 FR 29149, 29150 (May 19, 1993).

[12] Public Law 111–203, 124 Stat. 1376.

[13] 58 FR 29149, 29150 (May 19, 1993).

[14] *See* 7 U.S.C. 6s (swap dealer registration requirement) and 17 CFR 1.3 (swap dealer definition and de minimis thresholds); 15 U.S.C. 78o–10 (security-based swap dealer registration requirement) and 17 CFR 240.3a71–1 and 240.3a71–2 (security-based swap dealer definition and de minimis thresholds).

[15] *See* 7 U.S.C. 1a(33) (MSP definition) and 15 U.S.C. 78c(a)(67) (MSBSP definition).

[16] *See* 7 U.S.C. 6s (MSP registration requirement) and 15 U.S.C. 78o–10 (MSBSP registration requirement).

MSPs registered with the CFTC and MSBSPs registered with the SEC are financial institutions.

3. Nonbank Systemically Important Financial Institutions

Title I of the Dodd-Frank Act [17] extends Board supervision and regulation to certain nonbank financial companies that could pose a threat to financial stability.[18] Title I authorizes the FSOC to subject nonbank financial companies to supervision and regulation by the Board in order to address any potential risks that these companies pose to financial stability (such designated entities are referred to as ''nonbank systemically important financial institutions'' or ''nonbank SIFIs'').[19] In determining whether to designate an entity as a nonbank SIFI, the FSOC considers its leverage, off-balance-sheet exposures, interconnectedness with other entities, importance as a source of liquidity, source of credit, manner of asset management, asset mix, other regulatory oversight, amount and nature of financial assets, amount and types of liabilities, and other risk-related factors.[20]

FSOC designation of a nonbank SIFI indicates that the nonbank SIFI plays an important role in U.S. financial markets. Consistent with FDICIA's purpose of enhancing efficiency and reducing systemic risk in the financial markets, proposed § 231.3(d)(6) would define ''financial institution'' to include nonbank SIFIs.

4. Certain Financial Market Utilities

Financial market utilities (FMUs) are entities that manage or operate multilateral systems for the purpose of transferring, clearing or settling payments, securities, or other financial transactions among participants or between participants and the FMU itself.[21] FMUs include payment systems, central securities depositories (CSDs), securities settlement systems (SSSs), and central counterparties (CCPs). Since FDICIA was enacted in 1991, lawmakers and regulators around the world have increasingly recognized the importance of FMUs, which can serve a critical role in fostering financial stability but can also pose significant risks to the financial system.

a. Derivatives Clearing Organizations and Clearing Agencies

The Dodd-Frank Act and other post-FDICIA legislation demonstrate specific Congressional interest in derivatives clearing organizations (DCOs) and clearing agencies (CAs).[22] For example, the Commodity Futures Modernization Act of 2000 [23] amended the Commodity Exchange Act to create core principles with which a DCO must comply in order to be registered and to maintain registration as a DCO, while Title VII of the Dodd-Frank Act amended the Commodity Exchange Act to provide explicitly that the CFTC can implement these core principles via rulemaking.[24] Similarly, Title VII of the Dodd-Frank Act amended the Securities Exchange Act to, inter alia, require the SEC to adopt rules governing CAs that clear security-based swaps.[25]

Under FDICIA section 402(2), DCOs and CAs are ''clearing organizations,'' and therefore their members are eligible for the multilateral netting protections under FDICIA section 404 without regard to whether all participants in a DCO or CA qualify as financial institutions or clearing organizations. However, DCOs and CAs do not themselves automatically qualify as ''financial institutions.'' Ensuring that DCOs and CAs are ''financial institutions'' would ensure that DCOs and CAs can participate in *other* FMUs that rely on the bilateral netting protections in FDICIA section 403, which would reduce systemic risk and increase efficiency in the financial markets.

Accordingly, proposed § 231.3(d)(3) would define ''financial institution'' to include DCOs that are registered with the CFTC or have been exempted from registration by the CFTC,[26] and proposed § 231.3(d)(4) would define ''financial institution'' to include CAs that are registered with the SEC or have been exempted from registration by the SEC.[27]

b. Designated Financial Market Utilities

Under Title VIII of the Dodd-Frank Act, the FSOC can designate FMUs as systemically important, after which such designated FMUs (DFMUs) become subject to an enhanced supervisory framework.[28] In determining whether to designate an entity as a DFMU, the FSOC considers the aggregate monetary value of its transactions, its aggregate exposure, interconnectedness with other entities, effect of its failure or disruption on the financial system and any other factors that the FSOC deems appropriate.[29] The FSOC has currently designated eight FMUs, including a U.S. dollar payment system,[30] a multi-currency foreign exchange settlement system,[31] a CSD/SSS,[32] and CCPs for securities and derivatives.[33] Ensuring that all DFMUs (not just those that are CAs or DCOs, which are captured in the discussion above) qualify as ''financial institutions'' would ensure that all DFMUs can participate in other FMUs that rely on FDICIA's netting protections, which would reduce systemic risk and increase efficiency in the financial markets.

Accordingly, proposed § 231.3(d)(5) would define ''financial institution'' to include DFMUs.

5. Foreign Banks

FDICIA section 402(9) defines the term ''financial institution'' to include ''a depository institution,'' and FDICIA section 402(6) defines ''depository institution'' to include ''a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978.'' The International Banking Act defines ''foreign bank'' broadly to encompass banking institutions organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands.[34]

The Board believes that FDICIA's statutory definitions of ''depository institution'' and ''financial institution'' extend to all foreign banks, including foreign banks that do not have a U.S. branch or agency. This view is consistent with the statutory language as well as the relevant legislative history.[35]

[17] 12 U.S.C. chapter 53, subchapter 1.

[18] 12 U.S.C. 5311(a)(4).

[19] 12 U.S.C. 5323.

[20] *Id.*

[21] 12 U.S.C. 5462.

[22] DCOs provide clearing services for CFTC-regulated derivatives, while CAs provide clearing services for securities. *See* 7 U.S.C. 1a(15) and 15 U.S.C. 78c(a)(23).

[23] Public Law 106–554, 114 Stat. 2763 (2000).

[24] *See* 7 U.S.C. 7a–1(c)(2).

[25] 15 U.S.C. 78q–1(j).

[26] *See* 7 U.S.C. 7a–1(a) and (h).

[27] *See* 15 U.S.C. 78q–1(b) and (k).

[28] *See* 12 U.S.C. 5461–5472.

[29] 12 U.S.C. 5463.

[30] The Clearing House Payment Company, L.L.C., on the basis of its role as operator of the Clearing House Interbank Payments System.

[31] CLS Bank International.

[32] The Depository Trust Company.

[33] Chicago Mercantile Exchange, Inc.; ICE Clear Credit L.L.C.; The Options Clearing Corporation; Fixed Income Clearing Corporation; and National Securities Clearing Corporation.

[34] 12 U.S.C. 3101(7).

[35] *See* H.R. Rep No. 109–31, at 126 (2005) (noting that expanding FDICIA's definition of ''financial institutions'' to include foreign banks would ''extend the protections of FDICIA to ensure that U.S. financial organizations participating in netting

Continued

Certain market participants have expressed concern that an alternative reading of the statute is possible and that a court might find that a foreign bank does not qualify as a ''depository institution''—and thus does not meet FDICIA's statutory definition of ''financial institution''—unless the foreign bank has a U.S. branch or agency. Proposed § 231.3(d)(7) would clarify that all foreign banks are financial institutions, including foreign banks that do not have a U.S. branch or agency and bridge banks that foreign authorities establish to facilitate the resolution of foreign banks.

6. Bridge Institutions

Under certain circumstances, governmental authorities can charter bridge institutions to facilitate the resolution of another legal entity, including a non-bank entity. For example, under Title II of the Dodd-Frank Act, the Federal Deposit Insurance Corporation (FDIC) can establish a ''bridge financial company'' when the FDIC acts as receiver for a nonbank ''covered financial company.'' [36] Title II allows a bridge financial company to, inter alia, assume liabilities of the covered financial company and purchase assets from the covered financial company.[37] Similarly, section 11(n) of the Federal Deposit Insurance Act allows the FDIC to establish a bridge bank or savings association to facilitate the resolution of a failed bank or savings association.[38] Foreign authorities can establish similar bridge institutions.[39]

The Board believes that any bridge institution, foreign or domestic, would require uninterrupted access to payment systems or clearing organizations, some of which might require participants to be financial institutions for purposes of FDICIA's netting provisions. A bridge bank or savings association that the FDIC establishes pursuant to section 11(n) of the Federal Deposit Insurance Act would qualify as a financial institution under FDICIA's statutory definition, which extends financial institution status to any ''depository institution.'' [40] The Board also believes that a foreign bridge bank would qualify as a financial institution under FDICIA's statutory definition, because FDICIA's statutory definitions of ''depository institution'' and ''financial institution'' extend to all foreign banks, including foreign bridge banks.[41]

Proposed § 231.3(d)(8) would ensure that all bridge institutions that are established to help resolve financial institutions—including bridge financial companies established by the FDIC and similar nonbank bridge institutions established under foreign law—can qualify as financial institutions. Proposed § 231.3(d)(8) would provide that ''[a] bridge institution established for the purpose of resolving a financial institution'' is itself a financial institution.[42] Proposed § 231.2(c) would define ''bridge institution'' as ''a legal entity that has been established by a governmental authority to take over, transfer, or continue operating critical functions and viable operations of an entity in resolution. A bridge institution could include a bridge depository institution or a bridge financial company organized by the Federal Deposit Insurance Corporation in accordance with 12 U.S.C. 1821(n) or 5390(h), respectively, or a similar entity organized under foreign law.''

7. Federal Reserve Banks

The Federal Reserve Banks participate in financial markets through various types of transactions, called ''open market operations,'' that are used to implement monetary policy.[43] In the event that a Federal Reserve Bank does not separately meet the quantitative test in Regulation EE, the Board believes that it should be clear that each Federal Reserve Bank is a ''financial institution'' and is able to benefit from the netting provisions of Regulation EE. Proposed § 231.3(d)(9) would ensure that the Federal Reserve Banks qualify as financial institutions.

8. Request for Comment

The Board requests comment on whether the entities described above should qualify as financial institutions. The Board also requests comment on whether other categories of entities should qualify as financial institutions.

In addition, the Board requests comment on whether it should include in the definition of financial institution an entity that is a qualifying central counterparty under 12 CFR 217.2. What entities might benefit from such inclusion?

B. Activities-Based Test

As noted above, the quantitative component of the activities-based test requires that a person have either (1) one or more financial contracts of a total gross dollar value of at least $1 billion in notional principal amount outstanding on any day during the previous 15-month period with counterparties that are not its affiliates or (2) total gross mark-to-market positions of at least $100 million (aggregated across counterparties) in one or more financial contracts on any day during the previous 15-month period with counterparties that are not its affiliates.[44] The Board proposes to add

agreements with foreign banks are covered by [FDICIA], thereby enhancing the safety and soundness of these arrangements'').

[36] 12 U.S.C. 5390(h).

[37] 12 U.S.C. 5390(h)(1)(b).

[38] 12 U.S.C. 1821(n).

[39] *See, e.g.,* Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council, 2014 OJ (L 173) 190, Article 40.

[40] The first prong of FDICIA's definition of ''depository institution'' includes a depository institution as defined in section 19(b)(1)(A) of the Federal Reserve Act (other than clause (vii)). The relevant section of the Federal Reserve Act states that the term ''depository institution'' includes, inter alia, any insured bank as defined in section 3 of the Federal Deposit Insurance Act and any savings association (as defined in section 3 of the Federal Deposit Insurance Act) which is an insured depository institution (as defined in such Act). Section 3(h) of the Federal Deposit Insurance Act in turn defines the term ''insured bank'' to mean any bank, the deposits of which are insured in accordance with the provisions of the Act, and section 3(c)(2) of the Federal Deposit Insurance Act defines ''insured depository institution'' to mean any bank or savings association, the deposits of which are insured by the Corporation pursuant to the Act. Section 11(n)(d) of the Federal Deposit Insurance Act states that a bridge depository institution shall be an insured depository institution from the time it is chartered as a national bank or Federal savings association. Accordingly, at the time the FDIC charters a bridge bank or savings association, the deposits of that bridge bank or savings association are insured by the FDIC, and the bridge bank or savings association therefore qualifies as (1) an insured bank and/or an insured depository institution under the Federal Deposit Insurance Act and (2) a depository institution under Federal Reserve Act section 19(b)(1)(A) and FDICIA section 402.

[41] As noted above, proposed § 231.3(d)(7) would codify the Board's existing view that all foreign banks are financial institutions, including foreign bridge banks.

[42] This provision would apply to a bridge institution established for the purpose of resolving an entity that either (1) meets FDICIA's statutory definition of financial institution or (2) qualifies as a financial institution under Regulation EE.

[43] *See* sections 12A and 14 of the Federal Reserve Act (allowing the Federal Open Market Committee to authorize the Federal Reserve Banks to engage in various types of open market operations).

[44] 12 CFR 231.3(a). The Bankruptcy Code includes a test for identifying ''financial participants'' that is substantively identical to the quantitative test in Regulation EE. 11 U.S.C. 101(22A). Under the Bankruptcy Code, financial participants that enter into certain types of financial contracts and master netting agreements for those financial contracts are exempt from provisions of the Bankruptcy Code that might otherwise delay or prevent netting related to those contracts. *See, e.g.,* 11 U.S.C. 362(b)(6), (7), (17), and (27) (specifying that the Bankruptcy Code's automatic stay does not prevent a financial participant from exercising a contractual right to, inter alia, ''offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection

language to clarify, consistent with its current understanding, that the ''previous 15-month period'' also includes the day on which the notional principal amount of $1 billion is met by adding the words ''at such time'' to proposed §§ 231.3(a)(1) and (a)(2).[45]

The Board also proposes to clarify how the existing activities-based test in Regulation EE applies following a consolidation of legal entities. The quantitative component of the activities-based test may not be clear if, for example, two or more entities consolidate and each of these entities did not, on its own, meet the quantitative thresholds described above. Accordingly, the Board is proposing to clarify that, upon the consolidation of two or more entities, the surviving entity may aggregate the total gross dollar value of notional principal amounts outstanding or the total gross mark-to-market positions of both entities on each calendar day during the previous 15-month period, and such total amounts would be used to determine whether the surviving entity meets the quantitative thresholds of the activities-based test.[46] Proposed § 231.3(b) would clarify that ''[a]fter two or more persons consolidate, such as through a merger or acquisition, the surviving person meets the quantitative thresholds . . . if, on the same, single calendar day during the previous 15-month period, the aggregate financial contracts of the consolidated persons would have met such quantitative thresholds.'' The Board requests comment on this proposed approach.

The Board also requests comment on whether it should make any other modifications to the existing activities-based test. The Board does not propose to make any other changes at this time.

IV. Regulatory Analysis

A. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR part 1320, Appendix A.1), the Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a valid Office of Management and Budget (OMB) control number. The Board reviewed the proposed rule under the authority delegated to the Board by the OMB and determined that it contains no collections of information under the PRA.[47] Accordingly, there is no paperwork burden associated with the rule.

B. Regulatory Flexibility Act

In accordance with section 4 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* the Board is publishing an initial regulatory flexibility analysis for the proposed rule. The RFA generally requires an agency to assess the impact a rule is expected to have on small entities. The RFA requires an agency either to provide a regulatory flexibility analysis or to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.

Two of the requirements of an initial regulatory flexibility analysis[48]—a description of the reasons why the action is being considered and a statement of the objectives of, and legal basis for, the proposed rule—are contained in the information above. There are no reporting provisions or relevant federal rules that duplicate, overlap, or conflict with the proposed rule.[49]

Another requirement for the initial regulatory flexibility analysis is a description of, and where feasible, an estimate of, the number of small entities to which the proposed rule will apply. The Small Business Administration (SBA) has adopted small entity size standards which generally provide that financial entities are ''small entities'' only if they have (1) at most, $38.5 million or less in annual receipts or (2) for depository institutions and credit card issuers, $550 million or less in assets.[50] The Board does not believe that the proposed rule would apply to any small entities. The proposed rule would extend ''financial institution'' status to swap dealers, security-based swap dealers, MSPs, MSBSPs, DCOs, clearing agencies, bridge institutions, and Federal Reserve Banks.[51] The Board has previously determined that DFMUs are not small entities;[52] the CFTC has previously determined that swap dealers, MSPs, and DCOs are not small entities;[53] and the SEC has previously determined that security-based swap dealers, MSBSPs, and clearing agencies are not small entities.[54] The Federal Reserve Banks are not small entities.[55]

Similarly, a bridge financial company would not be a small entity.[56] As noted above, under U.S. law, the FDIC can establish a bridge financial company when it acts as receiver for a failing financial company. In order for the FDIC to be appointed as receiver for a financial company, the Secretary of the Treasury must determine that, inter alia, ''the failure of the financial company and its resolution under otherwise applicable Federal or State law would have serious adverse effects on financial stability in the United States.''[57] The failure of a financial company that is a ''small entity'' would not affect financial

with'' certain types of financial contracts and master netting agreements for those financial contracts).

[45] This amendment would align Regulation EE with the Bankruptcy Code test for identifying ''financial participants'', which is substantively identical to the activities-based test in Regulation EE but includes the words ''at such time.'' 11 U.S.C. 101(22A).

[46] For example, if company A acquires company B and, on the same, single calendar day in the last fifteen months, company A and company B each had financial contracts of a total gross dollar value of $500 million in notional principal amount outstanding (equaling an aggregate notional principal amount of $1 billion outstanding on that day), company A would meet the quantitative test even if it does not currently have financial contracts of a total gross notional value of $1 billion. Similarly, if company A and company B each had, on the same, single calendar day in the last fifteen months, total gross mark-to-market positions of $50 million in one or more financial contracts (equaling an aggregate gross mark-to-market position of $100 million on such day), company A would meet the quantitative test even if it does not currently have financial contracts with a total gross mark-to-market positions of at least $100 million. Each of these qualifications under the quantitative test for surviving company A would last 15 months from the day on which the relevant quantitative threshold was reached, unless surviving company A subsequently independently meets the test.

[47] See 44 U.S.C. 3502(3).

[48] 5 U.S.C. 603(b).

[49] As noted above, certain entities and financial markets do not rely on FDICIA's netting provisions to ensure the enforceability of their netting agreements, but instead rely on provisions of the Bankruptcy Code, the Federal Deposit Insurance Act, and other statutes to ensure the enforceability of netting agreements for particular financial contracts (*e.g.,* swap agreements and repurchase agreements) and master netting agreements for multiple types of financial contracts.

[50] 13 CFR 121.201, sector 52 (SBA small entity size standards for finance and insurance entities).

[51] As explained above, the proposed rule would also codify the Board's existing view that foreign banks are financial institutions.

[52] 79 FR 65543, 65556 (Nov. 5, 2014).

[53] *See, e.g.,* 81 FR 80563, 80565 (Nov. 16, 2016); 76 FR 69334, 69428 (Nov. 8, 2011).

[54] *See, e.g.,* 81 FR 29959, 30142 (May 3, 2016); 81 FR 70744, 70784 (Oct. 13, 2016).

[55] None of the industry codes in the SBA's small entity size standards necessarily apply to the Federal Reserve Banks *per se,* but the SBA's size standards for commercial depository institutions are instructive. Generally, the SBA's size standards provide that depository institutions are small entities if they have $550 million or less in assets. 13 CFR 121.201, sector 52. Each of the Federal Reserve Banks holds significantly more than $550 million in assets. *See* the Statement of Condition of Each Federal Reserve Bank, *https://www.federalreserve.gov/releases/h41/current/h41.htm#h41tab10a.*

[56] A bridge depository institution might be a small entity, but this proposed rule would not affect the status of bridge depository institutions under FDICIA because (as noted above) such institutions qualify as ''financial institutions'' under FDICIA's statutory definition.

[57] 12 U.S.C. 5383(b)(2).

stability in the United States.[58] Accordingly, the FDIC would not act as receiver—and would not form a bridge financial company—for a small entity. It is therefore unlikely that a bridge financial company would be a small entity.

C. Plain Language

Section 722 of the Gramm-Leach Bliley Act requires the Board to use plain language in all proposed and final rules published after January 1, 2000. The Board invites your comments on how to make this proposed rule easier to understand. For example:

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

List of Subjects in 12 CFR Part 231

Banks, Banking, Financial institutions, Netting.

For the reasons set forth in the preamble, the Board proposes to amend Regulation EE, 12 CFR part 231, as follows:

PART 231—NETTING ELIGIBILITY FOR FINANCIAL INSTITUTIONS (REGULATION EE)

■ 1. The authority citation for Part 231 continues to read as follows:

Authority: 12 U.S.C. 4402(1)(B) and 4402(9).

■ 2. In § 231.2, redesignate paragraphs (c) through (f) as paragraphs (d) through (g), and add new paragraph (c) to read as follows:

§ 231.2 Definitions.

* * * * *

(c) Bridge institution means a legal entity that has been established by a governmental authority to take over, transfer, or continue operating critical functions and viable operations of an entity in resolution. A bridge institution could include a bridge depository institution or a bridge financial company organized by the Federal Deposit Insurance Corporation in accordance with 12 U.S.C. 1821(n) or 5390(h), respectively, or a similar entity organized under foreign law.

■ 3. Amend § 231.3 by revising paragraph (a), re-designating paragraph (c) as paragraph (d) and paragraph (b) as paragraph (c) and adding new paragraphs (b) and (e) to read as follows:

§ 231.3 Qualification as a financial institution.

(a) *Activities-based test:* A person qualifies as a financial institution for purposes of sections 401–407 of the Act if it represents, orally or in writing that it will engage in financial contracts as a counterparty on both sides of one or more financial markets and either—

(1) Had one or more financial contracts of a total gross dollar value of at least $1 billion in notional principal amount outstanding at such time or on any day during the previous 15-month period with counterparties that are not its affiliates; or

(2) Had total gross mark-to-market positions of at least $100 million (aggregated across counterparties) in one or more financial contracts at such time or on any day during the previous 15-month period with counterparties that are not its affiliates.

(b) After two or more persons consolidate, such as through a merger or acquisition, the surviving person meets the quantitative thresholds under paragraphs (a)(1) and (a)(2) if, on the same, single calendar day during the previous 15-month period, the aggregate financial contracts of the consolidated persons would have met such quantitative thresholds.

* * * * *

(e) *Other financial institutions:* A person qualifies as a financial institution for purposes of sections 401–407 of the Act if it is—

(1) A swap dealer or major swap participant registered with the Commodity Futures Trading Commission pursuant to section 4s of the Commodity Exchange Act (7 U.S.C. 6s).

(2) A security-based swap dealer or major security-based swap participant registered with the U.S. Securities and Exchange Commission pursuant to section 15F of the Securities Exchange Act of 1934 (15 U.S.C. 78o–10).

(3) A derivatives clearing organization registered with the Commodity Futures Trading Commission pursuant to section 5b(a) of the Commodity Exchange Act (7 U.S.C. 7a–1(a)) or a derivatives clearing organization that the Commodity Futures Trading Commission has exempted from registration by rule or order pursuant to section 5b(h) of the Commodity Exchange Act (7 U.S.C. 7a–1(h)).

(4) A clearing agency registered with the U.S. Securities and Exchange Commission pursuant to section 17A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1(b)) or a clearing agency that the U.S. Securities and Exchange Commission has exempted from registration by rule or order pursuant to section 17A(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1(k)).

(5) A financial market utility that the Financial Stability Oversight Council has designated as, or as likely to become, systemically important pursuant to 12 U.S.C. 5463.

(6) A nonbank financial company that the Financial Stability Oversight Council has determined shall be supervised by the Board and subject to prudential standards, pursuant to 12 U.S.C. 5323;

(7) A foreign bank as defined in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101), including a foreign bridge bank;

(8) A bridge institution established for the purpose of resolving a financial institution; or

(9) A Federal Reserve Bank.

By order of the Board of Governors of the Federal Reserve System, April 26, 2019.

Ann Misback,

Secretary of the Board.

[FR Doc. 2019–08898 Filed 5–1–19; 8:45 am]

BILLING CODE 3210–01–P

[58] *See* 13 CFR 121.201, sector 52 (Small Business Administration small entity size standards for finance and insurance entities), which generally provides that financial entities are ''small entities'' only if they have (1) at most, $38.5 million or less in annual receipts or (2) for depository institutions and credit card issuers, $550 million or less in assets.

FEDERAL TRADE COMMISSION

16 CFR Chapter I

Regulatory Review Schedule

AGENCY: Federal Trade Commission.

ACTION: Intent to request public comments.

SUMMARY: As part of its ongoing, systematic review of all Federal Trade Commission rules and guides, the Commission announces a modified ten-year regulatory review schedule. No Commission determination on the need for, or the substance of, the rules and guides listed below should be inferred from this notice.

DATES: May 2, 2019.

FOR FURTHER INFORMATION CONTACT: Further details about particular rules or

guides may be obtained from the contact person listed below for the rule or guide.

SUPPLEMENTARY INFORMATION: To ensure that its rules and industry guides remain relevant and are not unduly burdensome, the Commission reviews them on a ten-year schedule. Each year the Commission publishes its review schedule, with adjustments made in response to public input, changes in the marketplace, and resource demands.

When the Commission reviews a rule or guide, it publishes a document in the **Federal Register** seeking public comment on the continuing need for the rule or guide, as well as the rule's or guide's costs and benefits to consumers and businesses. Based on this feedback, the Commission may modify or repeal the rule or guide to address public concerns or changed conditions, or to reduce undue regulatory burden.

The Commission posts information about its review schedule on its website [1] to facilitate comment. This website contains an updated review schedule, a list of rules and guides previously eliminated in the regulatory review process, and the Commission's regulatory review plan.

Modified Ten-Year Schedule for Review of FTC Rules and Guides

For 2019, the Commission intends to initiate a review of, and solicit public comments on, the following rule:

(1) Funeral Industry Practices, 16 CFR part 453. Agency Contact: Patricia H. Poss, (202) 326–2413, Federal Trade Commission, Bureau of Consumer Protection, Division of Marketing Practices, 600 Pennsylvania Avenue NW, Washington, DC 20580.

The Commission is currently reviewing 10 of the 64 rules and guides [2] within its jurisdiction. During 2018 and 2019, it completed reviews of 16 CFR 23, Guides for the Jewelry, Precious Metals, and Pewter Industries; 16 CFR 311, Test Procedures and Labeling Standards for Recycled Oil; 16 CFR 460, Labeling and Advertising of Home Insulation, and 16 CFR 316, CAN–SPAM Rule. During 2018 and 2019, it also repealed 16 CFR 410, Deceptive Advertising as to Sizes of Viewable Pictures Shown By Television Receiving Sets, and voted to rescind 16 CFR 18, Guides for the Nursery Industry. A copy of the Commission's modified regulatory review schedule, indicating initiation dates for reviews through 2029, is appended. The Commission, in its discretion, may modify or reorder the schedule in the future to incorporate new rules, or to respond to external factors (such as changes in the law) or other considerations.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Julie A. Mack,

Acting Secretary.

Appendix

REGULATORY REVIEW MODIFIED TEN–YEAR SCHEDULE

16 CFR part	Topic	Year to initiate review
24	Guides for Select Leather and Imitation Leather Products	Currently Under Review.
308	Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992 [Pay Per Call Rule].	Currently Under Review.
310	Telemarketing Sales Rule	Currently Under Review.
314	Standards for Safeguarding Customer Information	Currently Under Review.
315	Contact Lens Rule	Currently Under Review.
423	Care Labeling of Textile Wearing Apparel and Certain Piece Goods	Currently Under Review.
433	Preservation of Consumers' Claims and Defenses [Holder in Due Course Rule]	Currently Under Review.
436	Disclosure Requirements and Prohibitions Concerning Franchising	Currently Under Review.
456	Ophthalmic Practice Rules (Eyeglass Rule)	Currently Under Review.
681	Identity Theft [Red Flag] Rules	Currently Under Review.
453	Funeral Industry Practices	2019.
14	Administrative Interpretations, General Policy Statements, and Enforcement Policy Statements	2020.
255	Guides Concerning Use of Endorsements and Testimonials in Advertising	2020.
313	Privacy of Consumer Financial Information	2020.
317	Prohibition of Energy Market Manipulation Rule	2020.
318	Health Breach Notification Rule	2020.
432	Power Output Claims for Amplifiers Utilized in Home Entertainment Products	2020.
640	Duties of Creditors Regarding Risk-Based Pricing	2020.
641	Duties of Users of Consumer Reports Regarding Address Discrepancies	2020.
642	Prescreen Opt-Out Notice	2020.
660	Duties of Furnishers of Information to Consumer Reporting Agencies	2020.
680	Affiliate Marketing	2020.
698	Model Forms and Disclosures	2020.
801	[Hart-Scott-Rodino Antitrust Improvements Act] Coverage Rules	2020.
802	[Hart-Scott-Rodino Antitrust Improvements Act] Exemption Rules	2020.
803	[Hart-Scott-Rodino Antitrust Improvements Act] Transmittal Rules	2020.
437	Business Opportunity Rule	2021.
233	Guides Against Deceptive Pricing	2022.
238	Guides Against Bait Advertising	2022.
251	Guide Concerning Use of the Word "Free" and Similar Representations	2022.
260	Guides for the Use of Environmental Marketing Claims	2022.
312	Children's Online Privacy Protection Rule	2022.
254	Guides for Private Vocational and Distance Education Schools	2023.
309	Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles	2023.
429	Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations	2023.
20	Guides for the Rebuilt, Reconditioned, and Other Used Automobile Parts Industry	2024.
240	Guides for Advertising Allowances and Other Merchandising Payments and Services [Fred Meyer Guides].	2024.

[1] *http://www.ftc.gov/enforcement/rules/regulatory-review.*

[2] The Commission will have 63 rules and guides within its jurisdiction after its rescission of 16 CFR 18 becomes effective.

REGULATORY REVIEW MODIFIED TEN–YEAR SCHEDULE—Continued

16 CFR part	Topic	Year to initiate review
300	Rules and Regulations under the Wool Products Labeling Act of 1939	2024.
301	Rules and Regulations under Fur Products Labeling Act	2024.
303	Rules and Regulations under the Textile Fiber Products Identification Act	2024.
425	Use of Prenotification Negative Option Plans	2024.
435	Mail, Internet, or Telephone Order Merchandise	2024.
424	Retail Food Store Advertising and Marketing Practices [Unavailability Rule]	2024.
239	Guides for the Advertising of Warranties and Guarantees	2025.
306	Automotive Fuel Ratings, Certification and Posting	2025.
305	Energy Labeling Rule	2025.
444	Credit Practices	2025.
500	Regulations under Section 4 of the Fair Packaging and Labeling Act	2025.
501	Exemptions from Requirements and Prohibitions under Part 500	2025.
502	Regulations under Section 5(c) of the Fair Packaging and Labeling Act	2025
503	Statements of General Policy or Interpretation [under the Fair Packaging and Labeling Act]	2025.
700	Interpretations of Magnuson-Moss Warranty Act	2025.
701	Disclosure of Written Consumer Product Warranty Terms and Conditions	2025.
702	Pre-Sale Availability of Written Warranty Terms	2025.
703	Informal Dispute Settlement Procedures	2025.
304	Rules and Regulations under the Hobby Protection Act	2026.
455	Used Motor Vehicle Trade Regulation Rule	2026.
259	Guide Concerning Fuel Economy Advertising for New Automobiles	2027.
682	Disposal of Consumer Report Information and Records	2027.
23	Guides for the Jewelry, Precious Metals, and Pewter Industries	2028.
311	Test Procedures and Labeling Standards for Recycled Oil	2028.
460	Labeling and Advertising of Home Insulation	2028.
316	CAN–SPAM Rule	2029.

[FR Doc. 2019–08936 Filed 5–1–19; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 410, 414, 424, 488, and 493

[CMS–3368–P]

RIN 0938–AT83

Medicare Program; Accrediting Organizations—Changes to Change of Ownership

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would add requirements and a specified process to address changes of ownership as they relate to the sale, transfer, and/or purchase of assets of Accrediting Organizations (AOs) with the Centers for Medicare & Medicaid Services (CMS)-approved accreditation programs. This change is intended to provide CMS the ability to receive notice when an AO is contemplating undergoing or negotiating a change of ownership and the ability to review the AO's capability to perform its tasks after a change of ownership has occurred, in order to insure the ongoing effectiveness of the approved accreditation program(s) and to minimize risk to patient safety.

DATES: *Comments:* To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on July 1, 2019.

ADDRESSES: In commenting, refer to file code CMS–3368–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3368–P, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3368–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Monda Shaver, 410–786–3410.

SUPPLEMENTARY INFORMATION: *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that website to view public comments.

I. Background

Medicare-certified providers and suppliers participate in the Medicare program by entering into a provider agreement with the Medicare program. Medicare-certified providers and suppliers include hospitals, skilled nursing facilities (SNFs), home health agencies (HHAs), hospice programs, rural health clinics (RHCs), critical access hospitals (CAHs), comprehensive outpatient rehabilitation facilities (CORFs), laboratories, clinics, rehabilitation agencies, public health agencies, End Stage Renal Disease (ESRD) dialysis facilities and ambulatory surgical centers (ASCs). To

participate in the Medicare program, Medicare-certified providers and suppliers of health care services must among other things, be substantially in compliance with specified statutory requirements of the Social Security Act (the Act), as well as any additional regulatory requirements related to the health and safety of patients specified by the Secretary of the Department of Health and Human Services (the Secretary). These health and safety requirements are generally called conditions of participation (CoPs) for most providers, requirements for SNFs, conditions for coverage (CfCs) for ASCs and other suppliers, and conditions for certification for RHCs. A Medicare-certified provider or supplier that does not substantially comply with the applicable health and safety requirements risks having its Medicare provider agreement terminated.

Section 1865(a) of the Act allows most types of Medicare-certified providers and suppliers to demonstrate compliance with the applicable health and safety requirements through accreditation by a Centers for Medicare & Medicaid Services (CMS)-approved accreditation program of a national accreditation body, known as an Accrediting Organization (AO). This is referred to as ''deemed'' accreditation, because, if an AO is recognized by the Secretary as having standards for accreditation that meet or exceed Medicare requirements, any provider or supplier which is accredited by that AO's CMS-approved accreditation program is deemed by CMS as complying with the applicable Medicare conditions or requirements.

The CMS is responsible for providing continued oversight of national AOs' Medicare accreditation programs to ensure that providers or suppliers accredited by the AO meet the required quality and patient safety standards. We must ensure that the AOs have formalized procedures to determine whether the healthcare facilities deemed under their accreditation programs meet the AO's accreditation standards (which must meet or exceed the applicable Medicare program requirements). CMS is also responsible for ensuring that the AO's accreditation standards and practices for surveying providers and suppliers meet or exceed CMS's standards and practices for granting approval.

Additionally, while accreditation by an AO is generally voluntary on the part of the Medicare-certified providers or suppliers, accreditation is mandated by statute for five supplier-types in order to receive payment from Medicare for the services furnished to Medicare beneficiaries. These five supplier types are Advanced Diagnostic Imaging (ADI) suppliers, Home Infusion Therapy (HIT) suppliers, Diabetic Self-Management Training (DSMT) entities, Durable Medical Equipment suppliers, suppliers of Prosthetics, Orthotics, and Supplies (DMEPOS), and clinical laboratories. We describe these providers and suppliers as ''non-certified'' because they are enrolled in the Medicare program but are not eligible to become Medicare-certified by entering into a participation agreement with Medicare.

These proposed provisions would affect all of the AOs that accredit providers and suppliers, both those that are enrolled in the Medicare program, and those that enter into a participation agreement with Medicare. We believe that a change of ownership could occur with an AO that accredits either category of providers or suppliers.

Any national AO seeking approval of an accreditation program in accordance with section 1865(a) of the Act must apply for and be approved by CMS for a period not to exceed 6 years (See 42 CFR 488.5(e)(2)(i)). The AO must also reapply for renewed CMS approval of an accreditation program before the date its existing approval period expires. This allows CMS to continue to ensure that accreditation provided by these AOs continue to indicate that the providers or suppliers accredited are meeting or exceeding Medicare standards. Regulations implementing these provisions are found at 42 CFR 488.1 through 488.9.

We have an established process for the change of ownership of Medicare-certified providers and suppliers set forth at § 489.18 and in Chapter 100–07 of the State Operations Manual (SOM). Although the existing provider and supplier change of ownership process does not apply to the sale and transfer of AOs, we believe that it serves as an appropriate model for what we are proposing to require for changes of ownership of AOs.

Section 489.18 defines what constitutes a change of ownership, the required notice from the current provider, the disposition of the current provider agreement and the conditions that apply to the provider agreement once it is assigned or transferred to the new owner. The Medicare regulations at § 489.18, as well as the CMS State Operations Manual (CMS Pub. 100–07), outline processes concerning how a change of ownership of a provider or supplier affects Medicare participation, such as how a provider agreement is automatically assigned to a new owner unless the new owner rejects assignment of the provider agreement. A change of ownership takes place when the responsible legal entity has changed and typically occurs when a Medicare provider has been purchased (or leased) by another organization. This section specifically defines what constitutes a change of ownership for purposes of Medicare, the effect on the provider agreement, and requires a provider that is contemplating or negotiating a change of ownership to notify CMS (See § 489.18(b)). In general, and with certain limited exceptions, under this existing process if a facility's new owner accepts the assignment of the provider agreement and provider number (also known as a CMS Certification Number (CCN), the provider agreement remains intact, the new owner retains all the benefits and liabilities of that agreement, and the provider's Medicare participation continues without interruption. If the purchaser (or lessee) elects not to accept automatic assignment or transfer of the provider agreement, then that rejection is considered to be a voluntary termination of the existing provider agreement. Therefore, the purchaser or lessee is considered a new applicant and must request initial certification as a new provider and obtain a new provider agreement. It is important to clarify that CMS does not approve the actual business transaction between entities that result in the change of the responsible legal entity. Instead, CMS' role when provider ownership changes is to ensure that a new owner who accepts the automatic assignment of the existing provider agreement (a change of ownership) is eligible for Medicare participation. If so, we continue to treat the provider as the same entity, with only the owner having changed. Section 489.18(d) provides that where there is a change of ownership (defined as automatic assignment of the provider agreement at § 489.18(c)), the provider agreement under the new owner is subject to all applicable statutes and regulations, and to the terms and conditions under which it was originally issued. This includes successor liability for Medicare overpayments and penalties.

If the new owner rejects automatic assignment of the provider agreement, then it must seek initial Medicare enrollment and certification for the facility, which may take several months. A new owner who rejects automatic assignment cannot receive payment for any services it may provide for Medicare beneficiaries between the date it acquires the facility and the date we determine that it meets all Medicare requirements at § 489.13.

Currently, the regulations governing AOs do not include a process for notifying CMS of pending changes of ownership or other procedures, which would allow CMS to review information about the proposed transfer of ownership of accreditation program(s) and the authority for CMS to approve or deny the transfer of the existing CMS approval for the accreditation program(s) to be transferred. Under our current regulations, CMS does not typically become aware of a sale or transfer until an AO applies for renewal of CMS approval of its accreditation program(s) or if voluntarily notified by the AO (although CMS always retains the right to conduct comparability or validation surveys in accordance with § 488.8). Thus, we do not believe that we currently have the explicit regulatory authority to prospectively review and approve or deny the transfer of the existing Medicare-approval of accreditation programs being transferred in a change of ownership transaction to ensure that after such transfer, the AO could continue to ensure that the entities it accredits meet or exceed CMS requirements in order to be granted CMS approval of its program(s).

We believe that the current situation, whereby a change in ownership of CMS-approved accreditation programs may occur without notice to CMS, which does not provide an opportunity for CMS to review and approve or deny the transfer of the existing CMS-approval of the accreditation programs to be transferred. We believe that this scenario must be addressed so that we may assure Medicare beneficiaries that the standards and conditions for surveying facilities will continue to be met by the accreditation programs that are transferred under new ownership. We also believe it is possible that the AO, after a change of ownership transaction, may not be viable or equipped to accredit facilities under the transferred CMS approved CMS accreditation programs, due to the new owner's inability to enforce the health and safety requirements of CMS. Without the authority to require AOs to provide CMS with notice when they are contemplating or negotiating a change of ownership, and the authority to review the ability of the prospective new owner's capability to perform the required accreditation tasks, after a change of ownership, CMS is unable to confirm the ongoing effectiveness of the transferred CMS-approved accreditation program(s).

II. Provisions of the Proposed Regulations

Although the existing provider and supplier change of ownership process outlined above (§ 489.18) does not apply to the sale and transfer of AOs, we have used it as a model for this proposal because stakeholders are familiar with it and we are hopeful to reduce their burden. In addition to the current AO regulations for application and reapplication procedures for national AOs (§ 488.5), we are proposing to add notification and approval requirements in the event there is an anticipated change of ownership of an AO. The proposed procedure would enable CMS to determine whether the new AO would be able to meet the appropriate accreditation requirements to be awarded deeming authority by CMS for the new or transferred CMS-approved accreditation programs. This means that we would make a decision as to whether to allow the existing Medicare-approval for the accreditation programs involved in the change of ownership transaction to be transferred to the new owner/transferee.

As noted above, we currently have no regulatory authority to review and approve the transfer of the existing Medicare approval of the accreditation programs undergoing a change of ownership to ensure that immediately after the transfer, the purchaser or transferee ensures that the providers and suppliers it accredits continue to meet or exceed CMS accreditation and survey requirements. Additionally, we consider AOs which have ceased doing business to have voluntarily terminated their Medicare approval(s); therefore, if another entity subsequently purchased the property of the defunct AO with the intent of operating as an AO, we would require that entity to begin the AO approval process from the beginning. In most cases, CMS would be able to determine an AO's cessation of business either through—(1) a change in their accreditation name on the required reapplication documents for approval of their accrediting programs; (2) notification of cessation of business, or notification that the entity approved for deeming authority (published in the **Federal Register**) is no longer in control or operation of the AO; or (3) a validation survey process.

We propose at § 488.5 to add a new paragraph (f) that would set out the requirements and processes for CMS' review and approval of the transfer of the existing CMS-approval for the accreditation program(s) to be transferred in the change of ownership event. We propose at § 488.5(f)(1)(i), that any CMS-approved AOs negotiating or engaging in a change of ownership transaction must provide notice of this change of ownership transaction to CMS. At proposed § 488.5(f)(1)(ii) and (iii), we would require that this notice be provided to CMS in writing no less than 90 days prior to the effective date of the transfer of ownership. This notice requirement would allow CMS to perform an evaluation of whether the AO, under the new ownership, would (1) be viable or equipped to accredit facilities under its existing CMS approval; (2) be able to enforce the health and safety requirements of CMS for that program; (3) operate effectively; and (4) continue to meet or exceed the Medicare standards.

We would further require the prospective new owner or transferee to submit certain information to CMS for review in support of their request for transfer of the existing CMS-approval of the CMS-approved accreditation programs to be transferred. We propose at § 488.5(f)(2)(iii), to require the prospective new owner or transferee to submit the following information: (1) The name and address of the legal entity that would be the owner of the new AO after the transfer is completed; (2) the three most recent audited financial statements of the organization that demonstrate that the organization's staffing, funding, and other resources are adequate to perform the required surveys and related activities; (3) a transition plan that summarizes the details of how the accreditation functions will be transitioned to the new owner. Section 488.5(f)(2)(iii)(C) would require that the AO's transition plan include the following information: (1) Changes to management and governance structures including current and proposed organizational charts; (2) a list of the CMS-approved accreditation programs that will be transferred to the purchaser/buyer/transferee; (3) Employee changes, if applicable; (4) anticipated timelines for action; (5) plans for notification to employees; and (6) any other relevant information that CMS finds necessary.

It is important in the process of a change of ownership that the purchaser or transferee and seller develop a transition plan that allows for details to be considered and addressed, which may be relevant to the transfer of the CMS approved accreditation program that could impact the health and safety of patients. Transition plans may include but are not limited to management structures, organizational charts which reflect existing and new positions or departments, governance, employee changes, and any substantive

changes to the AOs operations or accreditation programs associated with the sale or transfer. In the event the transition plans provided to CMS by the purchaser or transferee were determined by CMS to be inadequate, we could request revisions to the plans or deny the transfer of the existing CMS-approval for the accreditation program(s), which are part of the change of ownership transaction, as we believe these plans directly impact patient safety within facilities. In addition, we believe that the review of this information would allow CMS to ensure an AO is capable of continuing to provide safe and effective accreditation services to those healthcare settings they serve.

We propose at § 488.5(f)(3)(i), to require the purchaser or transferee to provide a written acknowledgement, which states that if CMS approve the transfer of the existing CMS-approval of the accreditation programs that are part of the change of ownership transaction, the new owner will become managerially, legally, and financially responsible for the operations of all CMS-approved accreditation programs being transferred. This means that upon our approval of the transfer of the existing CMS-approval for the accreditation programs being transferred, and upon the finalization of the change of ownership transaction, the purchaser or transferee would be completely responsible for the management of the business operations of the AO, including, but not limited to the day to day business operations, the survey and accreditation processes, the oversight of accredited providers and suppliers, the handling of complaints regarding accredited suppliers, and the compliance with all CMS requirements. This acknowledgement would ensure that the purchaser or transferee knows that they will be accountable for any oversight concerns from the date CMS grants approval of the transfer of the program and deeming authority and after the change of ownership has taken affect, in accordance with CMS' policy of successor liability.

Furthermore, we propose at § 488.5(f)(3)(ii), to require the purchaser or transferee to provide CMS with a written acknowledgment stating that they agree to operate the transferred CMS-approved accreditation program(s) under all the terms and conditions found at §§ 488.5 through 488.9.

We propose at § 488.5(f)(3)(iii), that the purchaser or transferee would be required to provide a written acknowledgement that they would not operate the accreditation program(s) it acquired as a CMS-approved accreditation program(s) until they received from CMS a notice of approval of the transfer of the CMS approved accreditation programs.

We propose at § 488.5(f)(4)(i), that the parties to the change of ownership would be required to notify the providers and suppliers affected by the change of ownership within 15 calendar days after being notified of CMS's approval of the transfer to the existing CMS-approval for the accreditation program(s) being transferred. Additionally, we propose at § 488.5(f)(4)(ii), that if the AO or accreditation program(s) being acquired were under a performance review or under probationary status at the time the change of ownership notice was submitted, the purchaser or transferee would have to acknowledge such status in writing. We believe that the purchaser or transferee must understand that when the CMS-approved accreditation program(s) are transferred under the change of ownership, all current terms and conditions, and responsibilities are included in the transfer.

We propose at § 488.5(f)(5), that we would publish a notice in the **Federal Register**, which would acknowledge the transfer of the CMS-approved accreditation program(s) due to the change of ownership event and state that the accreditation program(s) to be transferred, which were previously approved by CMS will retain this CMS-approval under the new ownership. This notice is only intended to inform the public of the ownership change; therefore, the notice would not solicit public comments. This section further provides that we would not publish this notice after CMS has issued approval for the transfer, without first receiving written confirmation that the change of ownership has taken place. We believe this would avoid potential issues in which CMS may publish a notice in the **Federal Register** based solely on its approval, without having confirmation of the completed transaction.

We propose at § 488.5(f)(6), that in the event CMS did not approve the transfer of the existing CMS approval for the accreditation programs subject to the change of ownership event, CMS would notify all parties to the change of ownership transaction in writing. This notice would be sent to the relevant parties at the existing AO and the prospective transferee.

We propose at § 488.5(f)(7)(i), in the event CMS was not made aware of a change of ownership transaction, or did not approve the transfer of the existing CMS approval for the accreditation program(s) subject to transfer through a change of ownership event, the subject AO would be able to continue operating under the existing CMS approval for its accreditation programs if the change of ownership transaction was not completed. The exception to this proposal would be in the event that our review of the un-finalized change of ownership transaction revealed performance and/or compliance issues that were previously unknown to CMS with the AO that was the subject of the un-finalized transfer.

We also propose at § 488.5(f)(7)(ii), that CMS would be able to withdraw the CMS approval of an AO's accreditation programs in accordance with § 488.8(c)(3)(ii) and (iii), if a change of ownership transaction was completed without notice to CMS or without the approval of CMS to transfer the existing CMS approval for the accreditation program(s) to the new owner.

We propose at § 488.5(f)(8), that in the event parties completed the change of ownership transaction, notwithstanding CMS disapproval of the request to transfer the existing CMS approval for the accreditation programs to the new ownership, and the purchaser or transferee attempted to operate the transferred accreditation programs under the CMS-approval granted to the previous owner of the accreditation program(s), for which the transfer was disapproved, CMS would withdraw the approval of the accreditation programs in accordance with the procedures set out at § 488.8(c)(3)(ii) and (iii).

We propose at § 488.5(f)(9), that, in accordance with § 488.8(g), if CMS withdrew the existing approval of transferred accreditation program(s) because a change of ownership transaction was completed without notice to or the approval of CMS, an affected Medicare-certified provider's or supplier's deemed status would continue in effect for 180 calendar days after the removal of the existing CMS accreditation approval if the provider or supplier took the steps stated in § 488.8(g). First, the Medicare-certified provider or supplier would be required to submit an application to another CMS-approved accreditation program within 60 calendar days from the date of publication of the removal notice in the **Federal Register**. Second, the Medicare-certified provider or supplier would be required to provide written notice to the SA stating that it has submitted an application for accreditation under another CMS-approved accreditation program within the 60-calendar day timeframe specified in § 488.8(g). Failure to comply with the timeframe requirements specified in § 488.8(g) would place the affected

Medicare-certified provider or supplier under the SA's authority for continued participation in Medicare and on-going monitoring. The intent of proposed § 488.5(f)(9) is to protect Medicare-certified providers and suppliers that have been accredited by an AO that received the accreditation program(s) in a change of ownership transaction that was completed without notice to CMS or without receiving the approval of CMS for the transfer of the existing CMS approval for the accreditation program(s) transferred. It is necessary to provide this protection because, if CMS were to withdraw approval for the improperly transferred accreditation program(s) the providers and suppliers accredited by the affected AO would be left with non-CMS approved accreditation.

However, the provisions of § 488.8(g) would not apply to non-certified providers and suppliers, because the statute does not authorize SAs to engage in oversight of these types of providers and suppliers. Therefore, we propose at § 488.5(f)(10) that if CMS withdrew the existing approval of transferred non-certified accreditation program(s) because a change of ownership transaction was completed without notice to or the approval of CMS, an affected non-certified provider's or supplier's deemed status would continue in effect for 1 year after the removal of the existing CMS accreditation approval if the non-certified provider or supplier submitted an application to another CMS-approved accreditation program within 60 calendar days from the date of publication of the removal notice in the **Federal Register** and provided written notice of such application to the CMS within such timeframe. Failure to comply with the timeframe requirements would result in a CMS determination that the provider or supplier was no longer accredited.

For non-certified suppliers such as ADI and DSMT suppliers, CMS-approved accreditation is required as a condition for receipt of CMS reimbursement for the services furnished to Medicare beneficiaries. If these suppliers were suddenly left without CMS-approved accreditation they would have to seek new accreditation from a CMS-approved AO. We estimate that it would take no less than 6 to 9 months for these suppliers to complete the reaccreditation process and obtain new CMS-approved accreditation. We are concerned that during the time that these suppliers were undergoing the reaccreditation process, they would not be able to receive reimbursement from Medicare for any services furnished to Medicare beneficiaries. For many of these suppliers, Medicare beneficiaries make up a large portion of their client population and provides a large source of revenue for them. Therefore, these suppliers are likely to suffer significant hardship if left without CMS-approved accreditation for a 6 to 9 month period. Also, if these suppliers were not able to provide services to Medicare beneficiaries for an extended period of time, it may create access to care issue for Medicare beneficiaries for the services provided by these suppliers. For this reason, CMS will recognize an accreditation for a 1 year period after **Federal Register** notification that CMS's approval of the non-certified provider or supplier's accreditation organization is being withdrawn.

Because we propose to add the same requirements for ADI, HIT, DSMT, and DMEPOS suppliers, and clinical laboratories, we would add cross references to the provisions in § 488.5(f) for these suppliers so that they would be subject to the same proposed requirements for a change of ownership. Specifically, for DSMT suppliers at § 410.142, we propose to add a new paragraph (k); for ADI suppliers at § 414.68, we propose to add a new paragraph (j); for DMEPOS at § 424.58, we propose to add a new paragraph (f); for HIT suppliers at § 488.1030, we propose to add new paragraph (g); and for laboratories at § 493.553, we propose to add a new paragraph (e).

III. Solicitation of Comments

We are soliciting public comments related to our proposed regulatory requirements, which would govern of the transfer of the existing CMS approval for accreditation programs when there is a change of ownership event of an AO, and more specifically, the requirement for the proposed new owner or transferee to submit an applications to CMS with documentation, which shows that the CMS-approved transferred accreditation programs will continue to perform its tasks safely and effectively after a change in ownership has occurred to insure the ongoing effectiveness of the approved accreditation program(s) and to minimize risk to patient safety.

While we are soliciting comments on the general provision of requiring an application to be filed with CMS, we are specifically seeking comments on the following areas:

- *Documentation Requirements:* Financial statements, a transition plan and other relevant information as deemed necessary.
- *Written Acknowledgements:* Requirement for AOs to provide written acknowledgement that it understands the financial and legal responsibilities involved with the change of ownership process.

We are also requesting that stakeholders provide us with comments on additional information they may believe to be critical to submit to CMS for a change of ownership of AOs. We welcome any feedback received that is related to the text of this proposed rule and will take the comments under consideration for final rulemaking.

IV. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to publish a 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including the use of automated collection techniques.

We are soliciting public comment on each of the section 3506(c)(2)(A)-required issues for the following information collection requirements (ICRs).

Wage Data

To derive average costs, we used data from the U.S. Bureau of Labor Statistics' (BLS') May 2016 National Occupational Employment and Wage Estimates for all salary estimates (*http://www.bls.gov/oes/current/oes_nat.htm*). In this regard, the following table presents the mean hourly wage, the cost of fringe benefits and overhead (calculated at 100 percent of salary), and the adjusted hourly wage.

TABLE 1—NATIONAL OCCUPATIONAL EMPLOYMENT AND WAGE ESTIMATES

BLS occupation title	Occupation code	Mean hourly wage ($/hr)	Adjusted hourly wage ($/hr)
Registered Nurse	29–1141	$35.36	$70.72
Medical or Health Services Manager	11–9111	53.69	107.38

As indicated, we are adjusting our employee hourly wage estimates by a factor of 100 percent. This is necessarily a rough adjustment, both because fringe benefits and overhead costs vary significantly from employer to employer, and because methods of estimating these costs vary widely from study to study. Nonetheless, there is no practical alternative and we believe that doubling the hourly wage to estimate total cost is a reasonably accurate estimation method.

1. Documentation Requirements

At § 488.5(f)(1), we propose that the AO that is the subject of the transaction provide notice to CMS that it intends to request approval for a change of ownership. This initial notice would be minimal such as a coversheet, email, or any type of formal notice and would be included in the additional documentation requirements of § 488.5(f)(2).

At § 488.5(f)(2)(i) and (ii), we propose that the prospective purchaser or transferee provide three most recent audited financial statements of the organization that demonstrate that the organization's staffing, funding, and other resources are adequate to perform the required surveys and related activities. Additionally, we would require the name and address of the legal entity that would be the owner of the new AO. We believe that this information is documentation that would be easily accessible and require minimal time to gather and submit. Therefore, we have considered that the cost burden for the AO to submit the financial statements and other information deemed necessary by CMS would be approximately $70.72. We believe it is likely that the AOs use a registered nurse to gather information; therefore, according to the U.S. Bureau of Labor Statistics, the mean hourly wage for a registered nurse is $35.36 (*https://www.bls.gov/oes/current/oes291141.htm*) and we estimate the time to gather the financial statements would not exceed one hour. The wage rate would be doubled to include overhead and fringe benefits. The AO would incur a cost burden in the amount of $70.72 for the preparation of the response to CMS (1 hour × $70.72)

At § 488.5(f)(2)(iii), we also propose to require the prospective purchaser or transferee to submit a transition plan that summarizes the details of how the accreditation functions will be transitioned to the new owner. While most existing AOs engaged in business transactions such as a change of ownership would have already developed a transition plan as proposed under Section II of this proposed rule, this process will be more time consuming. The development of a transition plan would take approximately 45 hours of time to gather, obtain, or prepare all documentation for submission. We estimate that the AO would have a total of two staff work on transition plan and that the staff would likely be clinicians such as registered nurse or medical or health services manager, as they currently serve in roles for submission of general accrediting approvals. According to the U.S. Bureau of Labor Statistics, the mean hourly wage for a registered nurse is $35.36 (*https://www.bls.gov/oes/current/oes291141.htm*) and the mean hourly wage for a medical or health services manager is $53.69 (*https://www.bls.gov/oes/current/oes119111.htm*). Therefore, we estimate that the AOs would incur wages for 45 hours of time by a registered nurse and wages for 45 hours of time by a medical or health services manager in the amount of $8,014 (45 hours x $70.72 per hour = $3,182) + (45 hours × $107.38 = $4,832 per hour) +.

2. Written Acknowledgements

At § 488.5(f)(3), we propose the purchasing AO to provide several written acknowledgements. At § 488.5(f)(3)(i), we are proposing to require the purchaser or transferee to provide written acknowledgement that it understands the financial and legal responsibilities involved with the change of ownership process. We believe this written acknowledgement would be developed by a health services manager, as they currently serve in roles for submission of general accrediting approvals. According to the U.S. Bureau of Labor Statistics, the mean hourly wage for a and the mean hourly wage for a medical or health services manager is $53.69 (*https://www.bls.gov/oes/current/oes119111.htm*) and we believe this proposed written notice would not exceed 1 hour to develop; therefore, the burden associated would be $70.72 ($53.69 × 1 hour × 2 to include overhead and fringe benefits).

At § 488.5(f)(3)(ii), we propose to require the purchasing AO to provide written acknowledgement that it agrees to operate the new AO as defined by CMS' standards under §§ 488.5 and 488.9, as well as include acknowledgements on any program reviews or probationary terms. This would be a minimal cost burden as we are not defining a specific format for the written acknowledgement. Therefore, according to the U.S. Bureau of Labor Statistics, the mean hourly wage for a and the mean hourly wage for a medical or health services manager is $53.69 (*https://www.bls.gov/oes/current/oes119111.htm*) and we believe this proposed written notice would not exceed 1 hour to develop, therefore the burden associated would be $70.72 ($53.69 × 1 hour × 2 to include overhead and fringe benefits).

At § 488.5(f)(3)(iii), we are proposing to require the purchasing AO to provide written acknowledgement that would not operate the accreditation program until it received a notice of approval of the transfer of the CMS approved accreditation program from CMS. Given this requirement is minimal and the purchasing AO is already required to include a written acknowledgment as outlined at proposed § 488.5(f)(3)(ii), it is likely that this written notice would include both acknowledgements; therefore, we would include this in the hour of burden and cost described under § 488.5(f)(3)(ii) above.

At § 488.5(f)(5), we propose to require the purchasing AO to provide documentation within 15 days after the sale confirming the change of ownership. Given that this would be a standard business practice or documentation that would generally be required to confirm the sale outside of these proposed requirements, this burden to provide proof of sale would be minimal. This would solely require

the purchasing AO to provide a copy; therefore, we estimate the cost to be $53.39. According to the U.S. Bureau of Labor Statistics, the mean hourly wage for a and the mean hourly wage for a medical or health services manager is $53.69 (*https://www.bls.gov/oes/current/oes119111.htm*) and this proposed written notice would only require 30 minutes to provide a copy to CMS via electronic methods (email); therefore, the burden associated would be $53.69 ($26.84 × 0.5 hours × 2 to include overhead and fringe benefits).

Finally, there is potential for AOs to incur a cost burden for the wages of the AO staff that are involved with reviewing CMS' additional requests for information and the preparation of the written acknowledgements. The AO staff that would review information requested by CMS regarding the change of ownership would be a clinician such as registered nurse, as is generally the case in AO applications seeking deeming authority. According to the U.S. Bureau of Labor Statistics, the mean hourly wage for a registered nurse is $35.36 (*https://www.bls.gov/oes/current/oes291141.htm*). In order to include overhead and fringe benefits the wage is doubled. Therefore, the AO would incur a cost burden in the amount of $70.72 for the preparation of the response to CMS (1 hour × $70.72).

We want to emphasize that these anticipated costs and burdens are only subject to those AOs seeking a change of ownership. To date, there has only been one change of ownership request of an AO in over 20 years or more, therefore this occurrence is rare.

The requirements and burden will be submitted to OMB under (OMB control number 0938-New).

V. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

VI. Regulatory Impact Statement

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget. We have examined the impacts of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96 354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), the Congressional Review Act (5 U.S.C. 804(2)), and Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs (January 30, 2017).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). We do not expect this rule to reach that threshold, and thus it is neither economically significant under E.O. 12866, nor a major rule under the Congressional Review Act.

Burden for Change of Ownership Among Accrediting Organizations

The AOs which seek to sell or transfer or purchase another AO and undergo a change of ownership would incur time and cost burdens associated with the preparation of the information they submit to CMS to request approval of their new accreditation program under the change of ownership. This would include the preparation, gathering or obtaining of all the documentation required in proposed § 488.5(f).

While we recognize that most existing AOs would likely be familiar and have majority of the documentation CMS is requesting at proposed § 488.5(f), we believe that due to the need for the selling or transferring and purchasing AOs to submit documentation for both entities, that this would take approximately 2 hours of time to gather, obtain or prepare all documentation required by proposed § 488.5(f). It would take approximately 2 hours as the AOs have previously submitted an application to CMS requesting approval of their accreditation program; therefore, would already be familiar with the application process and requirements and have the majority of the documents requested under the change of ownership, readily available.

The AOs (selling or transferring and purchasing) would incur costs associated with the preparation and submission of the requested documents, development of the written acknowledgement letters, and submission of the documents. The AO would incur costs for the wages of all AO staff that work on the preparation of the change of ownership application. We estimate that the AO would have a total of two staff work on the preparation of the application. We believe that the AO staff that prepare the application would likely be clinicians such as registered nurse or medical or health services manager, as they currently serve in roles for submission of general accrediting approvals. According to the U.S. Bureau of Labor Statistics, the mean hourly wage for a registered nurse is $35.36 (*https://www.bls.gov/oes/current/oes291141.htm*) and the mean hourly wage for a medical or health services manager is $53.69 (*https://www.bls.gov/oes/current/oes119111.htm*). Therefore, we estimate that the AOs would incur wages for 2 hours of time by a registered nurse and wages for 2 hours of time by a medical or health services manager in the amount of $356.20 (2 hours × $35.36 per hour = $70.72) + (2 hours × $53.69 = $107.38) + ($178.10 for fringe benefits and overhead, estimated at 100% of the hourly wage).

Furthermore, under proposed § 488.5(e)(8), we would require the AOs to provide additional information as requested by CMS to ensure the continuity of oversight for facilities currently accredited. Therefore, there is potential for AOs to incur a cost burden for the wages of the AO staff that are involved with reviewing CMS's additional requests for information and the preparation of the documents and program standards. The AO staff that would review information requested by

CMS regarding the change of ownership would be a clinician such as registered nurse, as is generally the case in AO applications seeking deeming authority. According to the U.S. Bureau of Labor Statistics, the mean hourly wage for a registered nurse is $35.36 (*https://www.bls.gov/oes/current/oes291141.htm*). Therefore, the AO would incur a cost burden in the amount of $70.72 for the preparation of the response to CMS (1 hour × $35.36 per hour = $35.36) + ($35.36 for fringe benefits and overhead).

We want to emphasize that these anticipated costs and burdens are only subject to those AOs seeking a change of ownership. To date, there has only been one change of ownership request of an AO in over 20 years or more, therefore this occurrence is rare in its entirety.

As these change of ownerships are rare among AOs, we do not believe that the burden would be substantial. We are soliciting comments, specifically from stakeholders and AOs and request AOs to submit their comments to include a breakdown of potential costs they would estimate for this to be completed.

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than $7.5 million to $38.5 million in any 1 year. Individuals and states are not included in the definition of a small entity. We are not preparing an initial regulatory flexibility analysis because we have determined, and the Secretary certifies, that this proposed rule would not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare an RIA if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area for Medicare payment regulations and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined, and the Secretary certifies, that this proposed rule would not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2019, that threshold is approximately $154 million. This rule will have no consequential effect on state, local, or tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has Federalism implications. Since this regulation does not impose any costs on state or local governments, the requirements of Executive Order 13132 are not applicable.

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017, and requires that the costs associated with significant new regulations ''shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' OMB's interim guidance, issued on April 5, 2017, *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-21-OMB.pdf,* explains that for Fiscal Year 2017 the above requirements only apply to each new ''significant regulatory action that imposes costs.'' It has been determined that this proposed rule is not a ''significant regulatory action'' and thus does not trigger the above requirements of Executive Order 13771.

In accordance with the provisions of Executive Order 12866, this proposed rule was reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 410

Health facilities, Health professions, Diseases, Laboratories, Medicare, Reporting and recordkeeping requirements, Rural areas, Supplementary Medical Insurance (SMI) benefits, X-rays.

42 CFR Part 414

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medicare, Reporting and recordkeeping requirements

42 CFR Part 424

Conditions for Medicare payment, Emergency medical services, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 488

Administrative practice and procedure, Health facilities, Medicare, Reporting and recordkeeping requirements, Survey, certification, and enforcement procedures

42 CFR Part 493

Administrative practice and procedure, Grant programs—health, Health facilities, Laboratories, Medicaid, Medicare, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services propose to amend 42 CFR chapter IV as follows:

PART 410—SUPPLEMENTARY MEDICAL INSURANCE (SMI) BENEFITS

■ 1. The authority citation for part 410 continues to read as follows:

Authority: 42 U.S.C. 1302, 1395m, 1395hh, 1395rr, and 1395ddd.

■ 2. Section 410.142 is amended by adding paragraph (k) to read as follows:

§ 410.142 CMS process for approving national accreditation organizations.

* * * * *

(k) *Change of ownership.* An accreditation organization whose accreditation program(s) is (are) approved and recognized by CMS that wishes to undergo a change of ownership is subject to the requirements set out at § 488.5(f) of this chapter.

PART 414—PAYMENT FOR PART B MEDICAL AND OTHER HEALTH SERVICES

■ 3. The authority citation for part 414 continues to read as follows:

Authority: 42 U.S.C. 1302, 1395hh, and 1395rr(b)(l).

■ 4. Section 414.68 is amended by adding paragraph (j) to read as follows:

§ 414.68 Imaging accreditation.

* * * * *

(j) *Change of ownership.* An accreditation organization whose accreditation program(s) is (are) approved and recognized by CMS that wishes to undergo a change of ownership are subject to the requirements set out at § 488.5(f) of this chapter.

PART 424—CONDITIONS FOR MEDICARE PAYMENT

■ 5. The authority citation for part 424 continues to read as follows:

Authority: 42 U.S.C. 1302 and 1395hh.

■ 6. Section 424.58 is amended by adding paragraph (f) to read as follows:

§ 424.58 Accreditation.

* * * * *

(f) *Change of ownership.* An accreditation organization whose accreditation program(s) is (are) approved and recognized by CMS that wishes to undergo a change of ownership are subject to the requirements outlined under § 488.5(f) of this chapter.

PART 488—SURVEY, CERTIFICATION, AND ENFORCEMENT PROCEDURES

■ 7. The authority citation for part 488 continues to read as follows:

Authority: 42 U.S.C. 1302; and 1395hh.

■ 8. Section 488.5 is amended by adding paragraph (f) to read as follows:

§ 488.5 Application and re-application procedures for national accrediting organizations.

* * * * *

(f) *Change of ownership. What Constitutes Change of Ownership.* A description of what could constitute a change of ownership with respect to a national accrediting organization are those activities described in § 489.18(a)(1) through (3) of this chapter.

(1) *Notice to CMS.* Any CMS-approved accrediting organization that is contemplating or negotiating a change of ownership for must notify CMS of the change of ownership.

(i) This notice requirement applies to any national accrediting organization with CMS-approved accreditation program(s) that is the subject of a potential or actual change of ownership transaction, including accrediting organizations for Advanced Diagnostic Imaging (ADI) suppliers; Home Infusion Therapy (HIT) suppliers; Diabetic Self-Management Training (DSMT) entities, Durable Medical Equipment Prosthetics, Orthotics and Supplies (DMEPOS) suppliers, and clinical laboratories.

(ii) This notice must be provided to CMS in writing.

(iii) This notice must be provided to CMS no less than 90 days prior to the anticipated effective date of the change of ownership transaction.

(2) *Information submitted with the request for approval for change of ownership transaction.* The person(s) or organization(s) acquiring an existing CMS-approved accrediting organization or accreditation programs (that is, purchaser, buyer or transferee) through a change of ownership transaction must do the following:

(i) Seek approval from CMS for the purchase or transfer of the existing CMS approval for the accreditation program(s) to be transferred in the change of ownership event; and

(ii) Meet the requirements of paragraphs (f)(2)(iii) through (f)(4) of this section to demonstrate that the entities that will be accredited with the transferred accrediting program(s) continue to meet or exceed the applicable Medicare conditions or requirements.

(iii) The following information must be submitted to CMS in the purchaser's/buyer's/transferee's request for approval of a transfer of the existing CMS approval for the accreditation program(s) to be transferred in the change or ownership transaction:

(A) The legal name and address of the new owner;

(B) The three most recent audited financial statements of the organization that demonstrate the organization's staffing, funding and other resources are adequate to perform the required surveys and related activities;

(C) A transition plan that summarizes the details of how the accreditation functions will be transitioned to the new owner, including:

(*1*) Changes to management and governance structures including current and proposed organizational charts;

(*2*) A list of the CMS-approved accreditation programs that will be transferred to the purchaser/buyer/transferee,

(*3*) Employee changes, if applicable,

(*4*) Anticipated timelines for action;

(*5*) Plans for notification to employees; and

(*6*) Any other relevant information that CMS finds necessary.

(3) *Written acknowledgements.* The purchaser/buyer/transferee must provide a written acknowledgement to CMS, which states the following:

(i) If the application for the transfer of the existing CMS-approval for the accreditation program(s) to be transferred in the change of ownership transaction is approved by CMS, said purchaser/buyer/transferee must assume complete responsibility for the operations (that is, managerial, financial, and legal) of the CMS-approved accreditation programs transferred, immediately upon the finalization of the change of ownership transaction.

(ii) The purchaser/buyer/transferee agrees to operate the transferred CMS-approved accreditation program(s) under all of the CMS imposed terms and conditions, to include program reviews and probationary status terms, currently approved by CMS; and

(iii) The purchaser/buyer/transferee must not operate the accreditation program(s) it acquired in the change in ownership transaction as CMS approved accreditation programs, until the effective date set forth within the notice of approval from CMS.

(iv) The purchaser/buyer/transferee agrees to operate the transferred CMS-approved accreditation program(s) under all of the terms and conditions found at §§ 488.5 through 488.9.

(4) *Notification.* The following written notifications are required after the change of ownership transaction has been approved by CMS:

(i) All parties to the change of ownership transaction must notify the providers and suppliers affected by such change within 15 calendar days after being notified of CMS's approval of the transfer of the existing CMS-approval for the accreditation programs to be transferred in the change of ownership transaction.

(ii) If applicable, the purchaser/buyer/transferee must acknowledge in writing to CMS that the accrediting organization or accreditation program(s) being acquired through a purchase or transfer of ownership was under a performance review or under probationary status at the time the change of ownership notice was submitted.

(5) ***Federal Register*** *notice.* CMS will publish a notice of approval in the **Federal Register** of the transfer of the existing CMS approval for the accreditation program(s) to be transferred to the new owner, only after CMS receives written confirmation from the new owner that the change of ownership has taken place.

(6) *Notification to parties in the event that CMS does not approve the transfer of the existing CMS approval.* In the event that CMS does not approve the transfer of the existing CMS approval for the accreditation program(s) to be transferred in the change of ownership transaction, CMS will notify all parties to the change of ownership transaction of such in writing.

(7) *Withdrawal of CMS approval for transferred accreditation programs due to failure to notify CMS of intent to transfer accreditation programs.* In the event that CMS was not made aware of or did not approve the transfer of the existing CMS-approval for the accreditation program(s) to be transferred under a change of ownership:

(i) The existing AO would be permitted to continue operating their existing CMS-approved accreditation programs, if the change of ownership transaction was not completed, unless our review of the transaction revealed issues with the AO that were the subject of the un-finalized change of ownership transaction that was previously unknown to CMS.

(ii) If a change of ownership transaction was completed without notice to CMS or the approval of CMS, CMS would be able to withdraw the existing approval of the AO's accreditation programs in accordance with § 488.8(c)(3)(ii) and (iii) of this section.

(8) *Withdrawal of CMS approval for accreditation programs which are transferred notwithstanding CMS' disapproval of the transfer.* In the event that the parties complete the change of ownership transaction, notwithstanding CMS disapproval and the purchaser/buyer/transferee attempts to operate the transferred accreditation program(s) under the CMS-approval granted to the previous owner, CMS will withdraw the existing approval of the transferred accreditation program(s) in accordance with the procedures set out at § 488.8(c)(3)(ii) and (iii).

(9) *Requirements for continuation of a deemed status accreditation of Medicare-certified providers and suppliers after CMS withdraws the existing approval of the transferred accreditation program(s).* If CMS withdraws the existing approval of the transferred accreditation program(s) because the change of ownership transaction was completed without notice to CMS or the approval of CMS, an affected Medicare-Certified provider or supplier's deemed status will continue in effect for 180 calendar days if the Medicare-Certified provider or supplier takes the following steps set forth is § 488.8(g).

(i) The Medicare-certified provider or supplier must submit an application to another CMS-approved accreditation program within 60 calendar days from the date of publication of the removal notice in the **Federal Register**; and

(ii) The Medicare-certified provider or supplier must provide written notice to the SA that it has submitted an application for accreditation under another CMS-approved accreditation program within this same 60-calendar day timeframe in accordance with § 488.8(g).

(iii) Failure to comply with the timeframe requirements specified in § 488.8(g) will place the provider or supplier under the SA's authority for continued participation in Medicare and on-going monitoring.

(10) *Requirements for continuation of accreditation for non-certified suppliers when CMS withdraws the existing approval of the transferred accreditation program(s).* If CMS withdraws its existing approval from a transferred non-certified accreditation program for Advanced Diagnostic Imaging (ADI) suppliers; Home Infusion Therapy (HIT) suppliers; Diabetic Self-Management Training (DSMT) entities; Durable Medical Equipment Prosthetics, Orthotics and Supplies (DMEPOS) suppliers; or clinical laboratories, because a change of ownership transaction was completed without notice to or the approval of CMS, such affected non-certified supplier's deemed status would continue in effect for 1 year after the removal of the existing CMS accreditation approval, if such non-certified supplier take the steps specified paragraphs (f)(10)(i) and (ii) of this section—

(i) The non-certified supplier must submit an application to another CMS-approved accreditation program within 60 calendar days from the date of publication of the removal notice in the **Federal Register**; and

(ii) The non-certified supplier must provide written notice to CMS stating that it has submitted an application for accreditation under another CMS-approved accreditation program within the 60-calendar days from the date of publication of the removal notice in the **Federal Register**.

(iii) Failure to comply with the above-stated timeframe requirements will result in de-recognition of such provider or supplier's accreditation.

■ 9. Section 488.1030 is amended by adding paragraph (g) to read as follows:

§ 488.1030 Ongoing review of home infusion therapy accrediting organizations.

* * * * *

(g) *Change of ownership.* An accrediting organization that wishes to undergo a change of ownership is subject to the requirements set out at § 488.5(f).

PART 493—LABORATORY REQUIREMENTS

■ 10. The authority citation for part 493 is revised to read as follows:

Authority: 42 U.S.C. 263a, 1302, 1395x(e), the sentence following 1395x(s)(11) through 1395x(s)(16).

■ 11. Section 493.553 is amended by adding paragraph (e) to read as follows:

§ 493.553 Approval process (application and reapplication) for accreditation organizations and State licensure programs.

* * * * *

(e) *Change of ownership.* An accrediting organization that wishes to undergo a change of ownership is subject to the requirements set out at § 488.5(f) of this chapter.

Dated: November 7, 2018.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

Dated: April 2, 2019.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2019–08939 Filed 4–30–19; 11:15 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 19–71; FCC 19–36]

Updating the Commission's Rule for Over-the-Air Reception Devices

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on updating the Over-the-Air Reception Devices (OTARD) rule by eliminating the restriction that currently excludes hub and relay antennas from the scope of the rule.

DATES: Interested parties may file comments on or before June 3, 2019, and reply comments on or before June 17, 2019.

ADDRESSES: You may submit comments and reply comments on or before the dates indicated in the **DATES** section above. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998). *All filings related to this document shall refer to WT Docket No. 19–71.*

▪ E*lectronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*

▪ *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All

filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

People With Disabilities. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

For additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection modifications proposed herein should be submitted to the Commission via email to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via email to *Nicholas_A._Fraser@omb.eop.gov* or via fax at 202–395–5167.

FOR FURTHER INFORMATION CONTACT: For further information on this proceeding, contact Erin Boone, *Erin.Boone@fcc.gov*, of the Wireless Telecommunications Bureau, Competition & Infrastructure Policy Division, (202) 418–0736.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Notice of Proposed Rulemaking (NPRM), in WT Docket No. 19–71; FCC 19–36, adopted April 12, 2019, and released on April 12, 2019. The document is available for download at *http://fjallfoss.fcc.gov/edocs_public/*. The complete text of this document is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Synopsis

I. NPRM

1. The Commission agrees with the Wireless internet Service Providers Association (WISPA) that it should seek comment on modernizing and updating the OTARD regulatory framework to reflect the current technological landscape. Accordingly, the Commission proposes to eliminate the restriction that currently excludes hub and relay antennas from the scope of the OTARD provisions. The Commission's previous decision to limit the applicability of the OTARD rule reflected the infrastructure needs of a previous generation of wireless technologies that relied on larger antennas spread over greater distances to provide service to consumers. The wireless infrastructure landscape has since shifted toward the development of 5G networks and technologies that require dense deployment of smaller antennas across provider networks in locations closer to customers. The Commission anticipates that revising the OTARD framework would allow fixed wireless providers to deploy hub and relay antennas more quickly and efficiently and would help spur investment in and deployment of needed infrastructure in a manner that is consistent with the public interest. The Commission seeks comment on its proposal.

2. The Commission seeks comment on the extent to which extending the OTARD rule to fixed wireless hub and relay antennas would spur infrastructure deployment, including the deployment of mesh networks in urban, suburban, and rural areas. To what extent would extending the rule create more siting opportunities for fixed wireless service providers? What effect would adoption of the proposed rule have on infrastructure deployment in rural, Tribal, and other underserved areas? What effect would it have on infrastructure deployment by small providers? With respect to the hub and relay antennas, what types of services are these antennas typically used to supply, and what types of services might they supply in the future? Where do providers expect to deploy these facilities? To what extent are these facilities typically used to provide service both to the owner of the property on which they are located as well as to other customers? To what extent do State, local, or private restrictions delay or impede the installation of fixed wireless hub or relay antennas currently? If there are delays or impediments, commenters should provide information and data on the length of delays and associated costs imposed by the restrictions. In addition, the Commission seeks comment on whether updating the OTARD rule could help facilitate the deployment of other 5G infrastructure, such as small wireless facilities.

3. Do fixed wireless service providers face a competitive disadvantage with respect to the deployment of these network facilities compared with other types of providers, such as carriers whose deployments are subject to the provisions of Section 253 of the Act or mobile operators whose deployments are subject to the provisions of Section 332? What are these competitive disadvantages? To what extent would extending OTARD protections as described here effectively address any competitive disparity? Specifically, would extending OTARD protections increase competition or provide an incentive for entry? Commenters opposing the proposal should explain their reasons for doing so, including providing any relevant data, and should discuss other steps the Commission could take to facilitate the deployment of the infrastructure necessary for modern fixed wireless networks.

4. The OTARD rule preempts restrictions on antennas that are located on property within the antenna user's exclusive use or control, and where the user has an ownership or leasehold interest in the property, and it does not apply to restrictions on antennas located in common areas. How should the rule apply in the case of hub or relay antennas? Should the Commission clarify that it will interpret ''antenna user'' to include fixed wireless service providers? For example, if a fixed wireless service provider leases space for a hub antenna on private property, should the Commission clarify that the service provider becomes the ''antenna user'' with respect to that property? Would doing so be necessary to ensure that fixed wireless providers are able to take advantage of an expanded OTARD rule? ''Fixed wireless signals'' are defined under the rule to mean ''any commercial non-broadcast communications signals transmitted via wireless technology to and/or from a fixed customer location.'' Should the Commission revise this provision to delete the word ''customer''? Is doing so necessary to ensure that the rule applies to hub and relay antennas? Should the

Commission further define the term ''hub or relay antenna''? If so, what definition should it adopt? Is it necessary to make any other changes to the text of the rule to ensure that it extends to hub and relay antennas or would other rule revisions or interpretations better effectuate the proposal?

5. Currently, the OTARD provisions applicable to fixed wireless antennas apply only to those antennas measuring one meter or less in diameter or diagonal measurement. In addition, the current rule is subject to an exception for State, local, or private restrictions that are necessary to accomplish a clearly defined, legitimate safety objective, or to preserve prehistoric or historic places that are eligible for inclusion on the National Register of Historic Places, provided such restrictions impose as little burden as necessary to achieve the foregoing objectives, and apply in a nondiscriminatory manner throughout the regulated area. The Commission proposes not to change these aspects of the rule at this time. The Commission seeks comment on this approach. Is there any reason to approach the size-limitation differently in rural or underserved areas?

6. The Commission proposes to rely on the legal authority it relied on originally to extending the OTARD rule to apply to antennas used in connection with fixed wireless services. The Commission notes that it assumed all hub sites were ''personal wireless service facilities'' covered by section 332(c)(7) of the Act—defined by the Act to include only facilities that provide ''telecommunications services''—and therefore beyond the scope of its OTARD provisions. However, this assumption does not currently appear to be accurate. The Commission therefore seeks comment on extending relief to those relay antennas and hub sites that are not ''personal wireless service facilities''—*i.e.,* those that fall into the gap between the current OTARD provisions and the protections of section 332(c)(7) of the Act, and those that WISPA claims are needed for modern high-speed broadband wireless networks. Commenters are invited to identify any other legal authorities that may be relevant.

II. Procedural Matters

A. Initial Regulatory Flexibility Analysis

7. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided on the first page of the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for, and Objectives of, the Proposed Rules

8. In the NPRM, the Commission seeks comment on proposals to facilitate the deployment of 5G wireless networks and technologies by removing outdated regulatory requirements. Specifically, the Commission proposes to eliminate the restriction that currently excludes certain hub and relay antennas from the scope of the over-the-air reception devices (OTARD) provisions. The Commission's earlier decision to limit the applicability of the OTARD rule reflected the infrastructure needs of a previous generation of wireless technologies that relied on larger antennas spread over greater distances to provide service to consumers. The wireless infrastructure landscape has since shifted to the development of 5G networks and technologies that require dense deployment of smaller antennas across provider networks in locations closer to customers. The Commission anticipates that revising the OTARD framework to allow fixed wireless providers to deploy hub and relay antennas more quickly and efficiently in areas within their exclusive use or control will help spur investment in and deployment of needed infrastructure in a manner that is consistent with the public interest.

9. Currently, the OTARD provisions applicable to fixed wireless antennas apply only to those antennas measuring one meter or less in diameter or diagonal measurement. The current rule is also subject to an exception for state, local, or private restrictions that are necessary to accomplish a clearly defined, legitimate safety objective or to preserve an eligible category of prehistoric or historic preservation place, provided such restrictions impose as little burden as necessary to achieve the foregoing objectives, and apply in a nondiscriminatory manner throughout the regulated area.

10. In the Notice the Commission asks detailed questions about its proposals to update the OTARD rule, and request comments to help us evaluate the impact of the proposed rule changes and facilitate the deployment of modern fixed wireless infrastructure by modernizing the OTARD rule.

2. Legal Basis

11. The proposed actions are authorized under sections 1, 4(i), s201(b), 202(a), 205(a), 303(r), and 1302 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201(b), 202(a), 205(a), 303(r), and 1302 and section 207 of the Telecommunications Act of 1996, Public Law 104–104, section 207, 110 Stat. 56, 114.

3. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

12. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Below, the Commission provides a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

13. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 28.8 million businesses.

14. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of August 2016, there were approximately 356,494 small

organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).

15. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2012 Census of Governments indicates that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 37,132 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 Special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category shows that the majority of these governments have populations of less than 50,000. Based on this data the Commission estimates that at least 49,316 local government jurisdictions fall in the category of ''small governmental jurisdictions.''

16. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated for the entire year. Of that total, 3,083 operated with fewer than 1,000 employees. Thus, under this category and the associated size standard, the Commission estimates that the majority of local exchange carriers are small entities.

17. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1000 employees or more. Thus, under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

18. The Commission's own data—available in its Universal Licensing System—indicate that, as of May 17, 2018, there are 264 Cellular licensees that will be affected by the Commission's actions today. The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio Telephony (SMR) services. Of this total, an estimated 261 have 1,500 or fewer employees, and 152 have more than 1,500 employees. Thus, using available data, the Commission estimates that the majority of wireless firms can be considered small.

19. *Non-Licensee Owners of Towers and Other Infrastructure.* Although at one time most communications towers were owned by the licensee using the tower to provide communications service, many towers are now owned by third-party businesses that do not provide communications services themselves but lease space on their towers to other companies that provide communications services. The Commission's rules require that any entity, including a non-licensee, proposing to construct a tower over 200 feet in height or within the glide slope of an airport must register the tower with the Commission's Antenna Structure Registration (ASR) system and comply with applicable rules regarding review for impact on the environment and historic properties.

20. As of March 1, 2017, the ASR database includes approximately 122,157 registration records reflecting a ''Constructed'' status and 13,987 registration records reflecting a ''Granted, Not Constructed'' status. These figures include both towers registered to licensees and towers registered to non-licensee tower owners. The Commission does not keep information from which the Commission can easily determine how many of these towers are registered to non-licensees or how many non-licensees have registered towers. Regarding towers that do not require ASR registration, the Commission does not collect information as to the number of such towers in use and therefore cannot estimate the number of tower owners that would be subject to the rules on which the Commission seeks comment. Moreover, the SBA has not developed a size standard for small businesses in the category ''Tower Owners.'' Therefore, the Commission is unable to determine the number of non-licensee tower owners that are small entities. The Commission believes, however, that when all entities owning 10 or fewer towers and leasing space for collocation are included, non-licensee tower owners number in the thousands. In addition, there may be other non-licensee owners of other wireless infrastructure, including Distributed Antenna Systems (DAS) and small cells that might be affected by the measures on which the Commission seeks comment. The Commission does not have any basis for estimating the number of such non-licensee owners that are small entities.

21. The closest applicable SBA category is All Other Telecommunications, and the appropriate size standard consists of all such firms with gross annual receipts of $32.5 million or less. For this category, U.S. Census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than $25 million and 15 firms had annual receipts of $25 million to $49,999,999. Thus, under this SBA size standard a majority of the firms potentially affected by the Commission's action can be considered small.

22. *Lessors of Residential Buildings and Dwellings.* This industry comprises establishments primarily engaged in acting as lessors of buildings used as residences or dwellings, such as single-family homes, apartment buildings, and town homes. Included in this industry are owner-lessors and establishments renting real estate and then acting as lessors in subleasing it to others. The establishments in this industry may manage the property themselves or have another establishment manage it for them. The appropriate SBA size standard for this industry classifies a business as small if it has $27.5 million or less in annual receipts. U.S. Census Bureau 2012 data for Lessors of Residential Buildings and Dwellings show that there were 42,911 firms that operated for the entire year. Of that number, 42,618 firms operated with annual receipts of less than $25 million per year, while 142 firms operated with annual receipts between $25 million

and $49,999,999 million. Therefore, based on the SBA's size standard the majority of Lessors of Residential Buildings and Dwellings are small entities.

23. *Property Owners' Associations.* This industry comprises establishments formed on the behalf of individual property owners, to make collective decisions based on the wishes of a majority of owners. This includes associations formed on behalf of individual residential condominium owners or homeowners. These associations may provide overall management, publish a telephone directory of the owners, sponsor seasonal events for the owners, establish and collect funds to operate the project, enforce rules and regulations, settle differences of opinion among residents, and make other decisions that are vital to the owners. Associations formed on behalf of individual real estate owners or tenants that provide no property management, but which arrange and organize civic and social functions are included here as well. The appropriate SBA size standard for this industry classifies a business as small if it has $7.5 million or less in annual receipts. U.S. Census Bureau 2012 data for Property Owners' Associations show that there were 17,379 firms that operated for the entire year. Of that number, 16,963 firms operated with annual receipts of less than $5 million per year, while 334 firms operated with annual receipts between $5 million and $ 9,999,999 million. Therefore, based on the SBA's size standard the majority of Property Owners' Associations are small entities.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

24. The proposed updates to the OTARD rule, if adopted, would not impose any new or additional reporting, recordkeeping, or other compliance obligations. However, the number of entities subject to the rule's protections and the labelling requirements may expand as a result of the proposals.

25. The Commission takes steps to reduce regulatory impediments to deployment by ensuring that State, local, and private restrictions do not delay or impede the installation of fixed wireless hub or relay antennas on private property. If enacted, the Commission's proposal would benefit fixed wireless providers—both small and large—by creating more siting opportunities, and the Commission anticipates its proposal would spur investment in and deployment of needed infrastructure. The Commission seeks comment on this proposal and, in particular, on the potential impact it may have on infrastructure deployment in rural areas and by small providers.

26. As part of the Commission's efforts to modernize and update the OTARD regulatory framework to reflect the current technological landscape, the Commission also seeks comment on other steps it could take to facilitate the deployment of the infrastructure necessary for modern fixed wireless networks, and on what implementation issues the Commission should consider. Following the Commission's review and consideration of any comments filed in response to the Notice, the Commission will fully address any requirements adopted that impose new or additional reporting, recordkeeping, or other compliance obligations, and/or will require small entities to hire attorneys, engineers, consultants, or other professionals to comply.

5. Steps Taken To Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered

27. The RFA requires an agency to describe any significant, especially small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

28. The proposed rule changes contemplated by the Commission in this proceeding would relieve small as well as large companies from private and governmental restrictions on the placement of devices integral to the deployment of modern fixed wireless infrastructure. However, to better evaluate the economic impact on small entities, which could occur as a result of the actions proposed in this Notice, the Commission has sought comment. By revising the OTARD framework to allow fixed wireless providers to site hub and relay antennas more quickly and efficiently, in areas within their exclusive use or control (provided that devices are properly labelled as required by the existing rule), the Commission seeks to significantly reduce the economic impact on small and large entities involved in deploying fixed wireless infrastructure. Moreover, while these changes would be beneficial to all companies, they should be particularly beneficial to small entities that may not have the resources and economies of scale of larger entities. In addition, these proposed changes represent alternatives to the existing framework which will allow the Commission to continue to fulfill its statutory responsibilities, while reducing the burden on small entities by removing unnecessary impediments to the rapid deployment of modern fixed wireless infrastructure across the country.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

29. None.

B. Ex Parte Presentations

30. This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by Rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc,

.xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

C. Paperwork Reduction Act

31. This document contains proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements in this document, subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

III. Ordering Clauses

32. Accordingly, *it is ordered*, pursuant to sections 1, 4(i), 201(b), 202(a), 205, 303(r), and 1302 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201(b), 202(a), 205(a), 303(r), and 1302 and section 207 of the Telecommunications Act of 1996, Public Law 104–104, section 207, 110 Stat. 56, 114 that this Notice of Proposed Rulemaking *is adopted*.

33. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Proposed Rules

The Federal Communications Commission proposes to amend § 1.4000 of Title 47 of the Code of Federal Regulations as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 227, 303(r), 309, 1403, 1404, 1451, and 1452.

■ 2. Section 1.4000 paragraphs (a)(1)(i)(A) and (ii)(A) are revised to read as follows:

§ 1.4000 Restrictions impairing reception of television broadcast signals, direct broadcast satellite services or multichannel multipoint distribution services.

(a) * * *

(1) * * *

(i) * * *

(A) An antenna that is used to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite, including a hub or relay antenna, and

* * * * *

(ii) * * *

(A) An antenna that is used to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, or to receive or transmit fixed wireless signals other than via satellite, including a hub or relay antenna, and

* * * * *

[FR Doc. 2019–08432 Filed 5–1–19; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 84, No. 85

Thursday, May 2, 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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2019–0012]

Notice of Availability of a Pest Risk Analysis for the Importation of Fresh Mombin Fruit From Mexico Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have prepared a pest risk analysis that evaluates the risks associated with importation of fresh mombin fruit from Mexico into the continental United States. Based on the analysis, we have determined that the application of one or more phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh mombin fruit from Mexico. We are making the pest risk analysis available to the public for review and comment.

DATES: We will consider all comments that we receive on or before July 1, 2019.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docket Detail;D=APHIS-2019-0012.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2019–0012, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docket Detail;D=APHIS-2019-0012* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Marc Phillips, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 851–2114.

SUPPLEMENTARY INFORMATION: Under the regulations in ''Subpart L–Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into or disseminated within the United States.

Section 319.56–4 contains a performance-based process for approving the importation of certain fruits and vegetables that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the five designated phytosanitary measures listed in paragraph (b) of that section.

APHIS received a request from the national plant protection organization (NPPO) of Mexico to allow the importation of fresh mombin fruit (*Spondias mombin* L. and *S. purpurea* L.) into the continental United States. As part of our evaluation of Mexico's request, we have prepared a pest list to identify pests of quarantine significance that could follow the pathway of importation of fresh mombin fruit into the continental United States from Mexico. Based on the pest list, a risk management document (RMD) was prepared to identify phytosanitary measures that could be applied to the fresh mombin fruit to mitigate the pest risk.

We have concluded that fresh mombin fruit can be safely imported from Mexico into the continental United States using one or more of the five designated phytosanitary measures listed in § 319.56–4(b). The NPPO of Mexico would have to enter into an operational workplan with APHIS that spells out the daily procedures the NPPO will take to implement the measures identified in the RMD. These measures are summarized below:

- Importation in commercial shipments only,
- Phytosanitary treatment (irradiation with a minimum absorbed dose of 150 Gy),
- Pre-export inspection by the NPPO and issuance of a phytosanitary certificate stating that the consignment was inspected and found free of quarantine pests, and
- Port of entry inspections.

Each of the pest risk mitigation measures that would be required, along with evidence of their efficacy in removing pests of concern from the pathway, are described in detail in the RMD.

Therefore, in accordance with § 319.56–4(c)(3), we are announcing the availability of our pest list and RMD for public review and comment. Those documents, as well as a description of the economic considerations associated with the importation of fresh mombin fruit from Mexico, may be viewed on the *Regulations.gov* website or in our reading room (see **ADDRESSES** above for a link to *Regulations.gov* and information on the location and hours of the reading room). You may request paper copies of these documents by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the analysis you wish to review when requesting copies.

After reviewing any comments we receive, we will announce our decision regarding the import status of fresh mombin fruit from Mexico in a subsequent notice. If the overall conclusions of our analysis and the Administrator's determination of risk remain unchanged following our consideration of the comments, then we will authorize the importation of fresh mombin fruit from Mexico into the continental United States subject to the requirements specified in the RMD.

Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 26th day of April 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–08969 Filed 5–1–19; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2019–0011]

Notice of Availability of a Pest Risk Analysis for the Importation of Fresh Mamey Sapote Fruit From Mexico Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have prepared a pest risk analysis that evaluates the risks associated with importation of fresh mamey sapote fruit from Mexico into the continental United States. Based on the analysis, we have determined that the application of one or more phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh mamey sapote fruit from Mexico. We are making the pest risk analysis available to the public for review and comment.

DATES: We will consider all comments that we receive on or before July 1, 2019.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docket Detail;D=APHIS-2019-0011.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2019–0011, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docket Detail;D=APHIS-2019-0011* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Marc Phillips, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 851–2114.

SUPPLEMENTARY INFORMATION: Under the regulations in ''Subpart L—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into or disseminated within the United States.

Section 319.56–4 contains a performance-based process for approving the importation of certain fruits and vegetables that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the five designated phytosanitary measures listed in paragraph (b) of that section.

APHIS received a request from the national plant protection organization (NPPO) of Mexico to allow the importation of fresh mamey sapote fruit (*Pouteria sapota* [Jacq.] H.E. Moore & Stearn) into the continental United States. As part of our evaluation of Mexico's request, we have prepared a pest list to identify pests of quarantine significance that could follow the pathway of importation of fresh mamey sapote fruit into the continental United States from Mexico. Based on the pest list, a risk management document (RMD) was prepared to identify phytosanitary measures that could be applied to the fresh mamey sapote fruit to mitigate the pest risk.

We have concluded that fresh mamey sapote fruit can be safely imported from Mexico into the continental United States using one or more of the five designated phytosanitary measures listed in § 319.56–4(b). The NPPO of Mexico would have to enter into an operational workplan with APHIS that spells out the daily procedures the NPPO will take to implement the measures identified in the RMD. These measures are summarized below:

- Importation in commercial shipments only,
- Phytosanitary treatment (irradiation with a minimum absorbed dose of 150 Gy),
- Pre-export inspection by the NPPO and issuance of a phytosanitary certificate stating that the consignment was inspected and found free of quarantine pests, and
- Port of entry inspections.

Each of the pest risk mitigation measures that would be required, along with evidence of their efficacy in removing pests of concern from the pathway, are described in detail in the RMD.

Therefore, in accordance with § 319.56–4(c)(3), we are announcing the availability of our pest list and RMD for public review and comment. Those documents, as well as a description of the economic considerations associated with the importation of fresh mamey sapote fruit from Mexico, may be viewed on the *Regulations.gov* website or in our reading room (see **ADDRESSES** above for a link to *Regulations.gov* and information on the location and hours of the reading room). You may request paper copies of these documents by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the analysis you wish to review when requesting copies.

After reviewing any comments we receive, we will announce our decision regarding the import status of fresh mamey sapote fruit from Mexico in a subsequent notice. If the overall conclusions of our analysis and the Administrator's determination of risk remain unchanged following our consideration of the comments, then we will authorize the importation of fresh mamey sapote fruit from Mexico into the continental United States subject to the requirements specified in the RMD.

Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 26th day of April 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–08970 Filed 5–1–19; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2019–0013]

Notice of Availability of a Pest Risk Analysis for the Importation of Fresh Soursop Fruit From Mexico Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have prepared a pest risk analysis that evaluates the risks associated with importation of fresh soursop fruit from Mexico into the continental United States. Based on the analysis, we have determined that the application of one or more phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh soursop fruit from Mexico. We are

making the pest risk analysis available to the public for review and comment.

DATES: We will consider all comments that we receive on or before July 1, 2019.

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

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docket Detail;D=APHIS-2019-0013.*

• *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2019–0013, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docket Detail;D=APHIS-2019-0013* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Marc Phillips, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 851–2114.

SUPPLEMENTARY INFORMATION: Under the regulations in ''Subpart L–Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into or disseminated within the United States.

Section 319.56–4 contains a performance-based process for approving the importation of certain fruits and vegetables that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the five designated phytosanitary measures listed in paragraph (b) of that section.

APHIS received a request from the national plant protection organization (NPPO) of Mexico to allow the importation of fresh soursop fruit (*Annona muricata L.*) into the continental United States. As part of our evaluation of Mexico's request, we have prepared a pest list to identify pests of quarantine significance that could follow the pathway of importation of fresh soursop fruit into the continental United States from Mexico. Based on the pest list, a risk management document (RMD) was prepared to identify phytosanitary measures that could be applied to the fresh soursop fruit to mitigate the pest risk.

We have concluded that fresh soursop fruit can be safely imported from Mexico into the continental United States using one or more of the five designated phytosanitary measures listed in § 319.56–4(b). The NPPO of Mexico would have to enter into an operational workplan with APHIS that spells out the daily procedures the NPPO will take to implement the measures identified in the RMD. These measures are summarized below:

• Importation in commercial shipments only,

• Phytosanitary treatment (irradiation with a minimum absorbed dose of 400 Gy),

• Pre-export inspection by the NPPO and issuance of a phytosanitary certificate stating that the consignment was inspected and found free of quarantine pests, and

• Port of entry inspections.

Each of the pest risk mitigation measures that would be required, along with evidence of their efficacy in removing pests of concern from the pathway, are described in detail in the RMD.

Therefore, in accordance with § 319.56–4(c)(3), we are announcing the availability of our pest list and RMD for public review and comment. Those documents, as well as a description of the economic considerations associated with the importation of fresh soursop fruit from Mexico, may be viewed on the *Regulations.gov* website or in our reading room (see **ADDRESSES** above for a link to *Regulations.gov* and information on the location and hours of the reading room). You may request paper copies of these documents by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the analysis you wish to review when requesting copies.

After reviewing any comments we receive, we will announce our decision regarding the import status of fresh soursop fruit from Mexico in a subsequent notice. If the overall conclusions of our analysis and the Administrator's determination of risk remain unchanged following our consideration of the comments, then we will authorize the importation of fresh soursop fruit from Mexico into the continental United States subject to the requirements specified in the RMD.

Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 26th day of April 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–08966 Filed 5–1–19; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2019–0014]

Notice of Availability of a Pest Risk Analysis for the Importation of Fresh Sapodilla Fruit From Mexico Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have prepared a pest risk analysis that evaluates the risks associated with importation of fresh sapodilla fruit from Mexico into the continental United States. Based on the analysis, we have determined that the application of one or more phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh sapodilla fruit from Mexico. We are making the pest risk analysis available to the public for review and comment.

DATES: We will consider all comments that we receive on or before July 1, 2019.

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

• *Federal eRulemaking Portal: Go to http://www.regulations.gov/#!docket Detail;D=APHIS-2019-0014.*

• *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2019–0014, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docket Detail;D=APHIS-2019-0014* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be

sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Marc Phillips, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 851–2114.

SUPPLEMENTARY INFORMATION: Under the regulations in ''Subpart L–Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into or disseminated within the United States.

Section 319.56–4 contains a performance-based process for approving the importation of certain fruits and vegetables that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the five designated phytosanitary measures listed in paragraph (b) of that section.

APHIS received a request from the national plant protection organization (NPPO) of Mexico to allow the importation of fresh sapodilla fruit (*Manilkara zapota* van Royen) into the continental United States. As part of our evaluation of Mexico's request, we have prepared a pest list to identify pests of quarantine significance that could follow the pathway of importation of fresh sapodilla fruit into the continental United States from Mexico. Based on the pest list, a risk management document (RMD) was prepared to identify phytosanitary measures that could be applied to the fresh sapodilla fruit to mitigate the pest risk.

We have concluded that fresh sapodilla fruit can be safely imported from Mexico into the continental United States using one or more of the five designated phytosanitary measures listed in § 319.56–4(b). The NPPO of Mexico would have to enter into an operational workplan with APHIS that spells out the daily procedures the NPPO will take to implement the measures identified in the RMD. These measures are summarized below:

- Importation in commercial shipments only,
- Phytosanitary treatment (irradiation with a minimum absorbed dose of 400 Gy),
- Pre-export inspection by the NPPO and issuance of a phytosanitary certificate stating that the consignment was inspected and found free of quarantine pests, and
- Port of entry inspections.

Each of the pest risk mitigation measures that would be required, along with evidence of their efficacy in removing pests of concern from the pathway, are described in detail in the RMD.

Therefore, in accordance with § 319.56–4(c)(3), we are announcing the availability of our pest list and RMD for public review and comment. Those documents, as well as a description of the economic considerations associated with the importation of fresh sapodilla fruit from Mexico, may be viewed on the *Regulations.gov* website or in our reading room (see **ADDRESSES** above for a link to *Regulations.gov* and information on the location and hours of the reading room). You may request paper copies of these documents by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the analysis you wish to review when requesting copies.

After reviewing any comments we receive, we will announce our decision regarding the import status of fresh sapodilla fruit from Mexico in a subsequent notice. If the overall conclusions of our analysis and the Administrator's determination of risk remain unchanged following our consideration of the comments, then we will authorize the importation of fresh sapodilla fruit from Mexico into the continental United States subject to the requirements specified in the RMD.

Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 26th day of April 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–08965 Filed 5–1–19; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Information Collection Activity; Comment Request

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice; comment requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's intention to request an extension for a currently approved information collection in support of the Rural Economic Development Loan and Grant Program.

DATES: Comments on this notice must be received by July 1, 2019, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Thomas P. Dickson, Rural Development Innovation Center—Regulatory Team 2, USDA, 1400 Independence Avenue SW, STOP 1522, Room 4233, South Building, Washington, DC 20250–1522. Telephone: (202) 690–4492. Email *Thomas.dickson@usda.gov*.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RBS is submitting to OMB for extension.

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 will 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 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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent by any of the following methods:

- *Mail:* Thomas P. Dickson, Rural Development Innovation Center, 1400 Independence Avenue SW, STOP 1522, Room 4233, South Building, Washington, DC 20250–1522. Telephone: (202) 690–4492. Email: *Thomas.Dickson@wdc.usda.go*.
- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov*. Follow the instructions for submitting comments.

Title: Rural Economic Development Loan and Grant Program.

OMB Number: 0570–0035.

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

Abstract: Under this program, loans and grants are provided to electric and telecommunications utilities that have borrowed funds from the Agency. The

purpose of the program is to encourage these electric and telecommunications utilities to promote rural economic development and job creation projects such as business start-up costs, business expansion, community development, and business incubator projects. The utilities must use program loan funds to make a pass-through loan to an ultimate recipient such as a business. The utility is responsible for fully repaying its loan to the Government, even if the ultimate recipient does not repay its loan. The intermediary must use program grant funds, along with its required contribution, to create a revolving loan fund that the utility will operate and administer. Loans to the ultimate recipient are made from the revolving loan fund for a variety of community development projects. The information requested is necessary and vital in order for the Agency to be able to make prudent and financial analysis decisions.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2 hours per response.

Respondents: Rural Utilities Service Electric and Telecommunications Borrowers.

Estimated Number of Respondents: 120.

Estimated Number of Responses per Respondent: 17.

Estimated Number of Responses: 2,180.

Estimated Total Annual Burden on Respondents: 4,781.

Copies of this information collection can be obtained from Robin M. Jones, Innovation Center, at (202) 772–1172, Email: *robin.m.jones@wdc.usda.gov*.

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

Bette B. Brand,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2019–08935 Filed 5–1–19; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–897]

Large Diameter Welded Pipe From the Republic of Korea: Amended Final Affirmative Antidumping Determination and Antidumping Duty Order

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing an antidumping duty order on large diameter welded carbon and alloy steel line and structural pipe from the Republic of Korea (Korea). In addition, Commerce is amending its final affirmative determination.

DATES: Applicable May 2, 2019.

FOR FURTHER INFORMATION CONTACT: Sergio Balbontin at (202) 482–6478 or Janae Martin at (202) 482–0238, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On February 27, 2019, Commerce published its affirmative final determination in the less-than-fair-value (LTFV) investigation of large diameter welded pipe from Korea.[1] The scope of the investigation in Commerce's final determination covered large diameter welded carbon and alloy steel line pipe (welded line pipe), large diameter welded carbon and alloy steel structural pipe (welded structural pipe), and stainless steel large diameter welded pipe (stainless steel pipe) from Korea.[2] As discussed below, the ITC subsequently found three domestic like products covered by the scope of the investigation (welded line pipe, welded structural pipe, and stainless steel pipe) and, accordingly, made a separate injury determination with respect to each domestic like product. On April 15, 2019, the ITC notified Commerce of its final determination, pursuant to 735(d) of the Tariff Act of 1930, as amended (the Act), that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act, by reason of LTFV imports of welded line pipe and welded structural pipe from Korea.[3] Additionally, the ITC made a negative determination of material injury or threat of material injury with respect to stainless steel pipe.[4] Commerce released draft revised scope language for comment by parties.[5] No party objected to the revised scope language in this proceeding.

Scope of the Order

The products covered by this order are welded line pipe and welded structural pipe from Korea. For a complete description of the scope of this order, *see* the Appendix to this notice.

Amended Final Determination

A ministerial error is defined as an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.[6]

Pursuant to section 735(e) of the Act and 19 CFR 351.224(e) and (f), Commerce is amending the *Final Determination* to reflect the correction of certain ministerial errors in the final estimated weighted average dumping margin calculated for SeAH Steel Corporation (SeAH). In addition, because SeAH's estimated weighted average dumping margin is the basis for the estimated weighted average dumping margin determined for all other Korean producers and exporters of subject merchandise, we also are revising the ''all-others'' rate in the *Final Determination.*[7] The amended estimated weighted average dumping margins are listed in the Suspension of Liquidation section below.

[1] *See Large Diameter Welded Pipe from the Republic of Korea: Final Determination of Sales at Less Than Fair Value,* 84 FR 6374 (February 27, 2019) (*Final Determination*).

[2] *Id.*

[3] *See* ITC Notification Letter regarding ITC Investigation Nos. 701–TA–595–596 and 731–TA–1401, 1403, 1405–1406, dated April 15, 2019 (ITC Notification); *see also Large Diameter Welded Pipe from Canada, Greece, Korea, and Turkey; Determinations,* 84 FR 16533 (April 19, 2019) (*ITC Final Determination*); and Large Diameter Welded Pipe from Canada, Greece, Korea, and Turkey, Investigation Nos. 701–TA–595–596 and 731–TA–1401, 1403, 1405–1406 (Final), Publication 4883, April 2019 (Final ITC Report).

[4] *See* ITC Notification.

[5] *See* Memorandum, ''Comments on the Scope of the Orders,'' dated April 5, 2019.

[6] *See* section 735(e) of the Act and 19 CFR 351.224(f).

[7] *See* Memorandum, ''Less-Than-Fair-Value Investigation of Large Diameter Welded Pipe from Korea: Ministerial Error Allegations in the Final Determination,'' dated March 22, 2019.

Antidumping Duty Order

On April 15, 2019, in accordance with sections 735(b)(1)(A)(i) and 735(d) of the Act, the ITC notified Commerce of its final determination in this investigation, in which it found that imports of welded line pipe and welded structural pipe from Korea are materially injuring a U.S. industry.[8] As a result, and in accordance with sections 735(c)(2) and 736 of the Act, we are publishing this antidumping duty order. As noted above, in its determination, the ITC found three domestic like products covered by the scope of the investigation: Welded line pipe, welded structural pipe, and stainless steel pipe. The ITC made a negative determination with respect to stainless steel pipe from Korea. The ITC made an affirmative determination with respect to welded line pipe and welded structural pipe from Korea. Because the ITC made distinct and different injury determinations for separate domestic like products, Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of welded line pipe and welded structural pipe (subject merchandise) from Korea, and not on entries of stainless steel pipe (excluded merchandise) from Korea.

Welded Line Pipe

The Final ITC Report describes welded line pipe as a tubular product produced from carbon and alloy steel, produced to American Petroleum Institute (API) 5L specifications, and designed for conveying liquids and gases.[9] Because the ITC determined that LTFV imports of welded line pipe from Korea are materially injuring a U.S. industry,[10] all unliquidated entries of subject merchandise from Korea, entered or withdrawn from warehouse, are subject to the assessment of antidumping duties, as described below.

As a result of the *ITC Final Determination,* in accordance with section 736(a) of the Act, Commerce will direct CBP to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of welded line pipe from Korea. Antidumping duties will be assessed on unliquidated entries of welded line pipe from Korea entered, or withdrawn from warehouse, for consumption on or after August 27, 2018, the date of publication of the *Preliminary Determination,*[11] but will not be assessed on entries occurring after the expiration of the provisional measures period, beginning on February 23, 2019, in accordance with section 733(d) of the Act, until the date of publication of the *ITC Final Determination* in the **Federal Register**.

Welded Structural Pipe

The Final ITC Report describes welded structural pipe as a tubular product produced from carbon and alloy steel, produced to American Society for Testing and Materials (ASTM) specifications, and designed for support in construction projects and piling.[12] Because the ITC determined that LTFV imports of welded structural pipe from Korea are materially injuring a U.S. industry,[13] all unliquidated entries of subject merchandise from Korea, entered or withdrawn from warehouse, are subject to the assessment of antidumping duties, as described below.

As a result of the *ITC Final Determination,* in accordance with section 736(a) of the Act, Commerce will direct CBP to assess, upon further instruction by Commerce, antidumping duties for all relevant entries of welded structural pipe from Korea. Antidumping duties will be assessed on unliquidated entries of welded structural pipe from Korea entered, or withdrawn from warehouse, for consumption on or after August 27, 2018, the date of publication of the *Preliminary Determination,*[14] but will not be assessed on entries occurring after the expiration of the provisional measures period, beginning on February 23, 2019, in accordance with section 733(d) of the Act, until the date of publication of the *ITC Final Determination* in the **Federal Register**.

Stainless Steel Pipe

The Final ITC Report describes stainless steel pipe as being produced from stainless steel for its high-chrome chemistry and corrosion-resistant properties.[15] Because the ITC made a negative determination of material injury or threat of material injury by reason of LTFV imports of stainless steel pipe from Korea,[16] Commerce will direct CBP to terminate the suspension of liquidation for entries of stainless steel pipe from Korea entered, or withdrawn from warehouse, and to refund all cash deposits with respect to these entries pursuant to section 735(c)(2) of the Act.

Suspension of Liquidation

In accordance with section 736 of the Act, Commerce will direct CBP to reinstitute the suspension of liquidation of subject merchandise (*i.e.,* welded line pipe and welded structural pipe) from Korea, effective the date of publication of the *ITC Final Determination* in the **Federal Register**, and to assess, upon further instruction by Commerce pursuant to section 736(a)(1) of the Act, antidumping duties for each entry of the subject merchandise equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise. We intend to instruct CBP to require, at the same time as importers would normally deposit estimated import duties on this merchandise, cash deposits for each entry of subject merchandise equal to the rates noted below. These instructions suspending liquidation will remain in effect until further notice. For the purpose of determining cash deposit rates, the estimated weighted average dumping margins for imports of subject merchandise from Korea have been adjusted, as appropriate, for export subsidies found in the final determination of the companion countervailing duty investigation of this merchandise imported from Korea. The all-others rate applies to all other producers or exporters not specifically listed.

[8] *See* ITC Notification; and *ITC Final Determination.*

[9] *See* Final ITC Report at 7.

[10] *Id.* at 1 and 5.

[11] *See Large Diameter Welded Pipe from the Republic of Korea: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 83 FR 43651 (August 27, 2018) (*Preliminary Determination*).

[12] *See* Final ITC Report at 7.

[13] *Id.* at 1 and 5.

[14] *See Preliminary Determination.*

[15] *See* Final ITC Report at 7.

[16] *Id.* at 1–2 and 5.

Company	Estimated weighted-average dumping margin (percent)	Estimated weighted-average dumping margin adjusted for subsidy offset(s) (percent) [17]
Hyundai RB Co., Ltd	14.97	12.86
SeAH Steel Corporation	6.87	4.76
Samkang M&T Co., Ltd	20.39	18.28
All Others	9.19	7.08

Notifications to Interested Parties

This notice constitutes the antidumping duty order with respect to welded line pipe and welded structural pipe from Korea pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

This amended final determination and order is published in accordance with sections 735(e) and 736(a) of the Act, and 19 CFR 351.211(b) and 351.224(e) and (f).

Dated: April 23, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Order

The merchandise covered by this order is welded carbon and alloy steel pipe (other than stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

Large diameter welded pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of this order, whether or not produced according to a particular standard.

Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the in-scope large diameter welded pipe.

Excluded from the scope are any products covered by the existing antidumping duty order on welded line pipe from the Republic of Korea. *See Welded Line Pipe from the Republic of Korea and the Republic of Turkey: Antidumping Duty Orders,* 80 FR 75056 (December 1, 2015).

The large diameter welded pipe that is subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

[FR Doc. 2019–08950 Filed 5–1–19; 8:45 am]

BILLING CODE 3510–DS–P

[17] *See Final Determination* and accompanying Issues and Decision Memorandum at 7.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–484–803]

Large Diameter Welded Pipe From Greece: Amended Final Affirmative Antidumping Determination and Antidumping Duty Order

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing an antidumping duty order on large diameter welded carbon and alloy steel line pipe from Greece. In addition, Commerce is amending its final affirmative determination.

DATES: Applicable May 2, 2019.

FOR FURTHER INFORMATION CONTACT: Brittany Bauer at (202) 482–3860, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On February 27, 2019, Commerce published its affirmative final determination in the less-than-fair-value (LTFV) investigation of large diameter welded pipe from Greece.[1] The scope of the investigation in Commerce's final determination covered large diameter welded carbon and alloy steel line pipe (welded line pipe), large diameter welded carbon and alloy steel structural pipe (welded structural pipe), and stainless steel large diameter welded pipe (stainless steel pipe) from Greece.[2] As discussed below, the ITC subsequently found three domestic like products covered by the scope of the investigation (welded line pipe, welded structural pipe, and stainless steel pipe) and, accordingly, made a separate injury determination with respect to each domestic like product. On April 15, 2019, the ITC notified Commerce of its final determination, pursuant to 735(d) of the Tariff Act of 1930, as amended (the Act), that an industry in the United States is threatened with material injury within the meaning of section 735(b)(1)(A)(ii) of the Act, by reason of LTFV imports of welded line pipe from Greece.[3] Additionally, the ITC made

[1] *See Large Diameter Welded Pipe from Greece: Final Determination of Sales at Less Than Fair Value,* 84 FR 6364 (February 27, 2019) (*Final Determination*).

[2] *Id.*

[3] *See* ITC Notification Letter regarding ITC Investigation Nos. 701–TA–595–596 and 731–TA–1401, 1403, and 1405–1406, dated April 15, 2019 (ITC Notification); *see also Large Diameter Welded Pipe from Canada, Greece, Korea, and Turkey; Determinations,* 84 FR 16533 (April 19, 2019) (*ITC*

Continued

negligibility determinations with respect to welded structural pipe and stainless steel pipe.[4]

On April 5, 2019, Commerce released draft revised scope language for comment by parties.[5] On April 9, 2019, we received comments from the sole mandatory respondent in this case, Corinth Pipeworks Pipe Industry S.A. (Corinth).[6] In these comments, Corinth requested that Commerce change an existing scope exclusion to cover pipe made to foreign water and sewage pipe specifications that are comparable to American Water Works Association standards. Because Corinth's proposed language would broaden the existing exclusion, we have not adopted it.

Scope of the Order

The product covered by this order is welded line pipe from Greece. For a complete description of the scope of this order, *see* the Appendix to this notice.

Amendment to Final Determination

A ministerial error is defined as an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.[7]

Pursuant to sections 735(e) of the Act and 19 CFR 351.224(e) and (f), Commerce is amending the *Final Determination* to reflect the correction of a ministerial error in the final estimated weighted average dumping margin calculated for Corinth. In addition, because Corinth's estimated weighted average dumping margin is the basis for the estimated weighted average dumping margin determined for all other Greek producers and exporters of subject merchandise, we also are revising the ''all-others'' rate in the *Final Determination*.[8] The amended estimated weighted average dumping margins are listed in the Suspension of Liquidation section below.

Antidumping Duty Order

On April 15, 2019, in accordance with sections 735(b)(1)(A)(ii) and 735(d) of the Act, the ITC notified Commerce of its final determination in this investigation, in which it found that imports of welded line pipe from Greece threaten material injury to a U.S. industry.[9] As a result, and in accordance with sections 735(c)(2) and 736 of the Act, we are publishing this antidumping duty order. As noted above, in its determination, the ITC found three domestic like products covered by the scope of the investigation: Welded line pipe, welded structural pipe, and stainless steel pipe. The ITC found that imports of welded structural pipe and stainless steel pipe from Greece are negligible. The ITC made an affirmative determination with respect to welded line pipe from Greece. Because the ITC made distinct and different injury determinations for separate domestic like products, Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of welded line pipe (subject merchandise) from Greece, and not on entries of welded structural pipe or stainless steel pipe (excluded merchandise) from Greece.

Welded Line Pipe

The Final ITC Report describes welded line pipe as a tubular product produced from carbon and alloy steel, produced to American Petroleum Institute (API) 5L specifications, and designed for conveying liquids and gases.[10] Because the ITC determined that LTFV imports of welded line pipe from Greece are threatening material injury to a U.S. industry,[11] Commerce will direct CBP that unliquidated entries of subject merchandise from Greece, entered or withdrawn from warehouse, are subject to the assessment of antidumping duties pursuant to section 736 of the Act. Specifically, as a result of the *ITC Final Determination,* in accordance with section 736(a) of the Act, Commerce will direct CBP to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of welded line pipe from Greece.

Pursuant to section 736(b)(2) of the Act, duties shall be assessed on subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the *ITC Final Determination* if that determination is based on the threat of material injury, other than threat of material injury described in section 736(b)(1) of the Act.[12] In addition, section 736(b)(2) of the Act requires CBP to release any bond or other security, and refund any cash deposit made of estimated antidumping duties posted since Commerce's *Preliminary Determination.*[13] Because the *ITC Final Determination* with respect to welded line pipe from Greece is based on the threat of material injury and is not accompanied by a finding that injury would have resulted but for the imposition of suspension of liquidation of entries since Commerce's *Preliminary Determination,* section 736(b)(2) of the Act is applicable. Accordingly, antidumping duties will be assessed on unliquidated entries of welded line pipe from Greece entered, or withdrawn from warehouse, for consumption on or after the date of publication of the *ITC Final Determination* in the **Federal Register**. Further, Commerce will direct CBP to terminate the suspension of liquidation for entries of welded line pipe from Greece entered, or withdrawn from warehouse, for consumption prior to the publication of the *ITC Final Determination* in the **Federal Register**. Commerce will also instruct CBP to refund any cash deposits made with respect to entries of welded line pipe entered, or withdrawn from warehouse, for consumption on or after August 27, 2018 (the date of publication of the *Preliminary Determination*), but before February 23, 2019 (the date suspension of liquidation was discontinued in accordance with section 733(d) of the Act).

Welded Structural Pipe

The Final ITC Report describes welded structural pipe as a tubular product produced from carbon and alloy

Final Determination); and Large Diameter Welded Pipe from Canada, Greece, Korea, and Turkey, Investigation Nos. 701–TA–595–596 and 731–TA–1401, 1403, 1405–1406 (Final), Publication 4883, April 2019 (Final ITC Report).

[4] *See* ITC Notification.

[5] *See* Memorandum, ''Comments on the Scope of the Orders,'' dated April 5, 2019.

[6] *See* Corinth's Letter, ''Antidumping and Countervailing Duty Investigations of Large Diameter Welded Pipe from Canada, Greece, the Republic of Korea, and the Republic of Turkey—CPW/CPWA's Comments on the Scope of the Orders,'' dated April 9, 2019.

[7] *See* section 735(e) of the Act and 19 CFR 351.224(f).

[8] *See* Memorandum, ''Less-Than-Fair-Value Investigation of Large Diameter Welded Pipe from Greece: Allegation of Ministerial Errors in the Final Determination,'' dated April 1, 2019.

[9] *See* ITC Notification; and *ITC Final Determination.*

[10] *See* Final ITC Report at 7.

[11] *Id.* at 1 and 5.

[12] Section 736(b)(1) of the Act states that ''{if the ITC}, in its final determination under section 735(b), finds material injury or threat of material injury which, but for the suspension of liquidation under section 733(d)(2) would have led to a finding of material injury, then entries of the subject merchandise, the liquidation of which has been suspended under section 733(d)(2), shall be subject to the imposition of antidumping duties under section 731.''

[13] *See Large Diameter Welded Pipe from Greece: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 83 FR 43640 (August 27, 2018) (*Preliminary Determination*).

steel, produced to American Society for Testing and Materials (ASTM) specifications, and designed for support in construction projects and piling.[14] Because the ITC determined that imports of welded structural pipe from Greece are negligible,[15] Commerce will direct CBP to terminate the suspension of liquidation for entries of welded structural pipe from Greece entered, or withdrawn from warehouse, and to refund all cash deposits with respect to these entries pursuant to section 735(c)(2) of the Act.

Stainless Steel Pipe

The Final ITC Report describes stainless steel pipe as being produced from stainless steel for its high-chrome chemistry and corrosion-resistant properties.[16] Because the ITC determined that imports of stainless steel pipe from Greece are negligible,[17] Commerce will direct CBP to terminate the suspension of liquidation for entries of stainless steel pipe from Greece entered, or withdrawn from warehouse, and to refund all cash deposits with respect to these entries pursuant to section 735(c)(2) of the Act.

Suspension of Liquidation

In accordance with section 736 of the Act, Commerce will direct CBP to reinstitute the suspension of liquidation of subject merchandise (*i.e.,* welded line pipe) from Greece, effective the date of publication of the *ITC Final Determination* in the **Federal Register**, and to assess, upon further instruction by Commerce pursuant to section 736(a)(1) of the Act, antidumping duties for each entry of the subject merchandise equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise. We intend to instruct CBP to require, at the same time as importers would normally deposit estimated import duties on this merchandise, cash deposits for each entry of subject merchandise equal to the rates noted below. These instructions suspending liquidation will remain in effect until further notice. The all-others rate applies to all other producers or exporters not specifically listed.

Company	Estimated weighted-average dumping margin (percent)
Corinth Pipeworks Pipe Industry S.A	10.26
All Others	10.26

Notifications to Interested Parties

This notice constitutes the antidumping duty order with respect to welded line pipe from Greece pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

This amended final determination and order is published in accordance with sections 735(e) and 736(a) of the Act, and 19 CFR 351.211(b) and 351.224(e) and (f).

Dated: April 23, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Order

The merchandise covered by this order is welded carbon and alloy steel line pipe (other than stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded line pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases.

Large diameter welded line pipe is used to transport oil, gas, or natural gas liquids and is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded line pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All line pipe meeting the physical description set forth above, including any dual- or multiple-certified/stenciled pipe with an API (or comparable) welded line pipe certification/stencil, is covered by the scope of this order.

Subject merchandise also includes large diameter welded line pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the in-scope large diameter welded line pipe.

Excluded from the scope of this order is structural pipe, which is produced only to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, or comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards. Also excluded is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

The large diameter welded line pipe that is subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, and 7305.19.5000. Merchandise currently classifiable under subheadings 7305.31.4000, 7305.31.6090, 7305.39.1000 and 7305.39.5000 and that otherwise meets the above scope language is also covered. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

[FR Doc. 2019–08954 Filed 5–1–19; 8:45 am]

BILLING CODE 3510–DS–P

[14] *See* Final ITC Report at 7.

[15] *Id.* at 1 and 5.

[16] *Id.* at 7.

[17] *Id.* at 1–2 and 5.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–834]

Large Diameter Welded Pipe From the Republic of Turkey: Countervailing Duty Order

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing a countervailing duty order on large diameter welded carbon and alloy steel structural pipe from the Republic of Turkey (Turkey).

DATES: Applicable May 2, 2019.

FOR FURTHER INFORMATION CONTACT: Ross Belliveau at (202) 482–4952 or Ajay Menon at (202) 482–1993, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On February 27, 2019, Commerce published its affirmative final determination in the countervailing duty investigation of large diameter welded pipe from Turkey.[1] The scope of the investigation in Commerce's final determination covered large diameter welded carbon and alloy steel line pipe (welded line pipe), large diameter welded carbon and alloy steel structural pipe (welded structural pipe), and

[1] *See Large Diameter Welded Pipe from the Republic of Turkey: Final Affirmative Countervailing Duty Determination,* 84 FR 6367 (February 27, 2019) (*Final Determination*).

stainless steel large diameter welded pipe (stainless steel pipe) from Turkey.[2] As discussed below, the ITC subsequently found three domestic like products covered by the scope of the investigation (welded line pipe, welded structural pipe, and stainless steel pipe) and, accordingly, made a separate injury determination with respect to each domestic like product. On April 15, 2019, the ITC notified Commerce of its final determination, pursuant to section 705(d) of the Tariff Act of 1930, as amended (the Act), that an industry in the United States is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act, by reason of subsidized imports of welded structural pipe from Turkey.[3] Additionally, the ITC made a negligibility determination with respect to welded line pipe and stainless steel pipe.[4] Commerce released draft revised scope language for comment by parties.[5] No party objected to the revised scope language in this proceeding.

Scope of the Order

The product covered by this order is welded structural pipe from Turkey. For a complete description of the scope of this order, *see* the Appendix to this notice.

Countervailing Duty Order

On April 15, 2019, in accordance with sections 705(b)(1)(A)(i) and 705(d) of the Act, the ITC notified Commerce of its final determination in this investigation, in which it found that imports of welded structural pipe from Turkey are materially injuring a U.S. industry.[6] As a result, and in accordance with sections 705(c)(2) and 706 of the Act, we are publishing this countervailing duty order. As noted above, in its determination, the ITC found three domestic like products covered by the scope of the investigation: Welded line pipe, welded structural pipe, and stainless steel pipe. The ITC found that imports of welded line pipe and stainless steel pipe from Turkey are negligible. The ITC made an affirmative determination with respect to welded structural pipe from Turkey. Because the ITC made distinct and different injury determinations for separate domestic like products, Commerce will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on entries of welded structural pipe (subject merchandise) from Turkey, and not on entries of welded line pipe and stainless steel pipe (excluded merchandise) from Turkey.

Welded Line Pipe

The Final ITC Report describes welded line pipe as a tubular product produced from carbon and alloy steel, produced to American Petroleum Institute (API) 5L specifications, and designed for conveying liquids and gases.[7] Because the ITC determined that subsidized imports of welded line pipe from Turkey are negligible,[8] Commerce will direct CBP to terminate the suspension of liquidation for entries of welded line pipe from Turkey entered, or withdrawn from warehouse, and to refund all cash deposits with respect to these entries pursuant to section 705(c)(2) of the Act.

Welded Structural Pipe

The Final ITC Report describes welded structural pipe as a tubular product produced from carbon and alloy steel, produced to American Society for Testing and Materials (ASTM) specifications, and designed for support in construction projects and piling.[9] Because the ITC determined that subsidized imports of welded structural pipe from Turkey are materially injuring a U.S. industry,[10] all unliquidated entries of subject merchandise from Turkey, entered or withdrawn from warehouse, are subject to the assessment of countervailing duties, pursuant to section 706 of the Act, as described below.

As a result of the *ITC Final Determination,* in accordance with section 706(a) of the Act, Commerce will direct CBP to assess, upon further instruction by Commerce, countervailing duties for all relevant entries of welded structural pipe from Turkey. Countervailing duties will be assessed on unliquidated entries of welded structural pipe from Turkey entered, or withdrawn from warehouse, for consumption on or after June 29, 2018, the date of publication of the *Preliminary Determination,*[11] but will not be assessed on entries occurring after the expiration of the provisional measures period, beginning on October 27, 2018, in accordance with section 703(d) of the Act, until the date of publication of the *ITC Final Determination* in the **Federal Register**.

Stainless Steel Pipe

The Final ITC Report describes stainless steel pipe as being produced from stainless steel for its high-chrome chemistry and corrosion-resistant properties.[12] Because the ITC determined that subsidized imports of stainless steel pipe from Turkey are negligible,[13] Commerce will direct CBP to terminate the suspension of liquidation for entries of stainless steel pipe from Turkey entered, or withdrawn from warehouse, and to refund all cash deposits with respect to these entries pursuant to section 705(c)(2) of the Act.

Suspension of Liquidation

In accordance with section 706 of the Act, Commerce will direct CBP to reinstitute the suspension of liquidation on all relevant entries of subject merchandise (*i.e.,* welded structural pipe) from Turkey, effective the date of publication of the *ITC Final Determination* in the **Federal Register**, and to assess, upon further instruction by Commerce pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rate for the subject merchandise. Because the net countervailable subsidy rate for Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan) in the *Final Determination* was *de minimis,* entries of shipments of subject merchandise both produced and exported by Borusan are not subject to suspension of liquidation or cash deposit requirements. Entries of subject merchandise exported to the United States by any other producer and exporter combination are not entitled to this exclusion from suspension of liquidation and are subject to the applicable cash deposit rates noted below.

We intend to instruct CBP to require, at the same time as importers would normally deposit estimated import duties on this merchandise, cash

[2] *Id.*

[3] *See* ITC Notification Letter regarding ITC Investigation Nos. 701–TA–595–596 and 731–TA–1401, 1403, 1405–1406, dated April 15, 2019 (ITC Notification); *see also Large Diameter Welded Pipe from Canada, Greece, Korea and Turkey; Determinations,* 84 FR 16533 (April 19, 2019) (*ITC Final Determination*); and Large Diameter Welded Pipe from Canada, Greece, Korea and Turkey, Investigation Nos. 701–TA–595–596 and 731–TA–1401, 1403, 1405–1406 (Final), Publication 4883, April 2019 (Final ITC Report).

[4] *See* ITC Notification.

[5] *See* Memorandum, ''Comments on the Scope of the Orders,'' dated April 5, 2019.

[6] *See* ITC Notification; and *ITC Final Determination.*

[7] *See* Final ITC Report at 7.

[8] *Id.* at 1 and 5.

[9] *Id.* at 7.

[10] *Id.* at 1 and 5.

[11] *See Large Diameter Welded Pipe from the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Determination,* 83 FR 30697 (June 29, 2018) (*Preliminary Determination*).

[12] *See* Final ITC Report at 7.

[13] *Id.* at 1–2 and 5.

deposits for each entry of subject merchandise equal to the rates noted below. These instructions suspending liquidation will remain in effect until further notice. The all-others rate applies to all other producers or exporters not specifically listed.

Company	Subsidy rate (percent)
HDM Celik Boru Sanayi ve Ticaret A.S.[14].	3.72.
Borusan Mannesmann Boru Sanayi ve Ticaret A.S.[15].	0.92 (*de minimis*).
All Others	3.72.

Notifications to Interested Parties

This notice constitutes the countervailing duty order with respect to welded structural pipe from Turkey pursuant to section 706(a) of the Act. Interested parties can find a list of countervailing duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

This order is published in accordance with sections 705(c) and 706(a) of the Act and 19 CFR 351.211(b).

Dated: April 23, 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.

Appendix

Scope of the Order

The merchandise covered by this order is welded carbon and alloy steel structural pipe (other than stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded structural pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded structural pipe may be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

Large diameter welded structural pipe may be produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded structural pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All structural pipe meeting the physical description set forth above, including any dual- or multiple-certified/stenciled pipe with an ASTM (or comparable) welded structural pipe certification/stencil, is covered by the scope of this order.

Subject merchandise also includes large diameter welded structural pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the in-scope large diameter welded structural pipe.

Excluded from the scope of this order is line pipe which is suitable for transporting oil, gas, slurry, steam, or other fluids, liquids, or gases, and is normally produced to American Petroleum Institute (API) specification 5L or equivalent foreign specifications grades and/or standards or to proprietary specifications, grades and/or standards. Also excluded from the scope are any products covered by the existing countervailing duty order on welded line pipe from the Republic of Turkey. *See Welded Line Pipe from the Republic of Turkey: Countervailing Duty Order,* 80 FR 75054 (December 1, 2015).

The large diameter welded structural pipe that is subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.31.4000, 7305.31.6090, 7305.39.1000 and 7305.39.5000. Merchandise currently classifiable under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, and 7305.19.5000 and that otherwise meets the above scope language is also covered. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

[FR Doc. 2019–08952 Filed 5–1–19; 8:45 am]

BILLING CODE 3510–DS–P

[14] Commerce found the following company to be cross-owned with HDM Celik: HDM Spiral Kaynakli Celik Boru A.S.

[15] Commerce found the following companies to be cross-owned with Borusan: Borusan Mannesmann Boru Yatirim Holding A.S. and Borusan Holding A.S.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–898]

Large Diameter Welded Pipe From the Republic of Korea: Countervailing Duty Order

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing a countervailing duty order on large diameter welded carbon and alloy steel line and structural pipe from the Republic of Korea (Korea).

DATES: Applicable May 2, 2019.

FOR FURTHER INFORMATION CONTACT: George Ayache at (202) 482–2623 or Robert Palmer at (202) 482–9068, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On February 27, 2019, Commerce published its affirmative final determination in the countervailing duty investigation of large diameter welded pipe from Korea.[1] The scope of the investigation in Commerce's final determination covered large diameter welded carbon and alloy steel line pipe (welded line pipe), large diameter welded carbon and alloy steel structural pipe (welded structural pipe), and stainless steel large diameter welded pipe (stainless steel pipe) from Korea.[2] As discussed below, the ITC subsequently found three domestic like products covered by the scope of the investigation (welded line pipe, welded structural pipe, and stainless steel pipe) and, accordingly, made a separate injury determination with respect to each domestic like product. On April 15, 2019, the ITC notified Commerce of its final determination, pursuant to section 705(d) of the Tariff Act of 1930, as amended (the Act), that an industry in the United States is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act, by reason of subsidized imports of welded line pipe and welded structural pipe from Korea.[3] Additionally, the ITC made a negative determination of material injury or threat of material injury with respect to stainless steel pipe.[4] Commerce released draft revised scope language for comment by parties.[5] No party objected to the revised scope language in this proceeding.

Scope of the Order

The products covered by this order are welded line pipe and welded structural pipe from Korea. For a

[1] *See Large Diameter Welded Pipe from the Republic of Korea: Final Affirmative Countervailing Duty Determination,* 84 FR 6369 (February 27, 2019) *(Final Determination*).

[2] *Id.*

[3] *See* ITC Notification Letter regarding ITC Investigation Nos. 701–TA–595–596 and 731–TA–1401, 1403, 1405–1406, dated April 15, 2019 (ITC Notification); *see also Large Diameter Welded Pipe from Canada, Greece, Korea, and Turkey; Determinations,* 84 FR 16533 (April 19, 2019) (*ITC Final Determination*); and Large Diameter Welded Pipe from Canada, Greece, Korea, and Turkey Investigation Nos. 701–TA–595–596 and 731–TA–1401, 1403, 1405–1406 (Final), Publication 4883, April 2019 (Final ITC Report).

[4] *See* ITC Notification.

[5] *See* Memorandum, ''Comments on the Scope of the Orders,'' dated April 5, 2019.

complete description of the scope of this order, *see* the Appendix to this notice.

Countervailing Duty Order

On April 15, 2019, in accordance with sections 705(b)(1)(A)(i) and 705(d) of the Act, the ITC notified Commerce of its final determination in this investigation, in which it found that imports of welded line pipe and welded structural pipe from Korea are materially injuring a U.S. industry.[6] As a result, and in accordance with sections 705(c)(2) and 706 of the Act, we are publishing this countervailing duty order. As noted above, in its determination, the ITC found three domestic like products covered by the scope of the investigation: Welded line pipe, welded structural pipe, and stainless steel pipe. The ITC made a negative determination with respect to stainless steel pipe from Korea. The ITC made an affirmative determination with respect to welded line pipe and welded structural pipe from Korea. Because the ITC made distinct and different injury determinations for separate domestic like products, Commerce will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on entries of welded line pipe and welded structural pipe (subject merchandise) from Korea, and not on entries of stainless steel pipe (excluded merchandise) from Korea.

Welded Line Pipe

The Final ITC Report describes welded line pipe as a tubular product produced from carbon and alloy steel, produced to American Petroleum Institute (API) 5L specifications, and designed for conveying liquids and gases.[7] Because the ITC determined that subsidized imports of welded line pipe from Korea are materially injuring a U.S. industry,[8] all unliquidated entries of subject merchandise from Korea, entered or withdrawn from warehouse, are subject to the assessment of countervailing duties, as described below.

As a result of the *ITC Final Determination,* in accordance with section 706(a) of the Act, Commerce will direct CBP to assess, upon further instruction by Commerce, countervailing duties for all relevant entries of welded line pipe from Korea. Countervailing duties will be assessed on unliquidated entries of welded line pipe from Korea entered, or withdrawn from warehouse, for consumption on or after June 29, 2018, the date of publication of the *Preliminary Determination,*[9] but will not be assessed on entries occurring after the expiration of the provisional measures period, beginning on October 27, 2018, in accordance with section 703(d) of the Act, until the date of publication of the *ITC Final Determination* in the **Federal Register**.

Welded Structural Pipe

The Final ITC Report describes welded structural pipe as a tubular product produced from carbon and alloy steel, produced to American Society for Testing and Materials (ASTM) specifications, and designed for support in construction projects and piling.[10] Because the ITC determined that subsidized imports of welded structural pipe from Korea are materially injuring a U.S. industry,[11] all unliquidated entries of subject merchandise from Korea, entered or withdrawn from warehouse, are subject to the assessment of countervailing duties, pursuant to section 706 of the Act, as described below.

As a result of the *ITC Final Determination,* in accordance with section 706(a) of the Act, Commerce will direct CBP to assess, upon further instruction by Commerce, countervailing duties for all relevant entries of welded structural pipe from Korea. Countervailing duties will be assessed on unliquidated entries of welded structural pipe from Korea entered, or withdrawn from warehouse, for consumption on or after June 29, 2018, the date of publication of the *Preliminary Determination,*[12] but will not be assessed on entries occurring after the expiration of the provisional measures period, beginning on October 27, 2018, in accordance with section 703(d) of the Act, until the date of publication of the *ITC Final Determination* in the **Federal Register**.

Stainless Steel Pipe

The Final ITC Report describes stainless steel pipe as being produced from stainless steel for its high-chrome chemistry and corrosion-resistant properties.[13] Because the ITC made a negative determination of material injury or threat of material injury by reason of subsidized imports of stainless steel pipe from Korea,[14] Commerce will direct CBP to terminate the suspension of liquidation for entries of stainless steel pipe from Korea entered, or withdrawn from warehouse, and to refund all cash deposits with respect to these entries pursuant to section 705(c)(2) of the Act.

Suspension of Liquidation

In accordance with section 706 of the Act, Commerce will direct CBP to reinstitute the suspension of liquidation on all relevant entries of subject merchandise (*i.e.,* welded line pipe and welded structural pipe) from Korea, effective the date of publication of the *ITC Final Determination* in the **Federal Register**, and to assess, upon further instruction by Commerce pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rate for the subject merchandise. Because the net countervailable subsidy rate for Husteel Co., Ltd. (Husteel) and Hyundai Steel Company (Hyundai Steel) in the *Final Determination* was *de minimis,* entries of shipments of subject merchandise both produced and exported by Husteel and Hyundai Steel[15] are not subject to suspension of liquidation or cash deposit requirements. Entries of subject merchandise exported to the United States by any other producer and exporter combination are not entitled to this exclusion from suspension of liquidation and are subject to the applicable cash deposit rates noted below.

We intend to instruct CBP to require, at the same time as importers would normally deposit estimated import duties on this merchandise, cash deposits for each entry of subject merchandise equal to the rates noted below. These instructions suspending liquidation will remain in effect until further notice. The all-others rate applies to all other producers or exporters not specifically listed.

[6] *See* ITC Notification; and *ITC Final Determination.*

[7] *See* Final ITC Report at 7.

[8] *Id.* at 1 and 5.

[9] *See Large Diameter Welded Pipe from the Republic of Korea: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination,* 83 FR 30693 (June 29, 2018) (*Preliminary Determination*).

[10] *See* Final ITC Report at 7.

[11] *Id.* at 1 and 5.

[12] *See Preliminary Determination.*

[13] *See* Final ITC Report at 7.

[14] *Id.* at 1–2 and 5.

[15] For Hyundai Steel, entries of shipments of subject merchandise produced and exported by Hyundai Steel and/or entries of shipments of subject merchandise produced by Hyundai Steel and exported by Hyundai Corporation, an unaffiliated trading company for Hyundai Steel, are not subject to suspension of liquidation or cash deposit requirements. *See Final Determination* and accompanying Issues and Decision Memorandum at 12.

Company	Subsidy rate (percent)
Husteel Co., Ltd	* 0.01
Hyundai Steel Company [16]	* 0.44
SeAH Steel Corporation [17]	27.42
All Others	9.29

* (*de minimis*)

Notifications to Interested Parties

This notice constitutes the countervailing duty order with respect to welded line pipe and welded structural pipe from Korea pursuant to section 706(a) of the Act. Interested parties can find a list of countervailing duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html*.

This order is published in accordance with sections 705(c) and 706(a) of the Act and 19 CFR 351.211(b).

Dated: April 23, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Order

The merchandise covered by this order is welded carbon and alloy steel pipe (other than stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

Large diameter welded pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of this order, whether or not produced according to a particular standard.

Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the in-scope large diameter welded pipe.

The large diameter welded pipe that is subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

[FR Doc. 2019–08951 Filed 5–1–19; 8:45 am]

BILLING CODE 3510–DS–P

[16] *Id.*

[17] Commerce found the following company to be cross-owned with SeAH Steel: ESAB SeAH Corporation.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–863]

Large Diameter Welded Pipe From Canada: Antidumping Duty Order

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing an antidumping duty order on large diameter welded carbon and alloy steel line and structural pipe from Canada.

DATES: Applicable May 2, 2019.

FOR FURTHER INFORMATION CONTACT: Susan S. Pulongbarit at (202) 482–4031 or Annathea Cook at (202) 482–0250, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On February 27, 2019, Commerce published its affirmative final determination in the less-than-fair-value (LTFV) investigation of large diameter welded pipe from Canada.[1] The scope of the investigation in Commerce's final determination covered large diameter welded carbon and alloy steel line pipe (welded line pipe), large diameter welded carbon and alloy steel structural pipe (welded structural pipe), and stainless steel large diameter welded pipe (stainless steel pipe) from Canada.[2] As discussed below, the ITC subsequently found three domestic like products covered by the scope of the investigation (welded line pipe, welded structural pipe, and stainless steel pipe) and, accordingly, made a separate injury determination with respect to each domestic like product. On April 15, 2019, the ITC notified Commerce of its final determination, pursuant to 735(d) of the Tariff Act of 1930, as amended (the Act), that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act, by reason of LTFV imports of welded line pipe and welded structural pipe from Canada.[3] Additionally, the ITC made a negative determination of material injury or threat of material injury with respect to stainless steel pipe.[4] Commerce released draft revised scope language for comment by parties.[5] No party objected to the revised scope language in this proceeding.

Scope of the Order

The products covered by this order are welded line pipe and welded structural pipe from Canada. For a complete description of the scope of this order, *see* the Appendix to this notice.

Antidumping Duty Order

On April 15, 2019, in accordance with sections 735(b)(1)(A)(i) and 735(d) of the Act, the ITC notified Commerce of its final determination in this investigation, in which it found that imports of welded line pipe and welded structural pipe from Canada are materially injuring a U.S. industry.[6] As a result, and in accordance with sections 735(c)(2) and 736 of the Act, we are publishing this antidumping duty order. As noted above, in its determination, the ITC found three domestic like products covered by the scope of the investigation: Welded line pipe, welded structural pipe, and stainless steel pipe. The ITC made a negative determination with respect to stainless steel pipe from Canada. The ITC made an affirmative determination with respect to welded line pipe and welded structural pipe from Canada. Because the ITC made

[1] *See Large Diameter Welded Pipe from Canada: Final Affirmative Determination of Sales at Less Than Fair Value,* 84 FR 6378 (February 27, 2019) (*Final Determination*).

[2] *Id.*

[3] *See* ITC Notification Letter regarding ITC Investigation Nos. 701–TA–595–596 and 731–TA–1401, 1403, 1405–1406, dated April 15, 2019 (ITC Notification); *see also Large Diameter Welded Pipe from Canada, Greece, Korea, and Turkey; Determinations,* 84 FR 16533 (April 19, 2019) (*ITC Final Determination*); and Large Diameter Welded Pipe from Canada, Greece, Korea, and Turkey, Investigation Nos. 701–TA–595–596 and 731–TA–1401, 1403, 1405–1406 (Final), Publication 4883, April 2019 (Final ITC Report).

[4] *See* ITC Notification.

[5] *See* Memorandum, ''Comments on the Scope of the Orders,'' dated April 5, 2019.

[6] *See* ITC Notification; and *ITC Final Determination.*

distinct and different injury determinations for separate domestic like products, Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of welded line pipe and welded structural pipe (subject merchandise) from Canada, and not on entries of stainless steel pipe (excluded merchandise) from Canada.

Welded Line Pipe

The Final ITC Report describes welded line pipe as a tubular product produced from carbon and alloy steel, produced to American Petroleum Institute (API) 5L specifications, and designed for conveying liquids and gases.[7] Because the ITC determined that LTFV imports of welded line pipe from Canada are materially injuring a U.S. industry,[8] all unliquidated entries of subject merchandise from Canada, entered or withdrawn from warehouse, are subject to the assessment of antidumping duties, as described below.

As a result of the *ITC Final Determination,* in accordance with section 736(a) of the Act, Commerce will direct CBP to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of welded line pipe from Canada. Antidumping duties will be assessed on unliquidated entries of welded line pipe from Canada entered, or withdrawn from warehouse, for consumption on or after August 27, 2018, the date of publication of the *Preliminary Determination,*[9] but will not be assessed on entries occurring after the expiration of the provisional measures period, beginning on February 23, 2019, in accordance with section 733(d) of the Act, until the date of publication of the *ITC Final Determination* in the **Federal Register**.

Welded Structural Pipe

The Final ITC Report describes welded structural pipe as a tubular product produced from carbon and alloy steel, produced to American Society for Testing and Materials (ASTM) specifications, and designed for support in construction projects and piling.[10] Because the ITC determined that LTFV imports of welded structural pipe from Canada are materially injuring a U.S. industry,[11] all unliquidated entries of subject merchandise from Canada, entered or withdrawn from warehouse, are subject to the assessment of antidumping duties, as described below.

As a result of the *ITC Final Determination,* in accordance with section 736(a) of the Act, Commerce will direct CBP to assess, upon further instruction by Commerce, antidumping duties for all relevant entries of welded structural pipe from Canada. Antidumping duties will be assessed on unliquidated entries of welded structural pipe from Canada entered, or withdrawn from warehouse, for consumption on or after August 27, 2018, the date of publication of the *Preliminary Determination,*[12] but will not be assessed on entries occurring after the expiration of the provisional measures period, beginning on February 23, 2019, in accordance with section 733(d) of the Act, until the date of publication of the *ITC Final Determination* in the **Federal Register**.

Stainless Steel Pipe

The Final ITC Report describes stainless steel pipe as being produced from stainless steel for its high-chrome chemistry and corrosion-resistant properties.[13] Because the ITC made a negative determination of material injury or threat of material injury by reason of LTFV imports of stainless steel pipe from Canada,[14] Commerce will direct CBP to terminate the suspension of liquidation for entries of stainless steel pipe from Canada entered, or withdrawn from warehouse, and to refund all cash deposits with respect to these entries pursuant to section 735(c)(2) of the Act.

Suspension of Liquidation

In accordance with section 736 of the Act, Commerce will direct CBP to reinstitute the suspension of liquidation of subject merchandise (*i.e.,* welded line pipe and welded structural pipe) from Canada, effective the date of publication of the *ITC Final Determination* in the **Federal Register**, and to assess, upon further instruction by Commerce pursuant to section 736(a)(1) of the Act, antidumping duties for each entry of the subject merchandise equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise. We intend to instruct CBP to require, at the same time as importers would normally deposit estimated import duties on this merchandise, cash deposits for each entry of subject merchandise equal to the rates noted below. These instructions suspending liquidation will remain in effect until further notice. The all-others rate applies to all other producers or exporters not specifically listed.

Company	Estimated weighted-average dumping margin (percent)
Evraz Inc. NA [15]	12.32
All Others	12.32

Notifications to Interested Parties

This notice constitutes the antidumping duty order with respect to welded line pipe and welded structural pipe from Canada pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

This order is published in accordance with sections 735(c) and 736(a) of the Act and 19 CFR 351.211(b).

Dated: April 23, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Order

The merchandise covered by this order is welded carbon and alloy steel pipe (other than stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

Large diameter welded pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded pipe can be produced to comparable foreign specifications, grades

[7] *See* Final ITC Report at 7.

[8] *Id.* at 1 and 5.

[9] *See Large Diameter Welded Pipe from Canada: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Extension of Provisional Measures,* 83 FR 43649 (August 27, 2018) (*Preliminary Determination*).

[10] *See* Final ITC Report at 7.

[11] *Id.* at 1 and 5.

[12] *See Preliminary Determination.*

[13] *See* Final ITC Report at 7.

[14] *Id.* at 1–2 and 5.

[15] Consistent with the *Final Determination,* we continue to treat Evraz Inc. NA, Evraz Inc. NA Canada, and the Canadian National Steel Corporation as a single entity.

and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of this order, whether or not produced according to a particular standard.

Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the in-scope large diameter welded pipe.

The large diameter welded pipe that is subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

[FR Doc. 2019–08955 Filed 5–1–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

SUMMARY: The Department of Commerce (Commerce) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with February anniversary dates. In accordance with Commerce's regulations, we are initiating those administrative reviews.

DATES: Applicable May 2, 2019.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

Commerce has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with February anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify Commerce within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://access.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on Commerce's service list.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 30 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted within seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments within five days after the deadline for the initial comments.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, Commerce has found that determinations concerning whether particular companies should be ''collapsed'' (*e.g.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*e.g.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (Q&V) Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where Commerce considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[2] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[2] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial responses to section D of the questionnaire.

Separate Rates

In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is Commerce's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, Commerce analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, Commerce assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, Commerce requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on Commerce's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[4] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on Commerce's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to Commerce no later than 30 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status *unless* they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews: In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than February 29, 2020.

	Period to be reviewed
Antidumping Duty Proceedings	
MEXICO: Large Residential Washers, A–201–842	2/1/18–1/31/19
Electrolux Home Products de Mexico, S.A. de C.V.	
Electrolux Home Products Corp. NV.	
INDIA: Certain Frozen Warmwater Shrimp, A–533–840	2/1/18–1/31/19
Abad Fisheries.	
Akshay Food Impex Private Limited.	
Alashore Marine Exports (P) Ltd.	
Albys Agro Private Limited.	
Allana Frozen Foods Pvt. Ltd.	
Allanasons Ltd.	
Alpha Marine.	
Amarsagar Seafoods Private Limited.	
AMI Enterprises.	
Amulya Seafoods.	

[3] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[4] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be reviewed
Ananda Aqua Applications/Ananda Aqua Exports (P) Limited/Ananda Foods.[5]	
Ananda Enterprises (India) Private Limited.	
Anatha Seafoods Private Limited.	
Angelique International Ltd.	
Anjaneya Seafoods.	
Apex Frozen Foods Private Limited.[6]	
Aquatica Frozen Foods Global Pvt. Ltd.	
Arya Sea Foods Private Limited.	
Asvini Exports.	
Asvini Fisheries Ltd/Asvini Fisheries Private Ltd.[7]	
Avanti Frozen Foods Private Limited.[8]	
Ayshwarya Seafood Private Limited.	
B R Traders.	
Baby Marine Eastern Exports.	
Baby Marine Exports.	
Baby Marine International.	
Baby Marine Sarass.	
Baby Marine Ventures.	
Belasore Marine Exports Private Limited.	
Bell Exim Private Limited (Bell Foods (Marine Division).	
Bell Exim Pvt. Ltd.	
Bhatsons Aquatic Products.	
Bhavani Seafoods.	
Bijaya Marine Products.	
Blue Fin Frozen Foods Pvt. Ltd.	
Blue Water Foods & Exports P. Ltd.	
Bluepark Seafoods Pvt. Ltd.	
BMR Exports.	
BMR Industries Private Limited.	
B-One Business House Pvt. Ltd.	
Britto Seafood Exports Pvt Ltd.	
C.P. Aquaculture (India) Pvt. Ltd.	
Calcutta Seafoods Pvt. Ltd./Bay Seafood Pvt. Ltd./Elque & Co.[9]	
Canaan Marine Products.	
Capithan Exporting Co.	
Cargomar Private Limited.	
Castlerock Fisheries Ltd.	
Chakri Fisheries Private Limited.	
Chemmeens (Regd).	
Cherukattu Industries (Marine Div).	
Choice Trading Corporation Pvt. Ltd.	
Coastal Aqua.	
Coastal Aqua Private Limited.[10]	
Coastal Corporation Ltd.	
Cochin Frozen Food Exports Pvt. Ltd.	
Continental Fisheries India Private Limited.	
Coreline Exports.	
Corlim Marine Exports Pvt. Ltd.	
Crystal Sea Foods Private Limited.	
D2 D Logistics Private Limited.	
Damco India Private.	
Delsea Exports Pvt. Ltd.	
Devi Fisheries Limited/Satya Seafoods Private Limited/Usha Seafoods/Devi Aquatech Private Limited.[11]	
Devi Marine Food Exports Private Ltd/Kader Exports Private Limited/Kader Investment and Trading Company Private Limited/Liberty Frozen Foods Pvt. Ltd./Liberty Oil Mills Ltd/Premier Marine Products Private Limited/Universal Cold Storage Private Limited.[12]	
Devi Sea Foods Limited.[13]	
Diamond Seafoods Exports/Edhayam Frozen Foods Pvt. Ltd/Kadalkanny Frozen Foods/Theva & Company.[14]	
Entel Food Products Private Limited.	
Esmario Export Enterprises.	
Everblue Sea Foods Private Limited.	
Exporter Coreline Exports.	
Falcon Marine Exports Limited/KR Enterprises.[15]	
Febin Marine Foods.	
Five Star Marine Exports Private Limited.	
Forstar Frozen Foods Pvt. Ltd.	
Fouress Food Products Private Limited.	
Frontline Exports Pvt. Ltd.	
G A Randerian Ltd.	
Gadre Marine Exports.	
Galaxy Maritech Exports P. Ltd.	
Geo Aquatic Products (P) Ltd.	
Geo Seafoods.	
Goodwill Enterprises.	
Grandtrust Overseas (P) Ltd.	
Green House Agro Products.	
Growel Processors Private Limited.	
GVR Exports Pvt. Ltd.	
Hari Marine Private Limited.	
Haripriya Marine Export Pvt. Ltd.	
Harmony Spices Pvt. Ltd.	
HIC ABF Special Foods Pvt. Ltd.	
Hindustan Lever, Ltd.	
Hiravata Ice & Cold Storage.	

	Period to be reviewed
Hiravati Exports Pvt. Ltd.	
Hiravati International Pvt. Ltd. (located at APM-Mafco Yard, Sector-18, Vashi, Navi, Mumbai-400 705, India).	
Hiravati International Pvt. Ltd. (located at Jawar Naka, Porbandar, Gujarat, 360 575, India).	
Hiravati Marine Products Private Limited.	
HN Indigos Private Limited.	
Hyson Logistics and Marine Exports Private Limited.	
IFB Agro Industries Limited.	
Indian Aquatic Products.	
Indo Aquatics.	
Indo Fisheries.	
Indo French Shellfish Company Private Limited.	
Innovative Foods Limited.	
International Freezefish Exports.	
Interseas.	
ITC Limited, International Business.	
ITC Ltd.	
Jagadeesh Marine Exports.	
Jayalakshmi Sea Foods Pvt. Ltd.	
Jinny Marine Traders.	
Jiya Packagings.	
K V Marine Exports.	
Kalyan Aqua & Marine Exp. India Pvt. Ltd.	
Kalyanee Marine.	
Kanch Ghar.	
Karunya Marine Exports Private Limited.	
Kaushalya Aqua Marine Product Exports Pvt. Ltd.	
Kay Kay Exports.	
Kings Marine Products.	
KNC Agro Pvt. Ltd.	
Koluthara Exports Ltd.	
Landauer Ltd.	
Libran Cold Storages (P) Ltd.	
Magnum Export.	
Magnum Sea Foods Limited/Magnum Estates Limited.[16]	
Malabar Arabian Fisheries.	
Malnad Exports Pvt. Ltd.	
Mangala Marine Exim India Pvt. Ltd.	
Mangala Sea Products.	
Mangala Seafoods.	
Marine Harvest India.	
Meenaxi Fisheries Pvt. Ltd.	
Megaa Moda Pvt. Ltd.	
Milesh Marine Exports Private Limited.	
Milsha Agro Exports Private Limited.	
Monsun Foods Pvt. Ltd.	
Mourya Aquex Pvt. Ltd.	
MTR Foods.	
Munnangi Seafoods (Pvt) Ltd.	
N.C. John & Sons (P) Ltd.	
Naga Hanuman Fish Packers.	
Naik Frozen Foods.	
Naik Oceanic Exports Pvt. Ltd./Rafiq Naik Exports Pvt. Ltd.[17]	
Naik Seafoods Ltd.	
Neeli Aqua Private Limited.	
Nekkanti Sea Foods Limited.	
Nezami Rekha Sea Foods Private Limited.	
Nila Sea Foods Exports.	
Nila Sea Foods Pvt. Ltd.	
Nine Up Frozen Foods.	
Nutrient Marine Foods Limited.	
Oceanic Edibles International Limited.	
Paragon Sea Foods Pvt. Ltd.	
Paramount Seafoods.	
Parayil Food Products Pvt., Ltd.	
Pasupati Aquatics Private Limited.	
Penver Products (P) Ltd.	
Pesca Marine Products Pvt., Ltd.	
Pijikay International Exports P Ltd.	
Pisces Seafoods International.	
Pravesh Seafood Private Limited.	
Premier Exports International.	
Premier Marine Foods.	
Premier Seafoods Exim (P) Ltd.	
R F Exports.	
R V R Marine Products Limited.	
Raa Systems Pvt. Ltd.	
Raju Exports.	
Ram's Assorted Cold Storage Ltd.	
Raunaq Ice & Cold Storage.	
Raysons Aquatics Pvt. Ltd.	
Razban Seafoods Ltd.	
RBT Exports.	
RDR Exports.	

	Period to be reviewed
RF Exports Private Limited.	
Riviera Exports Pvt. Ltd.	
Rohi Marine Private Ltd.	
Royal Imports and Exports.	
Royale Marine Impex Private Limited.	
RSA Marines.	
S & S Seafoods.	
S Chanchala Combines.	
SA Exports.	
Safa Enterprises.	
Sagar Foods.	
Sagar Grandhi Exports Pvt. Ltd.	
Sagar Samrat Seafoods.	
Sagravihar Fisheries Pvt. Ltd.	
Sai Marine Exports Pvt. Ltd.	
Sai Sea Foods.	
Salvam Exports (P) Ltd.	
Samaki Exports Private Limited.	
Sanchita Marine Products P Limited.	
Sandhya Aqua Exports.	
Sandhya Aqua Exports Pvt. Ltd.	
Sandhya Marines Limited.	
Santhi Fisheries & Exports Ltd.	
Sarveshwari Exp.	
Sea Foods Private Limited.	
Sea Gold Overseas Pvt. Ltd.	
Selvam Exports Private Limited.	
Sharat Industries Ltd.	
Sharma Industries.	
Shimpo Exports Private Limited.	
Shimpo Seafoods Private Limited.	
Shiva Frozen Food Exp. Pvt. Ltd.	
Shree Datt Aquaculture Farms Pvt. Ltd.	
Shroff Processed Food & Cold Storage P Ltd.	
Silver Seafood.	
Sita Marine Exports.	
Southern Tropical Foods Pvt. Ltd.	
Sowmya Agri Marine Exports.	
Sprint Exports Pvt. Ltd.	
Sri Sakkthi Cold Storage.	
Sri Venkata Padmavathi Marine Foods Pvt. Ltd.	
Srikanth International.[18]	
SSF Ltd.	
Star Agro Marine Exports Private Limited.	
Star Organic Foods Incorporated.	
Star Organic Foods Private Limited.	
Stellar Marine Foods Private Limited.	
Sterling Foods.	
Sun Agro Exim.	
Sun-Bio Technology Ltd.	
Sunrise Aqua Food Exports.[19]	
Supran Exim Private Limited.	
Suryamitra Exim (P) Ltd.	
Suvarna Rekha Exports Private Limited.	
Suvarna Rekha Marine P Ltd.	
TBR Exports Pvt Ltd.	
Teekay Marine P. Ltd.	
The Waterbase Limited.	
Triveni Fisheries P. Ltd.	
U & Company Marine Exports.	
Ulka Sea Foods Private Limited.	
Uniroyal Marine Exports Ltd.	
Unitriveni Overseas.	
V V Marine Products.	
V.S Exim Pvt Ltd.	
Vasai Frozen Food Co.	
Vasista Marine.	
Veejay Impex.	
Veerabhadra Exports Private Limited.	
Veronica Marine Exports Private Limited.	
Victoria Marine & Agro Exports Ltd.	
Vinner Marine.	
Vitality Aquaculture Pvt. Ltd.	
VRC Marine Foods LLP.	
Wellcome Fisheries Limited.	
West Coast Fine Foods (India) Private Limited.	
West Coast Frozen Foods Private Limited.	
Z A Sea Foods Pvt. Ltd.	
Zeal Aqua Limited.	
INDIA: Stainless Steel Bar, A–533–810	2/1/18–1/31/19
Ambica Steels Limited.	
Hindustan Inox Ltd.	
Jindal Stainless Hisar Ltd.	

	Period to be reviewed
Precision Metals.	
Sieves Manufacturers (India) Pvt. Ltd.	
Venus Group.	
Venus Wire Industries Pvt. Ltd.	
ITALY: Stainless Steel Butt-Weld Pipe Fittings, A–475–828.	2/1/18–1/31/19
Filmag Italia, SpA.	
MALAYSIA: Stainless Steel Butt-Weld Pipe Fittings, A–557–809	2/1/18—1/31/19
Pantech Stainless & Alloy Industries Sdn. Bhd.	
S.P. United Industry Sdn. Bhd.	
TSS Pipes Fittings Industries Sdn. Bhd. (also known as TSS Pipe & Fittings Industry Sdn. Bhd.).	
REPUBLIC OF KOREA: Certain Cut-To-Length Carbon-Quality Steel Plate, A–580–836	2/1/18–1/31/19
BDP International.	
Dongkuk Steel Mill Co., Ltd.	
Hyundai Steel Company.	
Sung Jin Steel Co., Ltd.	
REPUBLIC OF KOREA: Large Residential Washers, A–580–868	2/1/18–1/31/19
LG Electronics, Inc.	
SOCIALIST REPUBLIC OF VIETNAM: Certain Frozen Warmwater Shrimp,[20] A–552–802	2/1/18–1/31/19
A & CDN Foods Co., Ltd.	
Amanda Seafood Co., Ltd.	
An Huy B.T Co. Ltd.	
Anh Koa Seafood.	
Anh Minh Quan Joint Stock Company.	
Asia Food Stuffs Import Export Co., Ltd.	
Au Vung One Seafood Processing Import & Export Joint Stock Company.	
Au Vung Two Seafood Processing Import & Export Joint Stock Company.	
B.O.P Company Limited.	
B.O.P. Limited Co.	
Bac Lieu Fisheries Joint Stock Company.	
Bac Lieu Fisheries Joint Stock Company (''Bac Lieu Fis'').	
Bac Lieu Fisheries Joint Stock Company (Bac Lieu Fis).	
Bac Lieu Fisheries JSC.	
Ben Tre Forestry and Aquaproduct Import-Export Joint Stock Company (FAQUIMEX).	
Ben Tre Forestry and Aquaproduct Import-Export Joint Stock Company (''Faquimex'').	
Bentre Aquaproduct Import & Export Joint Stock Company (Aquatex Bentre).	
Bentre Aquaproduct Import & Export Joint Stock Company.	
Bien Dong Seafood Co., Ltd.	
BIM Foods Joint Stock Company.	
BIM Seafood Joint Stock Company.	
Binh Dong Fisheries Joint Stock Company.	
Binh Thuan Import–Export Joint Stock Company (THAIMEX).	
C.P. Vietnam Corporation.	
Ca Mau Agricultural Products and Foodstuff Imp-Exp Joint Stock Company (Agrimexco Camau).	
Ca Mau Frozen Seafood Joint Stock Company (''Seaprimexco Vietnam'').	
Ca Mau Seafood Joint Stock Company (''Seaprimexco Vietnam'').	
Ca Mau Seafood Joint Stock Company (Seaprimexco Vietnam).	
Cadovimex Seafood Import-Export and Processing Joint Stock Company.	
Cadovimex Seafood Import-Export and Processing Joint Stock Company (''Cadovimex'').	
Cadovimex Seafood Import-Export and Processing Joint Stock Company (Cadovimex).	
Cafatex Corporation.	
Cai Doi Vam Seafood Import-Export Co. (''CADOVIMEX'').	
Cam Ranh Seafoods.	
Camau Frozen Seafood Processing Import Export Corporation (Camimex).	
Camau Frozen Seafood Processing Import-Export Corporation (''Camimex'').	
Camau Seafood and Service Joint Stock Company (''CASES'').	
Camau Seafood and Service Joint Stock Company (Cases).	
Camau Seafood Processing and Service Joint Stock Corporation (and its affiliates, Kien Giang Branch—Camau Seafood Processing & Service Joint Stock Corporation, collectively ''CASES'').	
Camau Seafood Processing and Service Joint Stock Corporation (Cases).	
Camau Seafood Processing and Service Joint-Stock Corporation, Kien Giang Branch.	
Can Tho Import Export Fishery Limited Company (''CAFISH'').	
Can Tho Import Export Fishery Limited Company (CAFISH).	
Cholimex Food Joint Stock Company.	
CJ Cau Tre Foods Joint Stock Company.	
CJ Freshway (FIDES Food System Co., Ltd.).	
Coastal Fisheries Development Corporation (''COFIDEC'').	
Cong Ty Tnhh Thong Thuan (Thong Thuan).	
Cty Tnhh Anh Khoa Seafood.	
Cuulong Seaproducts Company (''Cuu Long Seapro'').	
Cuulong Seaproducts Company (''Cuulong Seapro'').	
Cuulong Seaproducts Company (Cuu Long Seapro).	
Cuulong Seaproducts Company (Cuulong Seapro).	
Danang Seaproducts Import-Export Corporation (SEADANANG).	
Dong Do Profo., Ltd.	
Dong Hai Seafood Limited Company.	
Dong Phuong Seafood Co., Ltd.	
Duc Cuong Seafood Trading Co., Ltd.	
Fimex VN.	
Fine Foods Company (FFC).	
Fine Foods Company (FFC) (Ca Mau Foods & Fishery Export Joint Stock Company).	
Frozen Seafoods Factory No.32.	
Gallant Dachan Seafood Co., Ltd.	
Gallant Ocean (Vietnam) Co., Ltd.	

	Period to be reviewed
Gallant Ocean Viet Nam Co. Ltd.	
Green Farms Joint Stock Company.	
Green Farms Seafood Joint Stock Company.	
Green Farms Seafoods Joint Stock Company.	
Ha Cat A International Co., Ltd.	
Hai Viet Corporation (''HAVICO'').	
Hai Viet Corporation (HAVICO).	
Hanh An Trading Service Co., Ltd.	
Hanoi Seaproducts Import & Export Joint Stock Corporation (Seaprodex Hanoi).	
Hoa Trung Seafood Corporation (HSC).	
Hoang Phuong Seafood Factory.	
Hong Ngoc Seafood Co., Ltd.	
Hung Bang Co., Ltd.	
HungHau Agricultural Joint Stock Company.	
Huynh Huong Seafood Processing.	
Huynh Huong Trading and Import-Export Joint Stock Company.	
Investment Commerce Fisheries Corporation (''Incomfish'').	
Investment Commerce Fisheries Corporation (Incomfish).	
JK Fish Co., Ltd.	
Kaiyo Seafood Joint Stock Company.	
Khai Minh Trading Investment Corporation.	
Khanh Hoa Seafoods Exporting Company (KHASPEXCO).	
Khanh Sung Co., Ltd.	
Khanh Sung Co., Ltd (''Khanh Sung'').	
Khanh Sung Company, Ltd, (''Khanh Sung'').	
Kim Anh Co., Ltd.	
Kim Anh Co., Ltd. (''Kim Anh'').	
Kim Anh Company Limited.	
Lam Son Import-Export Foodstuff Company Limited (Lamson Fimexco).	
Lam Son Import-Export Foodstuffs Corporation.	
Long Toan Frozen Aquatic Products Joint Stock Company.	
Minh Bach Seafood Company (Minh Binh Seafood Foods Co., Ltd.).	
Minh Bach Seafood Company Limited.	
Minh Cuong Seafood Import Export Processing Joint Stock Company (''MC Seafood'').	
Minh Cuong Seafood Import-Export Processing (''MC Seafood'').	
Minh Hai Export Frozen Seafood Processing Joint-Stock Company (''Minh Hai Jostoco'').	
Minh Hai Export Frozen Seafood Processing Joint-Stock Company (Minh Hai Jostoco).	
Minh Hai Joint-Stock Seafoods Processing Company.	
Minh Hai Joint-Stock Seafoods Processing Company (''Seaprodex Minh Hai'').	
Minh Hai Joint-Stock Seafoods Processing Company (Seaprodex Minh Hai).	
Minh Phu Seafood Corporation.[21]	
My Son Seafoods Factory.	
Nam Hai Foodstuff and Export Company Ltd.	
Namcan Seaproducts Import Export Joint Stock Company (Seanamico).	
New Generation Seafood Joint Stock Company.	
New Generation Seafood Joint Stock Company (''New Generation'').	
New Wind Seafood Co., Ltd.	
NGO BROS Seaproducts Import-Export One Member Company Limited (''NGO BROS Company'').	
Ngo Bros Seaproducts Import-Export One Member Company Limited (''Ngo Bros. Co., Ltd.'').	
Ngo Bros Seaproducts Import-Export One Member Company Limited (Ngo Bros).	
NGO BROS Seaproducts Import-Export One Member Company Limited (NGO BROS).	
Ngoc Tri Seafood Joint Stock Company.	
Ngoc Tri Seafood Joint Stock Company (''Ngoc Tri'').	
Nha Trang Fisheries Joint Stock Company.	
Nha Trang Fisheries Joint Stock Company (''Nha Trang Fisco'').	
Nha Trang Seafoods.	
Nha Trang Seaproduct Company.	
Nha Trang Seaproduct Company (and its affiliates NT Seafoods Corporation, Nha Trang Seafoods—F.89 Joint Stock Company, NTSF Seafoods Joint Stock Company (collectively ''Nha Trang Seafoods Group'').	
Nha Trang Seaproduct Company (Nha Trang Seafoods Group).	
NT Seafoods Corporation.	
NTSF Seafoods Joint Stock Company.	
Nhat Duc Co., Ltd.	
Nigico Co., Ltd.	
Phu Cuong Jostoco Corp.	
Phu Cuong Jostoco Seafood Corporation.	
Phu Minh Hung Seafood Joint Stock Company.	
Phuong Nam Foodstuff Corp.	
Phuong Nam Foodstuff Corp., Ltd.	
QNL One Member Co., Ltd.	
QNL One Member Co., Ltd. (''QNL'').	
Quang Minh Seafood Co., Ltd.	
Quang Minh Seafood Co., Ltd. (''Quang Minh'').	
Quoc Ai Seafood Processing Import Export Co., Ltd.	
Quoc Toan Seafood Processing Factory (Quoc Toan PTE).	
Quoc Viet Seaproducts Processing Trade and Import-Export Co., Ltd. (''Quoc Viet Co. Ltd.'').	
Quoc Viet Seaproducts Processing Trade and Import-Export Co., Ltd. (Quoc Viet Co., Ltd.).	
Quoc Viet Seaproducts Processing Trading and Import-Export Co., Ltd.	
Quy Nhon Frozen Seafoods Joint Stock Company.	
Saigon Aquatic Product Trading Joint Stock Company (APT Co.).	
Saigon Food Joint Stock Company.	
Sao Ta Foods Joint Stock Company.	
Sao Ta Foods Joint Stock Company (''FIMEX VN'') (and its factory ''Sao Ta Seafoods Factory'').	

	Period to be reviewed
Sao Ta Foods Joint Stock Company (FIMEX VN).	
Sao Ta Seafood Factory.	
Sea Minh Hai.	
Seafood Joint Stock Company No.4.	
Seafoods and Foodstuff Factory.	
Seaprimexco Vietnam.	
Seaprodex Minh Hai.	
Seavina Joint Stock Co.	
Seavina Joint Stock Company.	
Soc Trang Seafood Joint Stock Company (STAPIMEX).	
Soc Trang Seafood Joint Stock Company (''STAPIMEX'').	
South Ha Tinh Seaproducts Import-Export Joint Stock Company.	
Special Aquatic Products Joint Stock Company (SEASPIMEX VIETNAM).	
T & P Seafood Company Limited.	
Tacvan Frozen Seafood Processing Export Company.	
Tacvan Frozen Seafood Processing Export Company (Tacvan Seafoods Co.).	
Tacvan Seafoods Company (''TACVAN'').	
Tacvan Seafoods Company (TACVAN).	
Tai Kim Anh Seafood Joint Stock Corporation.	
Tai Kim Anh Seafood Joint Stock Corporation (''TAIKA Seafood Corporation'').	
Tai Kim Anh Seafood Joint Stock Corporation (TAIKA Seafood Corporation).	
Tai Nguyen Seafood Co., Ltd.	
Taika Seafood Corporation.	
Tan Phong Phu Seafood Co., Ltd. (''TPP Co., Ltd.'').	
Tan Phong Phu Seafood Co., Ltd. (TPP Co. Ltd.).	
Tan Thanh Loi Frozen Food Co., Ltd.	
Taydo Seafood Enterprise.	
Thanh Doan Sea Products Import & Export Processing Joint Stock Company Thadimexco.	
Thanh Doan Sea Products Import & Export Processing Joint-Stock Company (THADIMEXCO).	
Thien Phu Export Seafood Processing Company Limited.	
Thinh Hung Co., Ltd.	
Thong Thuan—Cam Ranh Seafood Joint Stock Company.	
Thong Thuan Cam Ranh Seafood Joint Stock Company (''T&T Cam Ranh'').	
Thong Thuan Cam Ranh Seafood Joint Stock Company (T&T Cam Ranh).	
Thong Thuan Company Limited.	
Thong Thuan Company Limited (''T&T'').	
Thong Thuan Company Limited (T&T).	
Thong Thuan Seafood Company Limited.	
Thong Thuan—Cam Ranh Seafood Joint Stock Company (T&T Cam Ranh).	
Thuan Phuoc Seafoods and Trading Corporation.	
Thuan Phuoc Seafoods and Trading Corporation (''Thuan Phuoc Corp'').	
Thuan Phuoc Seafoods and Trading Corporation and its separate factories Frozen Seafoods Factory No. 32, Seafoods and Foodstuff Factory, and My Son Seafoods Factory (collectively ''Thuan Phuoc Corp.'').	
Trang Corporation (Vietnam).	
Trang Khan Seafood Co., Ltd.	
Trang Khanh Seafood Co., Ltd.	
Trang Khanh Seafood Company Limited.	
Trong Nhan Seafood Co., Ltd. (''Trong Nhan'').	
Trong Nhan Seafood Co., Ltd. (Trong Nhan).	
Trong Nhan Seafood Company Limited.	
Trung Son Seafood Processing Joint Stock Company.	
UTXI Aquatic Products Processing Company.	
UTXI Aquatic Products Processing Company (UTXICO).	
UTXI Aquatic Products Processing Corporation (''UTXICO'') (and its branch Hoang Phuong Seafood Factory and Hoang Phong Seafood Factory).	
UTXI Aquatic Products Processing Corporation (UTXICO).	
Viet Asia Foods Co., Ltd.	
Viet Foods Co., Ltd.	
Viet Foods Co., Ltd. (''Viet Foods'').	
Viet Foods Co., Ltd. (Viet Foods).	
Viet Hai Seafood Co., Ltd.	
Viet Hai Seafood Co., Ltd. (Viet Fish One Co., Ltd.).	
Viet Hai Seafood Co., Ltd. aka Vietnam Fish One Co., Ltd. (''Fish One'').	
Viet I-Mei Frozen Foods Co. Ltd (''Viet I-Mei'').	
Viet I-Mei Frozen Foods Co., Ltd.	
Viet Nam Seaproducts—Joint Stock Company.	
Viet Phu Foods and Fish Corp.	
Viet Shrimp Export Processing Joint Stock Company.	
Vietnam Clean Seafood Corporation (''Vina Cleanfood'').	
Vietnam Clean Seafood Corporation (Vina Cleanfood).	
Vietnam Fish One Co., Ltd.	
Vietnam Fish-One Co., Ltd.	
Vinh Hoan Corp.	
Xi Nghiep Che Bien Thuy Suc San Xuat Kau Cantho.	
SOCIALIST REPUBLIC OF VIETNAM: Utility Scale Wind Towers, A–552–814	2/1/18–1/31/19
CS Wind Corporation.[22]	
UBI Tower Sole Member Company Ltd.	
Vina Halla Heavy Industries Ltd.	
TAIWAN: Crystalline Silicon Photovoltaic Products, A–583–853	2/1/18–1/31/19
AU Optronics Corporation.	
Baoding Jiasheng Photovoltaic Technology Co. Ltd.	
Baoding Tianwei Yingli New Energy Resources Co., Ltd.	
Beijing Tianneng Yingli New Energy Resources Co. Ltd.	

	Period to be reviewed
Boviet Solar Technology Co., Ltd.	
Canadian Solar Inc.	
Canadian Solar International Limited.	
Canadian Solar International, Ltd.	
Canadian Solar Manufacturing (Changshu), Inc.	
Canadian Solar Manufacturing (Luoyang), Inc.	
Canadian Solar Solution Inc.	
Canadian Solar Solutions Inc.	
EEPV CORP.	
EEPV Corp.	
E-TON Solar Tech. Co., Ltd.	
Gintech Energy Corporation.	
Hainan Yingli New Energy Resources Co., Ltd.	
Hengshui Yingli New Energy Resources Co., Ltd.	
Inventec Energy Corporation.	
Inventec Solar Energy Corporation.	
KOOTATU Tech. Corp.	
Kyocera Mexicana S.A. de C.V.	
Lixian Yingli New Energy Resources Co., Ltd.	
Lof Solar Corp.	
Mega Sunergy Co., Ltd.	
Ming Hwei Energy Co., Ltd.	
Motech Industries, Inc.	
Neo Solar Power Corporation.	
Shenzhen Yingli New Energy Resources Co., Ltd.	
Sino-American Silicon Products Inc.	
Solartech Energy Corporation.	
Sunengine Corporation Ltd.	
Sunrise Global Solar Energy.	
Tianjin Yingli New Energy Resources Co., Ltd.	
TSEC Corporation.	
United Renewable Energy Co., Ltd.	
Vina Solar Technology Co., Ltd.	
Win Win Precision Technology Co., Ltd.	
Yingli Energy (China) Co., Ltd.	
Yingli Green Energy International Trading Company Limited.	
THAILAND: Frozen Warmwater Shrimp, A–549–822	2/1/18–1/31/19
A Foods 1991 Co., Limited/May Ao Foods Co., Ltd.[23]	
A.Wattanachai Frozen Products Co., Ltd.	
A.P. Frozen Foods Co., Ltd.	
A.S. Intermarine Foods Co., Ltd.	
ACU Transport Co., Ltd.	
Ampai Frozen Food Co., Ltd.	
Anglo-Siam Seafoods Co., Ltd.	
Apex Maritime (Thailand) Co., Ltd.	
Apitoon Enterprise Industry Co., Ltd.	
Applied DB.	
Asia Pacific (Thailand) Co., Ltd.	
Asian Alliance International Co., Ltd.	
Asian Seafoods Coldstorage (Sriracha).	
Asian Seafoods Coldstorage (Suratthani) Co., Limited.	
Asian Seafoods Coldstorage PLC.	
Asian Seafoods Coldstorage Public Co. Ltd.	
Assoc. Commercial Systems.	
B.S.A. Food Products Co., Ltd.	
Bangkok Dehydrated Marine Product Co., Ltd.	
Bright Sea Co., Ltd.	
C P MDSE.	
C Y Frozen Food Co., Ltd.	
C.P. Intertrade Co. Ltd.	
Calsonic Kansei (Thailand) Co., Ltd.	
Century Industries Co., Ltd.	
Chaivaree Marine Products Co., Ltd.	
Charoen Pokphand Petrochemical Co., Ltd.	
Chonburi LC.	
Chue Eie Mong Eak Ltd. Part.	
Commonwealth Trading Co, Ltd.	
Core Seafood Processing Co., Ltd.	
CP Merchandising Co., Ltd./Charoen Pokphand Foods Public Co., Ltd.[24]	
CP Retailing and Marketing Co., Ltd.	
CPF Food Products Co., Ltd.	
Crystal Frozen Foods Co., Ltd.	
Crystal Seafood.	
Daedong (Thailand) Co., Ltd.	
Daiei Taigen (Thailand) Co., Ltd.	
Daiho (Thailand) Co., Ltd.	
Dynamic Intertransport Co., Ltd.	
Earth Food Manufacturing Co., Ltd.	
F.A.I.T. Corporation Limited.	
Far East Cold Storage Co., Ltd.	
Findus (Thailand) Ltd.	
Fortune Frozen Foods (Thailand) Co., Ltd.	
Frozen Marine Products Co., Ltd.	

	Period to be reviewed
Gallant Ocean (Thailand) Co., Ltd.	
Gallant Seafoods Corporation.	
Global Maharaja Co., Ltd.	
Golden Sea Frozen Foods Co., Ltd.	
Golden Seafood International Co., Ltd.	
Golden Thai Imp. & Exp. Co., Ltd.	
Good Fortune Cold Storage Ltd.	
Good Luck Product Co., Ltd.	
Grobest Frozen Foods Co., Ltd.	
Gulf Coast Crab Intl.	
H.A.M. International Co., Ltd.	
Haitai Seafood Co., Ltd.	
Handy International (Thailand) Co., Ltd.	
Heng Seafood Limited Partnership.	
Heritrade Co., Ltd.	
HIC (Thailand) Co., Ltd.	
High Way International Co., Ltd.	
I.S.A. Value Co., Ltd.	
I.T. Foods Industries Co., Ltd.	
Inter-Oceanic Resources Co., Ltd.	
Inter Pacific Marine Products Co., Ltd.	
K & U Enterprise Co., Ltd.	
K Fresh.	
K.D. Trading Co., Ltd.	
K.L. Cold Storage Co., Ltd.	
KF Foods Ltd.	
Kiang Huat Sea Gull Trading Frozen Food Public Co., Ltd.	
Kibun Trdg.	
Kingfisher Holdings Limited/KF Foods Limited.[25]	
Kitchens of The Oceans (Thailand) Ltd.	
Klang Co., Ltd.	
Kongphop Frozen Foods Co., Ltd.	
Lee Heng Seafood Co., Ltd.	
Leo Transports.	
Li-Thai Frozen Foods Co., Ltd.	
Lucky Union Foods Co., Ltd.	
Magnate & Syndicate Co., Ltd.	
Mahachai Food Processing Co., Ltd.	
Mahachai Marine Foods Co., Ltd.	
Marine Gold Products Ltd.[26]	
Merit Asia Foodstuff Co., Ltd.	
Merkur Co., Ltd.	
Ming Chao Ind Thailand.	
N&N Foods Co., Ltd.	
N.R. Instant Produce Co., Ltd.	
Namprik Maesri Ltd. Part.	
Narong Seafood Co., Ltd.	
Nongmon SMJ Products.	
Ongkorn Cold Storage Co., Ltd/Thai-Ger Marine Co.[27]	
Pacific Fish Processing Co., Ltd.	
Pacific Queen Co., Ltd.	
Pakpanang Coldstorage Public Co., Ltd.	
Penta Impex Co., Ltd.	
Pinwood Nineteen Ninety Nine.	
Piti Seafood Co., Ltd.	
Premier Frozen Products Co., Ltd.	
Preserved Food Specialty Co., Ltd.	
Queen Marine Food Co., Ltd.	
Rayong Coldstorage (1987) Co., Ltd.	
S&D Marine Products Co., Ltd.	
S&P Aquarium.	
S&P Syndicate Public Company Ltd.	
S. Chaivaree Cold Storage Co., Ltd.	
S. Khonkaen Food Industry Public Co., Ltd.	
S.K. Foods (Thailand) Public Co., Limited.	
S2K Marine Product Co., Ltd.	
Samui Foods Company Limited.	
SB Inter Food Co., Ltd.	
SCT Co., Ltd.	
Sea Bonanza Food Co., Ltd.	
SEA NT'L CO., LTD.	
Seafresh Industry Public Co., Ltd./Seafresh Fisheries.[28]	
Seafoods Enterprise Co., Ltd.	
Search and Serve.	
Sethachon Co., Ltd.	
Shianlin Bangkok Co., Ltd.	
Shing Fu Seaproducts Development Co.	
Siam Food Supply Co., Ltd.	
Siam Haitian Frozen Food Co., Ltd.	
Siam Intersea Co., Ltd.	
Siam Marine Products Co., Ltd.	
Siam Ocean Frozen Foods Co., Ltd.	
Siam Union Frozen Foods.	

	Period to be reviewed
Siamchai International Food Co., Ltd.	
Smile Heart Foods.	
SMP Food Product Co., Ltd.	
Southport Seafood.	
Star Frozen Foods Co., Ltd.	
Starfoods Industries Co., Ltd.	
STC Foodpak Ltd.	
Suntechthai Intertrading Co., Ltd.	
Surapon Foods Public Co., Ltd./Surat Seafoods Public Co., Ltd.[29]	
Surapon Nichirei Foods Co., Ltd.	
Suratthani Marine Products Co., Ltd.	
Suree Interfoods Co., Ltd.	
T.S.F. Seafood Co., Ltd.	
Tep Kinsho Foods Co., Ltd.	
Teppitak Seafood Co., Ltd.	
Tey Seng Cold Storage Co., Ltd./Chaiwarut Co., Ltd.[30]	
Thai Agri Foods Public Co., Ltd.	
Thai Hanjin Logistics Co., Ltd.	
Thai Mahachai Seafood Products Co., Ltd.	
Thai Ocean Venture Co., Ltd.	
Thai Pak Exports Co., Ltd.	
Thai Patana Frozen.	
Thai Prawn Culture Center Co., Ltd.	
Thai Royal Frozen Food Co., Ltd.	
Thai Spring Fish Co., Ltd.	
Thai Union Group Public Co. Ltd./Thai Union Seafood Co., Ltd./Pakfood Public Co., Ltd./Asia Pacific (Thailand) Co., Ltd./Chaophraya Cold Storage Co., Ltd./Okeanos Co., Ltd./Okeanos Food Co., Ltd./Taksin Samut Co., Ltd.[31]	
Thai Union Manufacturing Company Limited.	
Thai World Import and Export Co., Ltd.	
Thai Yoo Ltd., Part.	
The Siam Union Frozen Foods Co., Ltd.	
The Union Frozen Products Co., Ltd/Bright Sea Co., Ltd.[32]	
Top Product Food Co., Ltd.	
Trang Seafood Products Public Co., Ltd.	
Transamut Food Co., Ltd.	
Tung Lieng Tradg.	
United Cold Storage Co., Ltd.	
V Thai Food Product.	
Wann Fisheries Co., Ltd.	
Xian-Ning Seafood Co., Ltd.	
Yeenin Frozen Foods Co., Ltd.	
ZAFCO TRDG.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Frozen Warmwater Shrimp, A–570–893	2/1/18–1/31/19
Allied Pacific (HK) Co., Ltd.[33].	
Allied Pacific Aquatic Products (Zhanjiang) Co., Ltd.	
Allied Pacific Food (Dalian) Co., Ltd.	
Asian Seafoods (Zhanjiang) Co., Ltd.	
Beihai Anbang Seafood Co., Ltd.	
Beihai Boston Frozen Food Co., Ltd.	
Beihai Tianwei Aquatic Food Co. Ltd.	
Changli Luquan Aquatic Products Co., Ltd.	
Dalian Beauty Seafood Company Ltd.	
Dalian Haiqing Food Co., Ltd.	
Dalian Hengtai Foods Co., Ltd.	
Dalian Home Sea International Trading Co., Ltd.	
Dalian Rich Enterprise Group Co., Ltd.	
Dalian Philica Supply Chain Management Co., Ltd.	
Dalian Shanhai Seafood Co., Ltd.	
Dalian Sunrise Foodstuffs Co., Ltd.	
Dalian Taiyang Aquatic Products Co., Ltd.	
Dandong Taihong Foodstuff Co., Ltd.	
Dongwei Aquatic Products (Zhangzhou) Co., Ltd.	
Food Processing Co., Ltd.	
Fujian Chaohui Aquatic Food Co., Ltd.	
Fujian Chaohui Group.	
Fujian Chaohui International Trading Co., Ltd.	
Fujian Dongshan County Shunfa Aquatic Product Co., Ltd.	
Fujian Dongwei Food Co., Ltd.	
Fujian Dongya Aquatic Products Co., Ltd.	
Fujian Fuding Seagull Fishing Food Co., Ltd.	
Fujian Hainason Trading Co., Ltd.	
Fujian Haohui Import & Export Co., Ltd.	
Fujian Hongao Trade Development Co.	
Fujian R & J Group Ltd.	
Fujian Rongjiang Import and Export Co., Ltd.	
Fujian Zhaoan Haili Aquatic Co., Ltd.	
Fuqing Chaohui Aquatic Food Co., Ltd.	
Fuqing Dongwei Aquatic Products Ind.	
Fuqing Dongwei Aquatic Products Industry Co., Ltd.	
Fuqing Longhua Aquatic Food Co., Ltd.	
Fuqing Minhua Trade Co., Ltd.	
Fuqing Yihua Aquatic Food Co., Ltd.	
Gallant Ocean Group.	

	Period to be reviewed
Guangdong Foodstuffs Import & Export (Group) Corporation.	
Guangdong Gourmet Aquatic Products Co., Ltd.	
Guangdong Jinhang Food Co., Ltd.	
Guangdong Rainbow Aquatic Development.	
Guangdong Universal Aquatic Food Co. Ltd.	
Guangdong Wanshida Holding Corp.	
Guangdong Wanya Foods Fty. Co., Ltd.	
HaiLi Aquatic Product Co., Ltd. Zhaoan Fujian.	
Hainan Brich Aquatic Products Co., Ltd.	
Hainan Golden Spring Foods Co., Ltd.	
Huazhou Xinhai Aquatic Products Co. Ltd.	
Leizhou Bei Bu Wan Sea Products Co., Ltd.	
Longhai Gelin Foods Co., Ltd.	
Maoming Xinzhou Seafood Co., Ltd.	
New Continent Foods Co., Ltd.	
North Seafood Group Co.	
Penglai Huiyang Foodstuff Co., Ltd.	
Penglai Yuming Foodstuff Co., Ltd.	
Qingdao Fusheng Foodstuffs Co., Ltd.	
Qingdao Yihexing Foods Co., Ltd.	
Qinhuangdao Gangwan Aquatic Products Co., Ltd.	
Rizhao Meijia Keyuan Foods Co. Ltd.	
Rizhao Rongxing Co. Ltd.	
Rizhao Smart Foods Company Limited.	
Rongcheng Yinhai Aquatic Product Co., Ltd.	
Rushan Chunjiangyuan Foodstuffs Co.	
Rushan Chunjiangyuan Foodstuffs Co., Ltd.	
Savvy Seafood Inc.	
Shanghai Zhoulian Foods Co., Ltd.	
Shantou Freezing Aquatic Product Foodstuffs Co.	
Shantou Jiazhou Food Industrial Co., Ltd.	
Shantou Jintai Aquatic Product Industrial Co., Ltd.	
Shantou Longsheng Aquatic Product Foodstuff Co., Ltd.	
Shantou Ocean Best Seafood Corporation.	
Shantou Red Garden Food Processing Co., Ltd.	
Shantou Red Garden Foodstuff Co., Ltd.[34]	
Shantou Ruiyuan Industry Co., Ltd.	
Shantou Wanya Foods Fty. Co., Ltd.	
Shantou Yuexing Enterprise Company.	
Suizhong Tieshan Food Co., Ltd.	
Thai Royal Frozen Food Zhanjiang Co., Ltd.	
Xiamen Granda Import and Export Co., Ltd.	
Yangjiang Dawu Aquatic Products Co., Ltd.	
Yangjiang Guolian Seafood Co., Ltd.	
Yangjiang Haina Datong Trading Co.	
Yantai Wei Cheng Food Co., Ltd.	
Yantai Wei-Cheng Food Co., Ltd.	
Zhangzhou Donghao Seafoods Co., Ltd.	
Zhangzhou Xinhui Foods Co., Ltd.	
Zhangzhou Xinwanya Aquatic Product Co., Ltd.	
Zhangzhou Yanfeng Aquatic Product & Foodstuff Co., Ltd.	
Zhanjiang Evergreen Aquatic Product Science and Technology Co., Ltd.	
Zhanjiang Fuchang Aquatic Products Freezing Plant.	
Zhanjiang Guolian Aquatic Products Co., Ltd.[35]	
Zhanjiang Longwei Aquatic Products Industry Co., Ltd.	
Zhanjiang Newpro Foods Co., Ltd.	
Zhanjiang Regal Integrated Marine Resources Co., Ltd.[36]	
Zhanjiang Universal Seafood Corp.	
Zhaoan Yangli Aquatic Co., Ltd.	
Zhejiang Xinwang Foodstuffs Co., Ltd.	
Zhoushan Genho Food Co., Ltd.	
Zhoushan Green Food Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Crystalline Silicon Photovoltaic Products, A–570–010	2/1/18–1/31/19
BYD (Shangluo) Industrial Co., Ltd.	
Changzhou Trina Solar Energy Co., Ltd./Trina Solar (Changzhou) Science and Technology Co., Ltd./Yangcheng Trina Solar Energy Co., Ltd./Turpan Trina Solar Energy Co., Ltd./Hubei Trina Solar Energy Co., Ltd.	
Chint Solar (Zhejiang) Co., Ltd.	
Hefei JA Solar Technology Co., Ltd.	
Perlight Solar Co., Ltd.	
Shanghai BYD Co., Ltd.	
Shenzhen Letsolar Technology Co., Ltd.	
Shenzhen Portable Electronic Technology Co., Ltd.	
Shenzhen Sungold Solar Co., Ltd.	
Sol-lite Manufacturing Company Limited.	
Sunny Apex DeveloPment Ltd.	
Wuxi Suntech Power Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Multilayered Wood Flooring, A–570–970	12/1/17–11/30/18
Armstrong Wood Products (Kunshan) Co., Ltd.[37]	
Dunhua City Jisen Wood Industry Co., Ltd.[38]	
Fine Furniture (Shanghai) Limited and Double F Limited.[39]	
Baroque Timber Industries (Zhongshan) Co., Ltd.[40]	
Dalian Guhua Wooden Product Co., Ltd.	
Dalian Huilong Wooden Products Co., Ltd.	

	Period to be reviewed
Fusong Qianqiu Wooden Product Co., Ltd.	
Hangzhou Hanje Tec Company Limited.	
Jiafeng Wood (Suzhou) Co., Ltd.	
Power Dekor Group Co., Ltd.	
Scholar Home (Shanghai) New Material Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Small Diameter Graphite Electrodes, A–570–929	2/1/18–1/31/19
5-Continent Imp. & Exp. Co., Ltd.	
Acclcarbon Co., Ltd.	
Allied Carbon (China) Co., Limited.	
Anssen Metallurgy Group Co., Ltd. (aka AMGL).	
Apex Maritime (Dalian) Co., Ltd.	
Asahi Fine Carbon (Dalian) Co., Ltd.	
Assi Steel Co. Ltd.	
Beijing Fangda Carbon Tech Co., Ltd.	
Beijing International Trade Co., Ltd.	
Beijing Kang Jie Kong Cargo Agent Expeditors (Tianjin Branch).	
Beijing Shougang Huaxia International Trade Co. Ltd.	
Beijing Xinchengze Inc.	
Beijing Xincheng Sci-Tech. Development Inc.	
Brilliant Charter Limited.	
Carbon International.	
Chang Cheng Chang Electrode Co., Ltd.	
Chengde Longhe Carbon Factory.	
Chengdelh Carbonaceous Elements Factory.	
Chengdu Jia Tang Corp.	
Chengdu Rongguang Carbon Co. Ltd.	
China Carbon Graphite Group Inc.	
China Industrial Mineral & Metals Group.	
China Shaanxi Richbond Imp. & Exp. Industrial Corp. Ltd.	
China Xingyong Carbon Co., Ltd.	
CIMM Group Co., Ltd.	
Dalian Carbon & Graphite Corporation.	
Dalian Hongrui Carbon Co., Ltd.	
Dalian Honest International Trade Co., Ltd.	
Dalian Horton International Trading Co., Ltd.	
Dalian LST Metallurgy Co., Ltd.	
Dalian Shuangii Co., Ltd.	
Dalian Thrive Metallurgy Imp. & Exp. Co., Ltd.	
Dandong Xinxin Carbon Co. Ltd.	
Datong Carbon.	
Datong Xincheng Carbon Co., Ltd.	
Datong Xincheng New Material Co.	
Dechang Shida Carbon Co. Ltd (aka Sichuan Dechang Shida Carbon Co., Ltd.).	
De Well Container Shipping Corp. (Dewell Group).	
Dewell Group.	
Dignity Success Investment Trading Co., Ltd.	
Double Dragon Metals and Mineral Tools Co., Ltd.	
Ever Express Group Ltd.	
Fangda Carbon New Material Co., Ltd.	
Fangda Lanzhou Carbon Joint Stock Company Co. Ltd. (aka Lanzhou Hailong New Material Co.).	
Foset Co., Ltd.	
Fushun Carbon Co., Ltd.	
Fushun Jinli Petrochemical Carbon Co., Ltd. (Fushun Jinly Petrochemical Carbon Co., Ltd.).	
Fushun Oriental Carbon Co., Ltd.	
GES (China) Co. Ltd.	
GR Industrial Corporation.	
Grafworld International Inc.	
Gold Success Group Ltd.	
Golden Harvest Resources Ltd.	
Grameter Shipping Co., Ltd. (Qingdao Branch).	
Guangdong Highsun Yongye (Group) Co. Ltd.	
Guanghan Shida Carbon Co., Ltd.	
Haimen Shuguang Carbon Industry Co. Ltd.	
Handan Hanbo Material Co., Ltd.	
Hanhong Precision Machinery Co., Ltd.	
Hebei Long Great Wall Electrode Co., Ltd.	
Hefei Carbon Co., Ltd.	
Heico Universal (Shanghai) Distribution Co., Ltd.	
Heilongjiang Xinyuan Carbon Co. Ltd.	
Henan JLV Graphite Co, Ltd.	
Henan Sanli Carbon Products Co., Ltd.	
Henan Sihai Import and Export Co., Ltd.	
Hohhot Muzi Carbon Trade Co., Ltd.	
Hopes (Beijing) International Co., Ltd.	
Huanan Carbon Factory.	
Hunan Mec Machinery and Electronics Imp. & Exp. Corp.	
Hunan Yinguang Carbon Factory Co., Ltd.	
Inner Mongolia QingShan Special Graphite and Carbon Co., Ltd.	
Inner Mongolia Xinghe County Hongyuan Electrical Carbon Factory.	
Intl Resources Business Ltd.	
Jiangsu Yafei Carbon Co., Ltd.	
Jiaozuo Zhongzhou Carbon Products Co., Ltd.	
Jichun International Trade Co., Ltd. of Jilin Province.	

	Period to be reviewed
Jiexiu Juyuan Carbon Co., Ltd.	
Jiexiu Ju-Yuan & Coaly Co., Ltd.	
Jilin Carbon Graphite Material Co., Ltd.	
Jilin Carbon Import and Export Company.	
Jilin Songiiang Carbon Co Ltd.	
Jinneng Group Co., Ltd.	
Jinyu Thermo-Electric Material Co., Ltd.	
JL Group.	
JL Carbon Co., Ltd.	
Kaifeng Carbon Company Ltd.	
KASY Logistics (Tianjin) Co., Ltd.	
Kimwan New Carbon Technology and Development Co., Ltd.	
Kingstone Industrial Group Ltd.	
L & T Group Co., Ltd.	
Laishui Long Great Wall Electrode Co. Ltd.	
Lanzhou Carbon Co., Ltd.	
Lanzhou Carbon Import & Export Corp. (aka Lanzhou Hailong New Material Co.).	
Lanzhou Hailong Technology (aka Lanzhou Hailong New Material Co.).	
Lanzhou Ruixin Industrial Material Co., Ltd.	
Lianxing Carbon Qinghai Co., Ltd.	
Lianxing Carbon Science Institute.	
Lianxing Carbon (Shandong) Co., Ltd.	
Lianyungang Jianglida Mineral Co., Ltd.	
Lianyungang Jinli Carbon Co., Ltd.	
Liaoning Fenghua Trasteel Industry Co., Ltd.	
Liaoyang Carbon Co. Ltd.	
Linghai Hongfeng Carbon Products Co., Ltd.	
Linyi County Lubei Carbon Co., Ltd.	
Maoming Yongye (Group) Co., Ltd.	
MBI Beijing International Trade Co., Ltd.	
Nantong Dongiin New Energy Co., Ltd.	
Nantong Falter New Energy Co., Ltd.	
Nantong River-East Carbon Joint Stock Co., Ltd.	
Nantong River-East Carbon Co., Ltd.	
Nantong Yangtze Carbon Corp. Ltd.	
Nantong Yanzi Carbon Co. Ltd.	
Oracle Carbon Co., Ltd. (aka Dalian Oracle Carbon Co., Ltd.).	
Orient (Dalian) Carbon Resources Developing Co., Ltd.	
Orient Star Transport International Ltd.	
Oriental Carbon Co. Limited.	
Peixian Longxiang Foreign Trade Co. Ltd.	
Pudong Trans USA, Inc. (Dalian Office).	
Qingdao Grand Graphite Products Co., Ltd.	
Qingdao Haosheng Metals Imp. & Exp. Co Ltd.	
Quingdao Haosheng Metals & Minerals Imp. & Exp. Co., Ltd.	
Qingdao Liyikun Carbon Development Co., Ltd.	
Qingdao Likun Graphite Co., Ltd.	
Qingdao Ruizhen Carbon Co., Ltd.	
Qingdao Yijia E.T.I. I/E Co., Ltd.	
Qingdao Youyuan Metallurgy Material Limited Company.	
Ray Group Ltd.	
Rex International Forwarding Co., Ltd.	
Rt Carbon Co., Ltd.	
Ruitong Carbon Co., Ltd.	
Sangraf Energy Technology Co., Ltd.	
Sea Trade International, Inc.	
Seamaster Global Forwarding (China).	
Shandong Basan Carbon Plant.	
Shandong Zibo Continent Carbon Factory.	
Shanghai Carbon International Trade Co., Ltd.	
Shanghai GC Co., Ltd.	
Shanghai Jinneng International Trade Co., Ltd.	
Shanghai P.W. International Ltd.	
Shanghai Shen-Tech Graphite Material Co., Ltd.	
Shanghai Topstate International Trading Co., Ltd.	
Shanxi Cimm Donghai Advanced Carbon Co., Ltd.	
Shanxi Datong Energy Development Co., Ltd.	
Shanxi Foset Carbon Co. Ltd.	
Shanxi Jiexiu Import and Export Co., Ltd.	
Shanxi Jinneng Group Co., Ltd.	
Shanxi Yunheng Graphite Electrode Co., Ltd.	
Shenyang Jinli Metals & Minerals Imp. & Exp. Co., Ltd.	
Shida Carbon Group.	
Shijiazhuang Carbon Co., Ltd.	
Shijiazhuang Heijin Trade Co., Ltd.	
Shijiazhuang Huanan Carbon Factory.	
Sichuan 5-Continent Imp & Exp Co., Ltd.	
Sichuan Guanghan Shida Carbon Co., Ltd.	
Sichuan Shida Trading Co., Ltd.	
Sichuan GMT International Inc.	
Sinicway International Logistics Ltd.	
Sino Industries Enterprise Ltd.	
Sinosteel Anhui Co., Ltd.	

	Period to be reviewed
Sinosteel Jilin Carbon Co., Ltd.	
Sinosteel Jilin Carbon Imp. & Exp. Co. Ltd.	
Sinosteel Sichuan Co., Ltd.	
SMMC Group Co., Ltd.	
Sure Mega (Hong Kong) Ltd.	
Tangshan Kimwan Special Carbon & Graphite Co., Ltd.	
Tengchong Carbon Co., Ltd.	
T.H.I. Global Holdings Corp.	
T.H.I. Group (Shanghai), Ltd.	
Tianjin (Teda) Iron & Steel Trade Co., Ltd.	
Tianjin Kimwan Carbon Technology Development Co., Ltd.	
Tianjin Muzi Carbon International.	
Tianjin Yue Yang Industrial & Trading Co., Ltd.	
Tianzhen Jintian Graphite Electrodes Co., Ltd.	
Tielong (Chengdu) Carbon Co., Ltd.	
UK Carbon & Graphite.	
United Carbon Ltd.	
United Trade Resources, Inc.	
Weifang Lianxing Carbon Co., Ltd.	
World Trade Metals & Minerals Co., Ltd.	
XC Carbon Group.	
Xinghe County Muzi Carbon Co., Ltd.	
Xinghe County Muzi Carbon Plant.	
Xinghe Xingyong Carbon Co., Ltd.	
Xinghe Xinyuan Carbon Products Co., Ltd.	
Xinyuan Carbon Co., Ltd.	
Xuanhua Hongli Refractory and Mineral Company.	
Xuchang Minmetals & Industry Co., Ltd.	
Xuzhou Carbon Co., Ltd.	
Xuzhou Electrode Factory.	
Xuzhou Jianglong Carbon Products Co., Ltd.	
Yangzhou Qionghua Carbon Trading Ltd.	
Yixing Huaxin Imp & Exp Co. Ltd.	
Youth Industry Co., Ltd.	
Zhengzhou Jinyu Thermo-Electric Material Co., Ltd.	
Zibo Continent Carbon Factory.	
Zibo DuoCheng Trading Co., Ltd.	
Zibo Lianxing Carbon Co., Ltd.	
Zibo Wuzhou Tanshun Carbon Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Uncovered Innerspring Units, A–570–928	2/1/18–1/31/19
Green Asia Parts, LTD.	
Jietai Machinery Ltd. (HK).	
THE PEOPLE'S REPUBLIC OF CHINA: Utility Scale Wind Towers, A–570–981	2/1/18–1/31/19
Alstom Sizhou Electric Power Equipment Co., Ltd.	
AUSKY (Shandong) Machinery Manufacturing Co., Ltd.	
AVIC International Renewable Energy Co., Ltd.	
Baotou Titan Wind Power Equipment Co., Ltd.	
Bashi Yuexin Logistics Development Co., Ltd.	
CATIC International Trade & Economic Development Ltd.	
Chengde Tianbao Machinery Co., Ltd.	
Chengxi Shipyard Co., Ltd.	
China WindPower Group.	
CleanTech Innovations Inc.	
CNR Wind Turbine Co., Ltd.	
CS Wind China Co., Ltd.	
CS Wind Corporation.	
CS Wind Tech (Shanghai) Co., Ltd.	
Dajin Heavy Industry Corporation.	
Greenergy Technology Co., Ltd.	
Guangdong No. 2 Hydropower Engineering Co., Ltd.	
Guodian United Power Technology Baoding Co., Ltd.	
Harbin Hongguang Boiler Group Co., Ltd.	
Hebei Ningqiang Group.	
Hebei Qiangsheng Wind Equipment Co., Ltd.	
Jiangsu Baolong Electromechanical Mfg. Co., Ltd.	
Jiangsu Baolong Tower Tube Manufacture Co., Ltd.	
Jiangsu Taihu Boiler Co., Ltd.	
Jiangyin Hengrun Ring Farging Co., Ltd.	
Jilin Miracle Equipment Manufacturing Engineering Co., Ltd.	
Jilin Tianhe Wind Power Equipment Co., Ltd.	
Jinan Railway Vehicles Equipment Co., Ltd.	
Nanjing Jiangbiao Group Co., Ltd.	
Nantong Dongtai New Energy Equipment Co., Ltd.	
Nantong Hongbo Windpower Equipment Co., Ltd.	
Ningxia Electric Power Group.	
Ningxia Yinxing Energy Co.	
Ningxia Yinyi Wind Power Generation Co., Ltd.	
Qingdao GeLinTe Environmental Protection Equipment Co., Ltd.	
Qingdao Ocean Group.	
Qingdao Pingcheng Steel Structure Co., Ltd.	
Qingdao Tianneng Electric Power Engineering Machinery Co., Ltd.	
Qingdao Wuxiao Group Co., Ltd.	
Renewable Energy Asia Group Ltd.	

	Period to be reviewed
SDV China Nanjing.	
Shandong Endless Wind Turbine Technical Equipment Co., Ltd.	
Shandong Iraeta Heavy Industry.	
Shandong Zhongkai Wind Power Equipment Manufacturers, Ltd.	
Shanghai Aerotech Trading International.	
Shanghai GE Guangdian Co., Ltd.	
Shanghai Taisheng Wind Power Equipment Co., Ltd.	
Shenyang Titan Metal Co., Ltd.	
Sinovel Wind Group Co., Ltd.	
Suihua Wuxiao Electric Power Equipment Co., Ltd.	
Titan (Lianyungang) Metal Product Co., Ltd.	
Titan Wind Energy (Suzhou) Co., Ltd.	
Vestas Wind Technology (China).	
Wuxiao Steel Tower Co., Ltd.	
Xinjiang Huitong (Group) Co., Ltd.	
Zhangjiagang Zhiyi Medical Health.	
Countervailing Duty Proceedings	
INDIA: Cold-Drawn Mechanical Tubing, C–533–874	9/25/17–12/31/18
Automotive Steel Pipe.	
Bhushan Steel Ltd.	
Good Luck India Limited.	
Good Luck Industries.	
Hyundai Steel Pipe India Pvt., Ltd.	
Innoventive Industries.	
ISMT Limited.	
Jindal (India) Ltd.	
Jindal Saw Ltd.	
Pennar Industries, Inc.	
Sandvik Asia Pvt., Ltd.	
Tata Steel BSL Limited.	
Tube Investments of India Ltd.	
Tube Products of India.	
REPUBLIC OF KOREA: Certain Cut-To-Length Carbon-Quality Steel Plate, C–580–837	1/1/18–12/31/18
BDP International.	
Dongkuk Steel Mill Co., Ltd.	
Hyundai Steel Co., Ltd.	
Hyundai Steel Company.	
Sung Jin Steel Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Cold-Drawn Mechanical Tubing, C–570–059	9/25/17–12/31/18
Anji Pengda Steel Pipe Co., Ltd.	
Changshu Fushilai Steel Pipe Co., Ltd.	
Changshu Special Shaped Steel Tube Co., Ltd.	
Hebei Changfeng Steel Tube Mfg.	
Hubei Xinyegang Steel Co., Ltd.	
Jiangsu Liwan Precision Tube Manufacturing Co., Ltd.	
Jiangsu Hongyi Steel Pipe Co., Ltd.	
Jiangsu Huacheng Industry Pipe Making Corporation.	
Zhangjiagang Salem Fine Tubing Co., Ltd.	
Suzhou Baojia New Energy Technology Co., Ltd.	
Suzhou Foster International Co., Ltd.	
Wuxi Dajin High-Precision Cold-Drawn Steel Tube Co., Ltd.	
Wuxi P&C Machinery Co., Ltd.	
Yangzhou Lontrin Steel Tube Co., Ltd.	
Zhangjiagang Huacheng Import & Export Co., Ltd.	
Zhangjiagang Shengdingyuan Pipe-Making Co., Ltd.	
Zheiiang Minghe Steel Pipe Co., Ltd.	
Zhejiang Dingxin Steel Tube Manufacturing Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Crystalline Silicon Photovoltaic Products, C–570–011	1/1/18–12/31/18
Changzhou Trina Solar Energy Co., Ltd.	
Chint Solar (Zhejiang) Co., Ltd.	
Hefei JA Solar Technology Co., Ltd.	
Ri Shen Products (SZ) Ltd.	
Risen Energy Co., Ltd.	
Shanghai JA Solar Technology Co., Ltd.	
Shenzhen Letsolar Technology Co., Ltd.	
Shenzhen Portable Electronic Technology Co., Ltd.	
Shenzhen Sungold Solar Co., Ltd.	
Sol-lite Manufacturing Company Limited.	
Sunny Apex Development Ltd.	
Trina Solar (Changzhou) Science & Technology Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Tool Chests and Cabinets,[41] C–570–057	9/15/17–12/31/18
THE PEOPLE'S REPUBLIC OF CHINA: Utility Scale Wind Towers, C–570–982	1/1/18–12/31/18
Alstom Sizhou Electric Power Equipment Co., Ltd.	
AUSKY (Shandong) Machinery Manufacturing Co., Ltd.	
AVIC International Renewable Energy Co., Ltd.	
Baotou Titan Wind Power Equipment Co., Ltd.	
Bashi Yuexin Logistics Development Co., Ltd.	
CATIC International Trade & Economic Development Ltd.	
Chengde Tianbao Machinery Co., Ltd.	
Chengxi Shipyard Co., Ltd.	
China WindPower Group.	
CleanTech Innovations Inc.	

	Period to be reviewed
CNR Wind Turbine Co., Ltd.	
CS Wind China Co., Ltd.	
CS Wind Corporation.	
CS Wind Tech (Shanghai) Co., Ltd.	
Dajin Heavy Industry Corporation.	
Greenergy Technology Co., Ltd.	
Guangdong No.2 Hydropower Engineering Co., Ltd.	
Guodian United Power Technology Baoding Co., Ltd.	
Harbin Hongguang Boiler Group Co., Ltd.	
Hebei Ningqiang Group.	
Hebei Qiangsheng Wind Equipment Co., Ltd.	
Jiangsu Baolong Electromechanical Mfg. Co., Ltd.	
Jiangsu Baolong Tower Tube Manufacture Co., Ltd.	
Jiangsu Taihu Boiler Co., Ltd.	
Jiangyin Hengrun Ring Farging Co., Ltd.	
Jilin Miracle Equipment Manufacturing Engineering Co., Ltd.	
Jilin Tianhe Wind Power Equipment Co., Ltd.	
Jinan Railway Vehicles Equipment Co., Ltd.	
Nanjing Jiangbiao Group Co., Ltd.	
Nantong Dongtai New Energy Equipment Co., Ltd.	
Nantong Hongbo Windpower Equipment Co., Ltd.	
Ningxia Electric Power Group.	
Ningxia Yinxing Energy Co.	
Ningxia Yinyi Wind Power Generation Co., Ltd.	
Qingdao GeLinTe Environmental Protection Equipment Co., Ltd.	
Qingdao Ocean Group.	
Qingdao Pingcheng Steel Structure Co., Ltd.	
Qingdao Tianneng Electric Power Engineering Machinery Co., Ltd.	
Qingdao Wuxiao Group Co., Ltd.	
Renewable Energy Asia Group Ltd.	
SDV China Nanjing.	
Shandong Endless Wind Turbine Technical Equipment Co., Ltd.	
Shandong Iraeta Heavy Industry.	
Shandong Zhongkai Wind Power Equipment Manufacturers, Ltd.	
Shanghai Aerotech Trading International.	
Shanghai GE Guangdian Co., Ltd.	
Shanghai Taisheng Wind Power Equipment Co., Ltd.	
Shenyang Titan Metal Co., Ltd.	
Sinovel Wind Group Co., Ltd.	
Suihua Wuxiao Electric Power Equipment Co., Ltd.	
Titan (Lianyungang) Metal Product Co., Ltd.	
Titan Wind Energy (Suzhou) Co., Ltd.	
Vestas Wind Technology (China).	
Wuxiao Steel Tower Co., Ltd.	
Xinjiang Huitong (Group) Co., Ltd.	
Zhangjiagang Zhiyi Medical Health.	
THE PEOPLE'S REPUBLIC OF CHINA: Hardwood Plywood Products,[42] C–570–052	4/25/17–12/31/18
Cosco Star International Co., Ltd.	
Happy Wood Industrial Group Co., Ltd.	
Jiangsu High Hope Arser Co., Ltd.	
Jiangsu Sunwell Cabinetry Co., Ltd.	
Lianyungang Yuantai International Trade Co., Ltd.	
Linyi Bomei Furniture Co., Ltd.	
Linyi Dahua Wood Co., Ltd.	
Pingyi Jinniu Wood Co., Ltd.	
Qingdao Top P&Q International Corp.	
SAICG International Trading Co., Ltd.	
Shandong Huaxin Jiasheng Wood Co., Ltd.	
Shandong Jinhua International Trading Co., Ltd.	
Suzhou Fengshuwan Import and Export Trade Co., Ltd. (aka Suzhou Fengshuwan I&E Trade Co., Ltd.).	
Vietnam Finewood Company Limited.[43]	
Xuzhou Amish Import & Export Co., Ltd.	
Xuzhou Jiangyang Wood Industries Co., Ltd.	

Suspension Agreements

None.

[5] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review; 2016–2017,* 83 FR 32835 (July 16, 2018) (*2016–2017 AR Final).* Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[6] On December 11, 2012, Apex Frozen Foods Private Limited was found to be the successor-in-interest to Apex Exports. *See Final Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp from India,* 77 FR 73619 (December 11, 2012). Therefore, we have not initiated a separate administrative review with respect to Apex Exports.

[7] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., 2016–2017 AR Final.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[8] On December 15, 2016, Avanti Frozen Foods Private Limited was found to be the successor-in-interest to Avanti Feeds Limited. *See Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp from India,* 81 FR 90774 (December 15, 2016). Therefore, we have not initiated a separate administrative review with respect to Avanti Feeds Limited.

[9] In the 2017–2018 administrative review of this order, Commerce preliminarily determined it was appropriate to treat the following companies as a single entity: Calcutta Seafoods Pvt. Ltd., Bay Seafood Pvt. Ltd., and Elque & Co (Elque). *See Certain Frozen Warmwater Shrimp from India: Preliminary Results of Antidumping Duty Administrative Review; 2017–2018,* issued on April 9, 2019. If this finding becomes final, we intend

Continued

also to treat these companies as a single entity for purposes of this administrative review. Otherwise, Commerce will rescind the review with respect to Elque because no party has requested review of this individual entity.

[10] On October 3, 2018, Coastal Aqua Private Limited was found to be the successor-in-interest to Coastal Aqua. *See Certain Frozen Warmwater Shrimp from India: Notice of Final Results of Antidumping Duty Changed Circumstances Review,* 83 FR 49909 (October 3, 2018). Because the effective date of this determination is during the current POR, we have included both exports from Coastal Aqua and Coastal Aqua Private Limited in this review.

[11] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., 2016–2017 AR Final.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[12] In past reviews, Commerce has treated these companies as a single entity. *Id.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review. Additionally, on December 2, 2014, Premier Marine Products Private Limited was found to be the successor-in-interest to Premier Marine Products. *See Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp from India,* 79 FR 71384 (December 2, 2014).

[13] Shrimp produced and exported by Devi Sea Foods Limited (Devi) was excluded from the order effective February 1, 2009. *See Certain Frozen Warmwater Shrimp from India: Final Results of the Antidumping Duty Administrative Review, Partial Rescission of Review, and Notice of Revocation of Order in Part,* 75 FR 41813, 41814 (July 19, 2010). Accordingly, we are initiating this administrative review with respect to Devi only for shrimp produced in India where Devi acted as either the manufacturer or exporter (but not both).

[14] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., 2016–2017 AR Final.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[15] In past reviews, Commerce has treated these companies as a single entity. *Id.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[16] In the 2017–2018 administrative review of this order, Commerce preliminarily determined it was appropriate to treat Magnum Sea Foods Limited and Magnum Estates Limited as a single entity. *See Certain Frozen Warmwater Shrimp from India: Preliminary Results of Antidumping Duty Administrative Review; 2017–2018,* issued on April 9, 2019. If this finding becomes final, we intend also to treat these companies as a single entity for purposes of this administrative review.

[17] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., 2016–2017 AR Final.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[18] On August 27, 2010, Srikanth International was found to be the successor-in-interest to NGR Aqua International. *See Certain Warmwater Shrimp from India: Final Results of Antidumping Duty Changed Circumstances Review,* 75 FR 52718 (August 27, 2010). Therefore, we have not initiated a separate administrative review with respect to NGR Aqua International.

[19] On December 26, 2018, Commerce initiated a changed circumstances review to determine whether Sunrise Seafoods India Private Limited is the successor in interest to Sunrise Aqua Food Exports. *See Certain Frozen Warmwater Shrimp from India: Initiation of Antidumping Duty Changed Circumstances Review,* 83 FR 66244 (December 26, 2018).

[20] Where multiple interested parties requested an administrative review of the same companies and requested those company names with identical spelling and punctuation, Commerce listed the name only once to prevent redundancy and administrative burden.

[21] Shrimp produced and exported by Minh Phu Seafood Corporation were excluded from the antidumping duty order on certain frozen warmwater shrimp from Vietnam, effective July 18, 2016. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order,* 81 FR 47756, 47757–47758 (July 22, 2016). Accordingly, we are initiating this administrative review for this exporter only with respect to subject merchandise produced by another entity.

[22] On February 26, 2019, Commerce received a request for an administrative review of CS Wind Corporation, among other companies. *See* Wind Tower Trade Coalition Letter, ''Utility Scale Wind Towers from the Socialist Republic of Vietnam: Request for Administrative Review,'' dated February 28, 2018. In the investigation of this proceeding, Commerce determined that ''CS Wind Vietnam Co., Ltd.,'' and ''CS Wind Corporation'' are a single entity, ''The CS Wind Group.'' *See Utility Scale Wind Towers from the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value,* 77 FR 75984 (December 26, 2012), as amended by *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 78 FR 11150, 11152 (February 15, 2013) (where Commerce stated that ''The CS Wind Group consists of CS Wind Vietnam Co., Ltd. and CS Wind Corporation.''). On March 16, 2017, the United States Court of International Trade (CIT) issued its final judgment, sustaining Commerce's final results of redetermination regarding the investigation. *See CS Wind Vietnam Co., Ltd., and CS Wind Corporation* v. *United States,* 219 F. Supp. 3d 1273 (CIT 2017). On March 29, 2017, pursuant to that CIT decision, effective March 26, 2017, Commerce excluded from the antidumping duty order wind towers that are produced and exported by The CS Wind Group. *See Utility Scale Wind Towers from the Socialist Republic of Vietnam: Notice of Court Decision Not in Harmony with the Final Determination of Less Than Fair Value Investigation and Notice of Amended Final Determination of Investigation,* 82 FR 15493 (March 29, 2017). Thus, Commerce is issuing this notice of initiation of the 2018–2019 antidumping duty administrative review of wind towers from Vietnam with respect to the CS Wind Group. Commerce is initiating an administrative review only on entries where CS Wind Group was (1) the producer but not the exporter, or (2) the exporter but not the producer of subject merchandise.

[23] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review; Final Determination of No Shipments; 2015–2016,* 82 FR 30836 (July 3, 2017) (*2015–2016 AR Final).* Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[24] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., 2015–2016 AR Final.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[25] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review; 2006–2007,* 73 FR 50933 (August 29, 2008) (*2006–2007 AR Final*). Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[26] Shrimp produced and exported by Marine Gold Products Ltd. (Marine Gold) were excluded from the order effective February 1, 2012. *See Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Revocation of the Order (in Part); 2011–2012,* 78 FR 42497 (July 16, 2013). Accordingly, we are initiating this administrative review with respect to Marine Gold only for shrimp produced in Thailand where Marine Gold acted as either the manufacturer or exporter (but not both).

[27] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., 2015–2016 AR Final.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[28] In past reviews, Commerce has treated these companies as a single entity. *Id.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[29] In past reviews, Commerce has treated these companies as a single entity. *Id.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[30] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., 2006–2007 AR Final.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[31] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., 2015–2016 AR Final.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[32] In past reviews, Commerce has treated these companies as a single entity. *Id.* Absent information to the contrary, we intend to continue to treat these companies as a single entity for purposes of this administrative review.

[33] This *Order* was revoked with respect to merchandise exported by Allied Pacific (HK) Co., Ltd., or Allied Pacific Food (Dalian) Co., Ltd., and manufactured by Allied Pacific Aquatic Products (Zhanjiang) Co., Ltd., or Allied Pacific Aquatic Products (Zhongshan) Co., Ltd., or Allied Pacific Food (Dalian) Co., Ltd. *See Certain Frozen Warmwater Shrimp from the People's Republic of China and Diamond Sawblades and Parts Thereof from the People's Republic of China: Notice of Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Orders,* 78 FR 18958, 18959 (March 28, 2013). Accordingly, we are initiating this review for these exporters only with respect to subject merchandise produced by entities other than the aforementioned producers.

[34] This *Order* was revoked with respect to merchandise exported by Shantou Red Garden Foodstuff Co., Ltd., and produced by Red Garden Food Processing Co., Ltd., or Chaoyang Jindu Hengchang Aquatic Products Enterprise Co., Ltd., or Raoping County Longfa Seafoods Co., Ltd., or Meizhou Aquatic Products Quick-Frozen Industry Co., Ltd., or Shantou Jinyuan District Mingfeng Quick-Frozen Factory, or Shantou Long Feng Foodstuffs Co., Ltd. *See Certain Frozen Warmwater Shrimp from the People's Republic of China and Diamond Sawblades and Parts Thereof from the People's Republic of China: Notice of*

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

Commerce's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[44] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[45] Commerce intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. *See* 19 CFR 351.302. In general, an extension request will be considered untimely if it is filed after the time limit established under part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) Q&V questionnaires. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties

Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Orders, 78 FR 18958, 18959 (March 28, 2013). Accordingly, we are initiating this review for this exporter only with respect to subject merchandise produced by entities other than the aforementioned producers.

[35] This *Order* was revoked with respect to subject merchandise produced and exported by Zhanjiang Guolian Aquatic Products Co., Ltd. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from the People's Republic of China,* 70 FR 5149, 5152 (February 1, 2005). Accordingly, we are initiating this review for this exporter only with respect to subject merchandise produced by another entity.

[36] This *Order* was revoked with respect to subject merchandise produced and exported by Zhanjiang Regal Integrated Marine Resources Co., Ltd. *See Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Results of Administrative Review; 2011–2012,* 78 FR 56209, 56210 (September 12, 2013). Accordingly, we are initiating this review for this exporter only with respect to subject merchandise produced by another entity.

[37] Commerce inadvertently initiated an administrative review of entries where Armstrong Wood Products (Kunshan) Co., Ltd. was the producer but not the exporter of subject merchandise. Commerce is only reviewing entries where Armstrong Wood Products (Kunshan) Co., Ltd. was the exporter but not the producer of subject merchandise.

[38] Commerce inadvertently initiated an administrative review of entries where Dunhua City Jisen Wood Industry Co., Ltd. was the producer but not the exporter of subject merchandise. Commerce is only reviewing entries where Dunhua City Jisen Wood Industry Co., Ltd. was the exporter but not the producer of subject merchandise.

[39] Commerce inadvertently initiated an administrative review of entries where Fine Furniture (Shanghai) Limited was the producer but not the exporter of subject merchandise. Commerce is only reviewing entries where Fine Furniture (Shanghai) Limited and/or Double F Limited was the exporter but Fine Furniture (Shanghai) Limited was not the producer of subject merchandise.

[40] With respect to Baroque Timber Industries (Zhongshan) Co., Ltd. and the remaining seven companies listed, the names of these companies were inadvertently misspelled and/or incomplete in the initiation notices that published on March 14, 2019 (84 FR 9297), and April 1, 2019 (84 FR 12200).

[41] In the initiation notice that published on April 1, 2019 (84 FR 12200) the POR for the above referenced case was incorrect. The period listed above is the correct POR for this case.

[42] In the initiation notice that published on April 1, 2019 (84 FR 12200) the POR for this case was incorrect. The period listed here is the correct POR for this case. Moreover, we have amended the list of companies under review by adding the companies listed here, that were inadvertently not included in the April 1, 2009 notice.

[43] The initiation notice that published on April 1, 2019 (84 FR 12200) listed this company as Vietnam Pinewood Company Limited, however, the corrected company name appears above.

[44] *See* section 782(b) of the Act.

[45] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

simultaneously. In such a case, Commerce will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: April 26, 2019.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2019–08945 Filed 5–1–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–849]

Antidumping Duty Investigation on Refillable Stainless Steel Kegs From Mexico: Preliminary Affirmative Determination of Critical Circumstances

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that critical circumstances exist for imports of refillable stainless steel kegs (kegs) from Mexico.

DATES: Applicable May 2, 2019.

FOR FURTHER INFORMATION CONTACT: Allison Hollander at (202) 482–2805, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In response to petitions filed on September 20, 2018, on behalf of the American Keg Company LLC (the petitioner),[1] Commerce initiated antidumping duty (AD) investigations concerning kegs from Germany, Mexico, and the People's Republic of China (China) and a countervailing duty investigation concerning kegs from China.[2] THIELMANN Mexico S.A. de C.V. (THIELMANN) is the sole mandatory respondent in the investigation of kegs from Mexico. On December 3, 2018, THIELMANN informed Commerce that it did not intend to respond to the initial questionnaire. On December 10, 2018, the petitioner timely filed an allegation that critical circumstances exist with respect to imports of kegs from Mexico.[3] In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, Commerce must issue a preliminary finding of whether there is a reasonable basis to believe or suspect that critical circumstances exist by no later than the date of the preliminary determination. In the subject AD investigation, the petitioner requested that Commerce issue a preliminary critical circumstances determination on an expedited basis.[4]

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.[5] On March 19, 2019, Commerce postponed the deadline for the preliminary determination at the request of the petitioner.[6] Accordingly, the revised deadline for the preliminary determination is May 28, 2019.[7]

Section 733(e)(1) of the Tariff Act of 1930, as amended (the Act) provides that Commerce, upon receipt of a timely filed allegation of critical circumstances, will preliminarily determine that critical circumstances exist in AD investigations if there is a reasonable basis to believe or suspect that: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

Section 351.206(h)(2) of Commerce's regulations provides that, generally, imports must increase by at least 15 percent during the ''relatively short period'' to be considered ''massive'' and § 351.206(i) defines a ''relatively short period'' as normally being the period beginning on the date the proceeding begins (*i.e.,* the date the petition is filed)[8] and ending at least three months later.[9] Commerce's regulations also provide, however, that, if Commerce finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, Commerce may consider a period of not less than three months from that earlier time.[10]

Critical Circumstances Allegation

In its allegation, the petitioner contends that, based on the dumping margin alleged in the Petition, importers knew, or should have known, that the merchandise under consideration was being sold at less than fair value.[11] The petitioner also contends that, based on the preliminary determination of injury by the U.S. International Trade Commission (ITC), there is a reasonable basis to impute importers' knowledge that material injury is likely by reason of such imports.[12] Finally, the petitioner contends that, because verifiable shipment data do not exist because of the respondent's failure to cooperate in the investigation, an adverse inference

[1] *See* the petitioner's Letter, ''Petition for the Imposition of Antidumping Duties on Imports of Refillable Stainless Steel Kegs from Germany, Mexico, and the People's Republic of China and Countervailing Duties on Imports of Refillable Stainless Steel Kegs from the People's Republic of China,'' dated September 20, 2018 (the Petition).

[2] *See Refillable Stainless Steel Kegs from the People's Republic of China, the Federal Republic of Germany, and Mexico: Initiation of Less-Than-Fair-Value Investigations,* 83 FR 52195 (October 16, 2018) (*Initiation Notice); see also Refillable Stainless Steel Kegs from the People's Republic of China: Initiation of Countervailing Duty Investigation,* 83 FR 52192 (October 16, 2018).

[3] *See* the petitioner's Letter, ''*Refillable Stainless Steel Kegs from Mexico: Petitioner's Critical Circumstances Allegation,*'' dated December 10, 2018 (Allegation).

[4] *Id.* at 2.

[5] *See* Memorandum, ''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.

[6] *See Refillable Stainless Steel Kegs from the Federal Republic of Germany, Mexico and the People's Republic of China: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 84 FR 10033 (March 19, 2019) (*Postponement Notice*).

[7] *Id.*

[8] *See* 19 CFR 351.102(b)(40) (providing that a proceeding begins on the date of the filing of a petition).

[9] *See* 19 CFR 351.206(h)(2) and (i).

[10] *See* 19 CFR 351.206(i).

[11] *See* Allegation at 5–9.

[12] *Id.* at 9–10.

can be made that imports were massive during the relevant time period.[13]

Critical Circumstances Analysis

Use of Facts Available With Adverse Inferences

Sections 776(a)(1) and (2) of the Act provide that Commerce shall, subject to section 782(d) of the Act, apply ''facts otherwise available'' if: Necessary information is not on the record or an interested party or any other person: (A) Withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by Commerce, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act. Because the mandatory respondent THIELMANN has not provided necessary information in this investigation, we preliminarily find that necessary information is not on the record, pursuant to section 776(a)(1) of the Act. Furthermore, because THIELMANN is not participating in this investigation, we also preliminarily find that THIELMANN withheld information that was requested by Commerce, significantly impeded this proceeding, and failed to provide information within the deadlines established, pursuant to sections 776(a)(2)(A), (B), and (C) of the Act, respectively. Therefore, we have made this preliminary determination of critical circumstances on the basis of the facts otherwise available.

Section 776(b) of the Act provides that Commerce may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. Because THIELMANN determined not to participate in this investigation, we find that THIELMANN did not cooperate to the best of its ability in this investigation, pursuant to section 776(b) of the Act. Therefore, we find that adverse inferences are warranted in selecting from the facts available regarding certain aspects of this preliminary determination of critical circumstances. We detail our use of adverse inferences in selecting from among the facts otherwise available below.

History of Dumping and Material Injury/ Knowledge of Sales Below Fair Value and Material Injury

To determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, Commerce generally considers current or previous AD orders on the subject merchandise from the country in question in the United States and current orders imposed by other countries with regard to imports of the same merchandise.[14] In this case, the current investigation of the subject merchandise marks the first instance that Commerce has examined whether sales of the subject merchandise have been made at less than fair value in the United States. Accordingly, Commerce previously has not imposed an AD order on the subject merchandise. Moreover, Commerce is not aware of any AD order on the subject merchandise from Mexico in another country. Therefore, Commerce finds no history of injurious dumping of the subject merchandise pursuant to section 733(e)(1)(A)(i) of the Act.

To determine whether importers knew or should have known that exporters were selling the subject merchandise at less than fair value, pursuant section 733(e)(1)(A)(ii) of the Act, we typically consider the magnitude of dumping margins, including margins alleged in the petition.[15] Commerce has found margins of 15 percent or more (for constructed export price or CEP) to 25 percent or more (for export price or EP) to be sufficient for this purpose.[16] Commerce initiated this AD investigation based on an estimated margin of 18.48 percent for EP sales. For the reasons discussed above, we find that an adverse inference is warranted in selecting from the facts available. THIELMANN's quantity and value

[13] *Id.* at 10–11.

[14] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China,* 73 FR 31970, 31972–73 (June 5, 2008); *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People's Republic of China,* 74 FR 2049, 2052–53 (January 14, 2009).

[15] *See, e.g., Antidumping and Countervailing Duty Investigations of Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Preliminary Determinations of Critical Circumstances,* 80 FR 68504 (November 5, 2015) (CORE Critical Circumstances Prelim); *see also Certain Corrosion-Resistant Steel Products From India: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances,* 81 FR 35329 (June 2, 2016) (India Final); *Certain Corrosion-Resistant Steel Products From Italy: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part,* 81 FR 35320 (June 2, 2016) (Italy Final); *Certain Corrosion-Resistant Steel Products From the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances,* 81 FR 35303 (June 2, 2016) (Korea Final); *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstances Determination, in Part,* 81 FR 35316 (June 2, 2016) (China Final); *Certain Corrosion-Resistant Steel Products from Taiwan: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part,* 81 FR 35313 (June 2, 2016) (Taiwan Final); *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products From the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part,* 81 FR 35308 (June 2, 2016) (China CVD Final); *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from Taiwan: Final Negative Countervailing Duty Determination,* 81 FR 35299 (June 2, 2016) (Taiwan CVD Final); *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products From Italy: Final Affirmative Determination and Final Affirmative Critical Circumstances, in Part,* 81 FR 35326 (June 2, 2016) (Italy CVD Final); *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part,* 81 FR 35310 (June 2, 2016) (Korea CVD Final); *Notice of Preliminary Determinations of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products from Australia, the People's Republic of China, India, the Republic of Korea, the Netherlands, and the Russian Federation,* 67 FR 19157, 19158 (April 18, 2002) unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Australia,* 67 FR 47509 (July 19, 2002), *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from the People's Republic of China,* 67 FR 62107 (October 3, 2002), *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from India,* 67 FR 47518 (July 19, 2002), *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Korea,* 67 FR 62124 (October 3, 2002), *Notice of Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products From The Netherlands,* 67 FR 62112 (October 3, 2002), *Notice of the Final Determination Sales at Less Than Fair Value and Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products From the Russian Federation,* 67 FR 62121 (October 3, 2002).

[16] *Id.; see also Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China,* 62 FR 31972, 31978 (June 11, 1997) unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China,* 62 FR 61964 (November 20, 1997); *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam,* 69 FR 42672 (July 16, 2004) unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam,* 69 FR 71005 (December 8, 2004).

questionnaire response indicates a mix of EP and CEP sales.[17] Furthermore, the petition identifies the existence of a U.S. affiliate, Thielmann US LLC.[18] As such, as an adverse inference in selecting from among the facts otherwise available, we preliminarily find that THIELMANN's sales were a mix of CEP and EP sales. The margin alleged in the petition exceeds the 15 percent threshold for CEP sales necessary to impute importer knowledge.[19] Because THIELMANN's sales were a mix of CEP and EP sales, and the margin alleged in the petition, the only relevant fact on the record, exceeds the 15 percent threshold for CEP sales, we preliminarily find that knowledge of sales at less than fair value may be imputed to importers. Thus, we preliminarily determine that importers knew or should have known that exporters in Mexico were selling subject merchandise at less than fair value, satisfying the criteria under section 733(e)(1)(A)(ii) of the Act.

To determine whether importers knew or should have known that there was likely to be material injury caused by reason of such imports pursuant to section 733(e)(1)(A)(ii) of the Act, Commerce normally will look to the preliminary injury determination of the ITC.[20] If the ITC finds a reasonable indication of material injury (rather than the threat of injury) to the relevant U.S. industry, Commerce will normally determine that a reasonable basis exists to impute to importers sufficient knowledge of injury by such imports. In the subject AD investigation, the ITC found that there is a ''reasonable indication'' of material injury to the domestic industry because of the imported subject merchandise.[21] Therefore, the ITC's preliminary injury determination in this investigation is sufficient to impute knowledge of the likelihood of material injury to importers. Thus, we preliminarily determine that importers knew, or should have known, that there was likely to be material injury caused by reason of such imports, pursuant to section 733(e)(1)(A)(ii) of the Act.

Massive Imports

In determining whether imports of subject merchandise from Mexico were ''massive'' over a relatively short period, pursuant to section 733(e)(1)(B) of the Act and 19 CFR 351.206(h), Commerce normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.,* the ''base period'') to a comparable period of at least three months following the filing of the petition (*i.e.,* the ''comparison period''). Imports will normally be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.

As discussed above, we are applying adverse facts available in reaching our findings for certain aspects of this preliminary determination of critical circumstances. We do not have information regarding import volumes for THIELMANN, based on its non-participation in this investigation. We preliminarily find, on the basis of adverse facts available, that THIELMANN had massive imports of subject merchandise over a relatively short period, satisfying the criteria under section 733(e)(1)(B) of the Act and 19 CFR 351.206(h). Thus, we preliminarily determine that critical circumstances exist regarding imports of kegs from Mexico shipped by THIELMANN, pursuant to section 733(e) of the Act and 19 CFR 351.206.

To determine massive imports for all other companies, Commerce's normal practice is to subtract shipments reported by the cooperating mandatory respondents from shipment data of subject merchandise compiled by the ITC.[22] However, due to the broad nature of the HTSUS numbers under which the subject merchandise is entered, there are no reliable shipment data available.[23] Additionally, there is no cooperating mandatory respondent in this investigation.[24] Therefore, we have made this preliminary determination on whether massive imports exist for all other companies using adverse facts available, pursuant to sections 776(a) and (b) of the Act. Accordingly, we preliminarily find that all other companies have massive imports of subject merchandise over a relatively short period and, thus, critical circumstances exist regarding imports of kegs from Mexico produced and/or exported by all other companies, pursuant to section 733(e) of the Act and 19 CFR 351.206.

Final Critical Circumstances Determination

We will issue our final determination concerning critical circumstances when we issue our final less-than-fair-value determination. All interested parties will have the opportunity to address this preliminary determination regarding critical circumstances in case briefs to be submitted after completion of the preliminary less-than-fair-value determination, in accordance with Commerce's instructions to be issued following the publication of the preliminary determination of sales at less than fair value.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of this preliminary determination of critical circumstances.

Suspension of Liquidation

In accordance with section 733(e)(2) of the Act, because we have

[17] *See* Letter from THIELMANN, ''Refillable Stainless Steel Kegs from Mexico: Quantity and Value Questionnaire Response,'' dated October 24, 2018.

[18] *See* Letter to the Secretary of Commerce from the petitioners, ''Petitions for the Imposition of Antidumping Duties on Imports of Refillable Stainless Steel Kegs from Germany, Mexico, and the People's Republic of China and Countervailing Duties on Imports of Refillable Stainless Steel Kegs from the People's Republic of China,'' dated September 20, 2018 at Volume I, Exhibit GEN–24 and Volume IV, Exhibit MEX–AD–1.

[19] In other preliminary critical circumstances determinations, Commerce has applied the 15 percent CEP threshold when sale types were mixed and the majority of the sales were CEP. *See e.g., Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Affirmative Preliminary Determination of Critical Circumstances,* 77 FR 31309 (May 26, 2012) unchanged in *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination,* 77 FR 63788 (November 17, 2012); *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From Mexico,* 76 FR 67688 (Nov. 2, 2011) unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From Mexico,* 77 FR 17422 (March 26, 2012).

[20] *See, e.g., Certain Potassium Phosphate Salts from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances in the Antidumping Duty Investigation,* 75 FR 24572, 24573 (May 5, 2010) unchanged in *Certain Potassium Phosphate Salts from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Termination of Critical Circumstances Inquiry,* 75 FR 30377 (June 1, 2010).

[21] *See* USITC, Investigation Nos. 70l–TA–610 and 73l–TA–1425–1427 (Preliminary), *Refillable Stainless Steel Kegs From China, Germany, and Mexico* at 1 (November 5, 2018); *see also Refillable Stainless Steel Kegs from China, Germany, and Mexico,* 83 FR 56102 (November 9, 2018).

[22] *See, e.g., CORE Critical Circumstances Prelim* and *India Final, Italy Final, Korea Final, China Final, Taiwan Final, China CVD Final, Taiwan CVD Final, Italy CVD Final, Korea CVD Final.*

[23] *See Initiation Notice.*

[24] Commerce sent quantity and value questionnaires to each of the companies identified in the Petition, but of those five companies only THIELMANN responded. *See* Letter from Commerce to interested parties, ''Quantity and Value Questionnaire for the Antidumping Duty Investigation of Refillable Stainless Steel Kegs from Mexico'' (October 11, 2018).

preliminarily found that critical circumstances exist with regard to all imports of kegs from Mexico, if we make an affirmative preliminary determination of sales at less than fair value at above *de minimis* rates,[25] we will instruct Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date that is 90 days prior to the effective date of ''provisional measures'' (*e.g.,* the date of publication in the **Federal Register** of the notice of an affirmative preliminary determination of sales at less than fair value at above *de minimis* rates). At such time, we will also instruct CBP to require a cash deposit equal to the estimated preliminary dumping margins reflected in the preliminary determination published in the **Federal Register**. The suspension of liquidation will remain in effect until further notice.

This notice is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.206(c).

Dated: April 26, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

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BILLING CODE 3510–DS–P

[25] Commerce intends to issue its preliminary determinations concerning the sales at less than fair value investigations no later than May 28, 2019. *See* Postponement Notice.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–833]

Large Diameter Welded Pipe From the Republic of Turkey: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Order

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing an antidumping duty order on large diameter welded carbon and alloy steel line and structural pipe from the Republic of Turkey (Turkey). In addition, Commerce is amending its final affirmative determination.

DATES: Applicable May 2, 2019.

FOR FURTHER INFORMATION CONTACT: Rebecca M. Janz at (202) 482–2972 or William Miller at (202) 482–3906, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On February 27, 2019, Commerce published its affirmative final determination in the less-than-fair-value (LTFV) investigation of large diameter welded pipe from Turkey.[1] The scope of the investigation in Commerce's final determination covered large diameter welded carbon and alloy steel line pipe (welded line pipe), large diameter welded carbon and alloy steel structural pipe (welded structural pipe), and stainless steel large diameter welded pipe (stainless steel pipe) from Turkey.[2] As discussed below, the ITC subsequently found three domestic like products covered by the scope of the investigation (welded line pipe, welded structural pipe, and stainless steel pipe) and, accordingly, made a separate injury determination with respect to each domestic like product. On April 15, 2019, the ITC notified Commerce of its final determination, pursuant to section 735(d) of the Act, that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act, by reason of LTFV imports of welded line pipe and welded structural pipe from Turkey.[3] Additionally, the ITC made a negligibility determination with respect to stainless steel pipe.[4] Commerce released draft revised scope language for comment by parties.[5] No party objected to the revised scope language in this proceeding.

Scope of the Order

The products covered by this order are welded line pipe and welded structural pipe from Turkey. For a complete description of the scope of this order, *see* the Appendix to this notice.

[1] *See Large Diameter Welded Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value,* 84 FR 6362 (February 27, 2019).

[2] *Id.*

[3] *See* ITC Notification Letter regarding ITC Investigation Nos. 701–TA–595–596 and 731–TA–1401, 1403, 1405–1406, dated April 15, 2019 (ITC Notification); *see also Large Diameter Welded Pipe from Canada, Greece, Korea, and Turkey; Determinations,* 84 FR 16533 (April 19, 2019) (*ITC Final Determination*); and Large Diameter Welded Pipe from Canada, Greece, Korea, and Turkey, Investigation Nos. 701–TA–595–596 and 731–TA–1401, 1403, 1405–1406 (Final), Publication 4883, April 2019 (Final ITC Report).

[4] *See* ITC Notification.

[5] *See* Memorandum, ''Comments on the Scope of the Orders,'' dated April 5, 2019.

Amendment to Final Determination

A ministerial error is defined as an error in additional, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.[6]

Pursuant to section 735(e) of the Act and 19 CFR 35l.224(e) and (f), Commerce is amending the *Final Determination* to reflect the correction of ministerial errors in the final estimated weighted average dumping margins calculated for Borusan Mannesmann Boru Sanayi ve Ticaret A.S. and HDM Celik Boru Sanayi ve Ticaret A.S. In addition, because these margins are the basis for the estimated weighted average dumping margin determined for all other Turkish producers and exporters of subject merchandise, we also are revising the ''all-others'' rate in the *Final Determination.*[7] The amended estimated weighted average dumping margins are listed in the Suspension of Liquidation section below.

Antidumping Duty Order

On April 15, 2019, in accordance with sections 735(b)(1)(A)(i) and 735(d) of the Act, the ITC notified Commerce of its final determination in this investigation, in which it found that imports of welded line pipe and welded structural pipe from Turkey are materially injuring a U.S. industry.[8] As a result, and in accordance with sections 735(c)(2) and 736 of the Act, we are publishing this antidumping duty order. As noted above, in its determination, the ITC found three domestic like products covered by the scope of the investigation: welded line pipe, welded structural pipe, and stainless steel pipe. The ITC found that that imports of stainless steel pipe from Turkey are negligible. The ITC made affirmative determinations with respect to welded line pipe and welded structural pipe from Turkey. Because the ITC made distinct and different injury determinations for separate domestic like products, Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of welded line pipe and welded structural pipe (subject merchandise)

[6] *See* section 735(e) of the Act and 19 CFR 351.224(f).

[7] *See* ''Memorandum, ''Less-Than-Fair-Value Investigation of Large Diameter Welded Pipe from the Republic of Turkey: Allegation of Ministerial Errors in the Final Determination,'' dated April 1, 2019.

[8] *See* ITC Notification; and *ITC Final Determination.*

from Turkey, and not on entries of stainless steel pipe (excluded merchandise) from Turkey.

Welded Line Pipe

The Final ITC Report describes welded line pipe as a tubular product produced from carbon and alloy steel, produced to American Petroleum Institute (API) 5L specifications, and designed for conveying liquids and gases.[9] Because the ITC determined that LTFV imports of welded line pipe from Turkey are materially injuring a U.S. industry,[10] all unliquidated entries of subject merchandise from Turkey, entered or withdrawn from warehouse, are subject to the assessment of antidumping duties, as described below.

As a result of the *ITC Final Determination,* in accordance with section 736(a) of the Act, Commerce will direct CBP to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of welded line pipe from Turkey. Antidumping duties will be assessed on unliquidated entries of welded line pipe from Turkey entered, or withdrawn from warehouse, for consumption on or after August 27, 2018, the date of publication of the *Preliminary Determination,*[11] but will not be assessed on entries occurring after the expiration of the provisional measures period, beginning on February 23, 2019, in accordance with section 733(d) of the Act, until the date of publication of the *ITC Final Determination* in the **Federal Register**.

Welded Structural Pipe

The Final ITC Report describes welded structural pipe as a tubular product produced from carbon and alloy steel, produced to American Society for Testing and Materials (ASTM) specifications, and designed for support in construction projects and piling.[12] Because the ITC determined that LTFV imports of welded structural pipe from Turkey are materially injuring a U.S. industry,[13] all unliquidated entries of subject merchandise from Turkey, entered or withdrawn from warehouse, are subject to the assessment of antidumping duties, as described below.

As a result of the *ITC Final Determination,* in accordance with section 736(a) of the Act, Commerce will direct CBP to assess, upon further instruction by Commerce, antidumping duties for all relevant entries of welded structural pipe from Turkey. Antidumping duties will be assessed on unliquidated entries of welded structural pipe from Turkey entered, or withdrawn from warehouse, for consumption on or after August 27, 2018, the date of publication of the *Preliminary Determination,*[14] but will not be assessed on entries occurring after the expiration of the provisional measures period, beginning on February 23, 2019, in accordance with section 733(d) of the Act, until the date of publication of the *ITC Final Determination* in the **Federal Register**.

Stainless Steel Pipe

The Final ITC Report describes stainless steel pipe as being produced from stainless steel for its high-chrome chemistry and corrosion-resistant properties.[15] Because the ITC determined that imports of stainless steel pipe from Turkey are negligible,[16] Commerce will direct CBP to terminate the suspension of liquidation for entries of stainless steel pipe from Turkey entered, or withdrawn from warehouse, and to refund all cash deposits with respect to these entries pursuant to section 735(c)(2) of the Act.

Suspension of Liquidation

In accordance with section 736 of the Act, Commerce will direct CBP to reinstitute the suspension of liquidation of subject merchandise (*i.e.,* welded line pipe and welded structural pipe) from Turkey, effective the date of publication of the *ITC Final Determination* in the **Federal Register**, and to assess, upon further instruction by Commerce pursuant to section 736(a)(1) of the Act, antidumping duties for each entry of the subject merchandise equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise. We intend to instruct CBP to require, at the same time as importers would normally deposit estimated import duties on this merchandise, cash deposits for each entry of subject merchandise equal to the rates noted below. These instructions suspending liquidation will remain in effect until further notice. For the purpose of determining cash deposit rates, the estimated weighted average dumping margins for imports of subject merchandise from Turkey have been adjusted, as appropriate, for export subsidies found in the final determination of the companion countervailing duty investigation of this merchandise imported from Turkey. The all-others rate applies to all producers or exporters not specifically listed.

Company	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset(s)) (percent)
Borusan Mannesmann Boru Sanayi ve Ticaret A.S.	5.11	5.11
HDM Celik Boru Sanayi ve Ticaret A.S.	2.57	1.57
All Others	4.47	3.47

Notification to Interested Parties

This notice constitutes the antidumping duty order with respect to welded line pipe and welded structural pipe from Turkey pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html*.

This amended final determination and order is published in accordance with sections 735(e) and 736(a) of the Act, and 19 CFR 351.211(b) and 351.224(e) and (f).

[9] *See* Final ITC Report at 7.

[10] *Id.* at 1 and 5.

[11] *See Large Diameter Welded Pipe from the Republic of Turkey: Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination,* 83 FR 43646, August 27, 2018 (*Preliminary Determination*).

[12] *See* Final ITC Report at 7.

[13] *Id.* at 1 and 5.

[14] *See Preliminary Determination.*

[15] *See* Final ITC Report at 7.

[16] *Id.* at 1–2 and 5.

Dated: April 23, 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.

Appendix

Scope of the Order

The merchandise covered by this order is welded carbon and alloy steel pipe (other than stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

Large diameter welded pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of this order, whether or not produced according to a particular standard.

Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the in-scope large diameter welded pipe.

Excluded from the scope are any products covered by the existing antidumping duty order on welded line pipe from the Republic of Turkey. *See Welded Line Pipe from the Republic of Korea and the Republic of Turkey: Antidumping Duty Orders,* 80 FR 75056 (December 1, 2015).

The large diameter welded pipe that is subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

[FR Doc. 2019–08953 Filed 5–1–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

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: Minority Business Development Agency.

Title: Online Customer Relationship Management (CRM)/Performance Database.

OMB Control Number: 0640–0002.

Form Number(s): 0640–002.

Type of Request: Regular Submission.

Number of Respondents: 2,633.

Average Hours per Response: 1 to 210 minutes depending upon function.

Burden Hours: 4,516.

Needs and Uses: This request is for a revision with a change to a current information collection. This collection involves the inclusion of a new group of federal financial assistance recipients. In Fiscal Year 2018, MBDA incorporated grants into the service delivery model for the agency. The client transaction and verification forms in use for the business center program may also be used to collect information about the effectiveness of other grant programs funded by the agency. The forms include a statement regarding MBDA's intended use by MBDA and transfer of the information collected to other federal agencies to allow for research studies on minority businesses. The form itself has not been revised but will be used by the new recipients. As part of its national service delivery system, MBDA awards cooperative agreements each year to fund the provision of business development services to eligible minority business enterprises (MBEs). The recipient of each cooperative agreement or grant is competitively selected to operate one of the following programs: (1) An MBDA Business Center; (2) an American Indian Alaska Native Native Hawaiian) (AIANNH) Center, or (most recently) (3) a broad agency grants. In accordance with the Government Performance Results Act (GPRA), MBDA requires all program grant recipients to report basic client information, service activities and progress on attainment of program goals via the online CRM/Performance Databases. The data collected through the Online CRM/Performance Databases is used to regularly monitor and evaluate the progress of MBDA's funded programs, to provide the Department and OMB with a summary of the quantitative information that it requires about government supported programs, and to implement the GPRA. This information may be summarized and included in an annual report, which may be made available to the public, or used to support federal government research studies regarding minority business development issues.

Affected Public: Individuals or households; Business or other for-profit organizations; Not-for-profit institutions; State, Local, or Tribal government; Federal government.

Frequency: On occasion, semi-annually, annually.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–08967 Filed 5–1–19; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG879

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Site Characterization Surveys off the Coast of New York

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

ACTION: Notice; issuance of an incidental harassment authorization Renewal.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA), as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA)

Renewal to Equinor Wind US LLC to incidentally harass marine mammals incidental to marine site characterization surveys off the coast of New York in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS–A 0512) and coastal waters where cable route corridors will be established.

DATES: This IHA Renewal is valid from April 25, 2019 through April 24, 2020.

FOR FURTHER INFORMATION CONTACT: Jordan Carduner, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the original application, Renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at: *www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

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

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as ''mitigation measures''). Monitoring and reporting of such takings are also required. The meaning of key terms such as ''take,'' ''harassment,'' and ''negligible impact'' can be found in section 3 of the MMPA (16 U.S.C. 1362) and the agency's regulations at 50 CFR 216.103.

The NDAA (Pub. L. 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as it applies to a ''military readiness activity.''

NMFS' regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed one year for each reauthorization. In the notice of proposed IHA for the initial authorization, NMFS described the circumstances under which we would consider issuing a Renewal for this activity, and requested public comment on a potential Renewal under those circumstances. Specifically, on a case-by-case basis, NMFS may issue a one-year IHA Renewal when (1) another year of identical or nearly identical activities as described in the Specified Activities section is planned or (2) the activities would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section of the initial IHA. All of the following conditions must be met in order to issue a Renewal:

- A request for Renewal is received no later than 60 days prior to expiration of the current IHA;
- The request for Renewal must include the following:

(1) An explanation that the activities to be conducted beyond the initial dates either are identical to the previously analyzed activities or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, take estimates, or mitigation and monitoring requirements; and

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized;

- Upon review of the request for Renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures remain the same and appropriate, and the initial findings remain valid.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed Renewal. A description of the Renewal process may be found on our website at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals.*

History of Request

On April 24, 2018, NMFS issued an IHA to Statoil Wind U.S. LLC, to take marine mammals incidental to marine site characterization surveys off the coast of New York in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS–A 0512) and coastal waters where cable route corridors will be established, effective from April 24, 2018, through April 23, 2019 (83 FR 19532; May 3, 2018). On February 21, 2019, NMFS received an application for the Renewal of that IHA. As described in the application for Renewal, the activities authorized in the initial IHA would not be completed by the time that IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section of the initial IHA. As required, the applicant also provided a preliminary monitoring report (available at *www.fisheries.noaa.gov/action/incidental-take-authorization-statoil-wind-site-characterization-surveys-offshore-new-york*) which confirms that the applicant has implemented the required mitigation and monitoring, and which also shows that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted. Since the initial IHA was issued, Statoil Wind U.S. LLC has changed the name under which the company operates to Equinor Wind U.S. LLC (Equinor).

Description of the Specified Activities and Anticipated Impacts

Equinor plans to continue their marine site characterization surveys in the approximately 79,350-acre Lease Area located approximately 11.5 nautical miles (nm) from Jones Beach, New York and along cable route corridors between the Lease Area and New York. Water depths across the Lease Area range from approximately 22 to 41 meters (m) (72 to 135 feet (ft)) while the cable route corridors extend to shallow water areas near landfall locations. The specified activities described for this renewal are an identical subset of the activities covered by the initial 2018 IHA. The purpose of the surveys are to support the siting, design, and deployment of up to three meteorological data buoy deployment

areas and to obtain a baseline assessment of seabed/sub-surface soil conditions in the Lease Area and cable route corridors to support the siting of a proposed offshore wind farm. NMFS previously published notices of proposed IHA (83 FR 7655; February 22, 2018) and issued IHA (83 FR 19532; May 3, 2018). These documents, as well as Equinor's initial IHA application and the preliminary monitoring report for the previously issued IHA, are available at: *www.fisheries.noaa.gov/action/incidental-take-authorization-statoil-wind-site-characterization-surveys-offshore-new-york.*

Similarly, the anticipated impacts are identical to those described in the initial IHA. Specifically, we anticipate the take of 11 marine mammal stocks (including nine cetacean and two pinniped stocks), by Level B harassment only, incidental to the site characterization surveys due to exposure to noise resulting from high resolution geophysical (HRG) survey equipment. Equinor was not able to complete the site characterization surveys analyzed in the initial IHA by the date that IHA is set to expire and anticipates the need for an additional 56 operational survey days to complete the survey campaign in 2019.

The following documents are referenced in this notice and include important supporting information, and may be found at the indicated location:

- Initial Proposed IHA: Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Site Characterization Surveys off of New York (83 FR 7655; February 22, 2018). Available at: *www.fisheries.noaa.gov/action/incidental-take-authorization-statoil-wind-site-characterization-surveys-offshore-new-york;*
- Initial Final IHA. Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Site Characterization Surveys off of New York (83 FR 19532; May 3, 2018). Available at: *www.fisheries.noaa.gov/action/incidental-take-authorization-statoil-wind-site-characterization-surveys-offshore-new-york;*
- Preliminary Monitoring Report from Initial IHA. Available at: *www.fisheries.noaa.gov/action/incidental-take-authorization-statoil-wind-site-characterization-surveys-offshore-new-york;* and
- Environmental Assessment (EA). Issuance of an Incidental Harassment Authorization to Statoil Wind U.S. LLC for Site Characterization Surveys off the Coast of New York. Available at: *www.fisheries.noaa.gov/action/incidental-take-authorization-statoil-wind-site-characterization-surveys-offshore-new-york.*

Detailed Description of the Activity

As described above, Equinor was not able to complete the surveys analyzed in the initial IHA by the date that IHA is set to expire (April 23, 2019). As such, the surveys Equinor plans to conduct in 2019 would be a continuation of the surveys as described in the initial 2018 IHA and would be identical to the activities analyzed in the initial IHA (same location, equipment, methods, and seasonality). The initial IHA analyzed the potential impacts to marine mammals from a total of 142 survey days. Equinor completed a total of 86 operational survey days in 2018, and anticipates a total of 56 operational survey days will be required to complete the survey campaign in 2019 following issuance of the IHA Renewal, if renewed. Thus, the total duration of the surveys conducted in 2018 and 2019 combined would not exceed the total duration described and analyzed in the previously issued IHA (142 days total).

This Renewal is effective for a period of one year from the date of issuance.

Description of Marine Mammals

A description of the marine mammals in the area of the activities for which authorization of take is issued here (and listed in Table 1 below), including information on abundance, status, distribution, and hearing, may be found in the Notice of issued IHA (83 FR 19532; May 3, 2018) for the initial authorization. NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects which species or stocks have the potential to be affected or the pertinent information in the Description of the Marine Mammals in the Area of Specified Activities contained in the supporting documents for the initial IHA.

Potential Effects on Marine Mammals and Their Habitat

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which take is authorized here may be found in the Notice of issued IHA for the initial authorization. NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects our initial analysis of impacts on marine mammals and their habitat.

Estimated Take

A detailed description of the methods and inputs used to estimate take for the specified activity are found in the Notices of issued IHA for the initial authorization. The HRG equipment that may result in take, as well as the source levels, marine mammal stocks taken, marine mammal density data and the methods of take estimation applicable to this authorization remain unchanged from the previously issued IHA.

As described above, Equinor completed 86 survey days in 2018 and anticipates the need for an additional 56 survey days in 2019 to complete their survey. As the number of survey days remaining is less than the number of survey days analyzed in the previous IHA, the number of takes estimated to occur in 2019, and authorized, has changed from the number of takes authorized in the initial IHA (Table 7 in the initial IHA).

Equinor has already completed 60.5 percent of the planned total survey days that were analyzed in the initials IHA (*i.e.,* 86 of a total of 142 total survey days). Thus 39.5 percent of the total survey days analyzed in the previous IHA remain to be completed in 2019 (*i.e.,* 56 of a total of 142 total survey days). We therefore anticipate that the number of takes that may occur as a result of the remaining survey days in 2019 will represent 39.5 percent of the total take that was expected to occur during the entire duration of the survey (total 142 days) and was authorized in the initial IHA. The number of takes expected to occur during the remaining 56 survey days in 2019, and authorized, are shown in Table 1.

TABLE 1—NUMBER OF TAKES AUTHORIZED

Species	Level B takes
North Atlantic right whale	7
Humpback whale	9
Fin whale	38
Sperm whale	2
Minke whale	15
Bottlenose dolphin	615
Common dolphin	668
Atlantic white-sided dolphin	169
Harbor porpoise	892
Harbor seal	1,144
Gray seal	1,144

Description of Mitigation, Monitoring and Reporting Measures

The mitigation, monitoring, and reporting measures included as requirements in this authorization are

identical to those included in the Notice announcing the issuance of the initial IHA, and the discussion of the least practicable adverse impact included in that document remains accurate. The following measures are included in this IHA renewal:

Marine Mammal Exclusion and Watch Zones

As required in the Bureau of Ocean Energy Management (BOEM) lease, marine mammal exclusion zones (EZ) will be established around the HRG survey equipment and monitored by protected species observers (PSO) during HRG surveys as follows:

- 50 m EZ for pinnipeds and delphinids (except harbor porpoises);
- 100 m EZ for large whales including sperm whales and mysticetes (except North Atlantic right whales) and harbor porpoises;
- 500 m EZ for North Atlantic right whales.

In addition, PSOs will visually monitor for all marine mammals to the extent of a 500 m ''Watch Zone'' or as far as possible if the extent of the Watch Zone is not fully visible.

Visual Monitoring

As per the BOEM lease, visual and acoustic monitoring of the established exclusion and monitoring zones will be performed by qualified and NMFS-approved PSOs. It will be the responsibility of the Lead PSO on duty to communicate the presence of marine mammals as well as to communicate and enforce the action(s) that are necessary to ensure mitigation and monitoring requirements are implemented as appropriate. PSOs will be equipped with binoculars and have the ability to estimate distances to marine mammals located in proximity to the vessel and/or exclusion zone using range finders. Reticulated binoculars will also be available to PSOs for use as appropriate based on conditions and visibility to support the siting and monitoring of marine species. Digital single-lens reflex camera equipment will be used to record sightings and verify species identification. During surveys conducted at night, night-vision equipment and infrared technology will be available for PSO use, and Passive Acoustic Monitoring (PAM) will be used.

Pre-Clearance of the Exclusion Zone

For all HRG survey activities, Equinor will implement a 30-minute pre-clearance period of the relevant EZs prior to the initiation of HRG survey equipment. During this period the EZs will be monitored by PSOs, using the appropriate visual technology for a 30-minute period. HRG survey equipment will not be initiated if marine mammals are observed within or approaching the relevant EZs during this pre-clearance period. If a marine mammal is observed within or approaching the relevant EZ during the pre-clearance period, ramp-up will not begin until the animal(s) has been observed exiting the EZ or until an additional time period has elapsed with no further sighting of the animal (15 minutes for small delphinoid cetaceans and pinnipeds and 30 minutes for all other species). This pre-clearance requirement will include small delphinoids that approach the vessel (*e.g.,* bow ride). PSOs will also continue to monitor the zone for 30 minutes after survey equipment is shut down or survey activity has concluded.

Passive Acoustic Monitoring

As required in the BOEM lease, PAM will be required during HRG surveys conducted at night. In addition, PAM systems will be employed during daylight hours as needed to support system calibration and PSO and PAM team coordination, as well as in support of efforts to evaluate the effectiveness of the various mitigation techniques (*i.e.,* visual observations during day and night, compared to the PAM detections/operations). PAM operators will also be on call as necessary during daytime operations should visual observations become impaired. BOEM's lease stipulations require the use of PAM during nighttime operations. However, these requirements do not require that any mitigation action be taken upon acoustic detection of marine mammals. Given the range of species that could occur in the survey area, the PAM system will consist of an array of hydrophones with both broadband (sampling mid-range frequencies of 2 kHz to 200 kHz) and at least one low-frequency hydrophone (sampling range frequencies of 75 Hz to 30 kHz). The PAM operator will monitor the hydrophone signals in real time both aurally (using headphones) and visually (via the monitor screen displays). The PAM operator will communicate detections to the Lead PSO on duty who will ensure the implementation of the appropriate mitigation procedures. A mitigation and monitoring communications flow diagram has been included as Appendix C of the IHA application.

Ramp-Up of Survey Equipment

As required in the BOEM lease, where technically feasible, a ramp-up procedure will be used for HRG survey equipment capable of adjusting energy levels at the start or re-start of HRG survey activities. The ramp-up procedure will be used at the beginning of HRG survey activities in order to provide additional protection to marine mammals near the survey area by allowing them to vacate the area prior to the commencement of survey equipment use at full energy. A ramp-up will begin with the power of the smallest acoustic equipment at its lowest practical power output appropriate for the survey. When technically feasible the power will then be gradually turned up and other acoustic sources added in a way such that the source level would increase gradually.

Shutdown Procedures

As required in the BOEM lease, if a marine mammal is observed within or approaching the relevant EZ (as described above) an immediate shutdown of the survey equipment is required. Subsequent restart of the survey equipment may only occur after the animal(s) has either been observed exiting the relevant EZ or until an additional time period has elapsed with no further sighting of the animal (*e.g.,* 15 minutes for delphinoid cetaceans and pinnipeds and 30 minutes for all other species). HRG survey equipment may continue operating if small delphinids voluntarily approach the vessel (*e.g.,* to bow ride) when HRG survey equipment is operating.

As required in the BOEM lease, if the HRG equipment shuts down for reasons other than mitigation (*i.e.,* mechanical or electronic failure) resulting in the cessation of the survey equipment for a period greater than 20 minutes, a 30 minute pre-clearance period (as described above) will precede the restart of the HRG survey equipment. If the pause is less than 20 minutes, the equipment may be restarted as soon as practicable at its full operational level only if visual surveys were continued diligently throughout the silent period and the EZs remained clear of marine mammals during that entire period. If visual surveys were not continued diligently during the pause of 20 minutes or less, a 30-minute pre-clearance period (as described above) will precede the re-start of the HRG survey equipment. Following a shutdown, HRG survey equipment may be restarted following pre-clearance of the zones as described above.

Vessel Strike Avoidance

Equinor will ensure that vessel operators and crew maintain a vigilant watch for cetaceans and pinnipeds by

slowing down or stopping the vessel to avoid striking marine mammals. Survey vessel crew members responsible for navigation duties will receive site-specific training on marine mammal sighting/reporting and vessel strike avoidance measures. Vessel strike avoidance measures will include, but are not limited to, the following, as required in the BOEM lease, except under circumstances when complying with these requirements would put the safety of the vessel or crew at risk:

- All vessel operators and crew will maintain vigilant watch for cetaceans and pinnipeds, and slow down or stop their vessel to avoid striking these protected species;
- All vessel operators will comply with 10 knot (18.5 kilometers (km)/hr) or less speed restrictions in any SMA per NOAA guidance. This applies to all vessels operating at any time of year;
- All vessel operators will reduce vessel speed to 10 knots (18.5 km/hr) or less when any large whale, any mother/calf pairs, pods, or large assemblages of non-delphinoid cetaceans are observed near (within 100 m (330 ft)) an underway vessel;
- All survey vessels will maintain a separation distance of 500 m (1640 ft) or greater from any sighted North Atlantic right whale;
- If underway, vessels must steer a course away from any sighted North Atlantic right whale at 10 knots (18.5 km/hr) or less until the 500 m (1640 ft) minimum separation distance has been established. If a North Atlantic right whale is sighted in a vessel's path, or within 100 m (330 ft) to an underway vessel, the underway vessel must reduce speed and shift the engine to neutral. Engines will not be engaged until the North Atlantic right whale has moved outside of the vessel's path and beyond 100 m. If stationary, the vessel must not engage engines until the North Atlantic right whale has moved beyond 100 m;
- All vessels will maintain a separation distance of 100 m (330 ft) or greater from any sighted non-delphinoid cetacean. If sighted, the vessel underway must reduce speed and shift the engine to neutral, and must not engage the engines until the non-delphinoid cetacean has moved outside of the vessel's path and beyond 100 m. If a survey vessel is stationary, the vessel will not engage engines until the non-delphinoid cetacean has moved out of the vessel's path and beyond 100 m;
- All vessels will maintain a separation distance of 50 m (164 ft) or greater from any sighted delphinoid cetacean. Any vessel underway will remain parallel to a sighted delphinoid cetacean's course whenever possible, and avoid excessive speed or abrupt changes in direction. Any vessel underway will reduce vessel speed to 10 knots (18.5 km/hr) or less when pods (including mother/calf pairs) or large assemblages of delphinoid cetaceans are observed. Vessels may not adjust course and speed until the delphinoid cetaceans have moved beyond 50 m and/or the abeam of the underway vessel;
- All vessels underway will not divert or alter course in order to approach any whale, delphinoid cetacean, or pinniped. Any vessel underway will avoid excessive speed or abrupt changes in direction to avoid injury to the sighted cetacean or pinniped; and
- All vessels will maintain a separation distance of 50 m (164 ft) or greater from any sighted pinniped.

Confirmation of the training and understanding of the requirements will be documented on a training course log sheet. Signing the log sheet will certify that the crew members understand and will comply with the necessary requirements throughout the survey event.

Seasonal Operating Requirements

Between watch shifts, members of the monitoring team will consult NMFS' North Atlantic right whale reporting systems for the presence of North Atlantic right whales throughout survey operations. However, the survey activities will occur outside of the SMA located off the coasts of New Jersey and New York. Members of the monitoring team will monitor the NMFS North Atlantic right whale reporting systems for the establishment of a Dynamic Management Area (DMA). If NMFS should establish a DMA in the survey area, within 24 hours of the establishment of the DMA Equinor will work with NMFS to shut down and/or alter the survey activities to avoid the DMA.

The mitigation measures are designed to avoid the already low potential for injury in addition to some Level B harassment, and to minimize the potential for vessel strikes. There are no known marine mammal feeding areas, rookeries, or mating grounds in the survey area that would otherwise potentially warrant increased mitigation measures for marine mammals or their habitat (or both). The survey will occur in an area that has been identified as a biologically important area for migration for North Atlantic right whales. However, given the small spatial extent of the survey area relative to the substantially larger spatial extent of the right whale migratory area, the survey is not expected to appreciably reduce migratory habitat nor to negatively impact the migration of North Atlantic right whales, thus mitigation to address the survey's occurrence in North Atlantic right whale migratory habitat is not warranted. Further, we believe the mitigation measures are practicable for the applicant to implement.

Based on our evaluation of the applicant's measures, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Public Comments

A notice of NMFS' proposal to issue a Renewal to Equinor was published in the **Federal Register** on April 4, 2019 (84 FR 13246). That notice either described, or referenced descriptions of, Equinor's activity, the marine mammal species that may be affected by the activity, the anticipated effects on marine mammals and their habitat, proposed amount and manner of take, and proposed mitigation, monitoring and reporting measures. NMFS did not receive any substantive public comments. NMFS received comment letters from the Marine Mammal Commission (Commission) and a group of non-governmental organizations (including Natural Resources Defense Council, Wildlife Conservation Society, National Wildlife Federation, Southern Environmental Law Center, Mass Audubon, NY4WHALES, Whale and Dolphin Conservation, Defenders of Wildlife, Surfrider Foundation, Nassau Hiking & Outdoor Club, Conservation Law Foundation, and International Fund for Animal Welfare) (NGOs). The comments and our responses are summarized below.

Comment 1: The NGOs stated that a commitment on the part of Equinor to limit vessel speeds to a maximum of 10 knots, to the extent possible, as well as when the survey area is designated as a Seasonal Management Area (SMA) or a Dynamic Management Area (DMA), should be incorporated by NMFS into the IHA.

Response: NMFS has analyzed the potential for ship strike resulting from Equinor's activity and has determined that the mitigation measures specific to ship strike avoidance are sufficient to avoid the potential for ship strike, and it is not authorized. These include: A requirement that all vessel operators comply with 10 knot (18.5 kilometer (km)/hr) or less speed restriction in any Seasonal Management Area (SMA); a

requirement that Equinor must work with NMFS to alter survey activities to avoid any DMAs as appropriate; a requirement to reduce vessel speed to 10 knots or less when any large whale, any mother/calf pairs, pods, or large assemblages of non-delphinoid cetaceans are observed within 100 m of an underway vessel; and a requirement that all survey vessels maintain a separation distance of 500 m or greater from any sighted North Atlantic right whale. We have determined that the ship strike avoidance measures are sufficient to ensure the least practicable adverse impact on species or stocks and their habitat. We also note that vessel strike during surveys is extremely unlikely based on the low vessel speed; the survey vessel would maintain a speed of approximately 4 knots (7.4 kilometers per hour) while transiting survey lines.

Comment 2: The NGOs recommended that NMFS require an exclusion zone (EZ) of at least 1,000 m for North Atlantic right whales.

Response: The results of sound source verification conducted by Equinor during surveys in 2018 indicates that the largest isopleth distance to the Level B harassment threshold, among all types of HRG survey equipment that would be used during surveys planned in 2019, was 37 m. Therefore, we have determined that the 500 m EZ for North Atlantic right whales, as required in the IHA, is sufficiently protective to ensure survey activities would shut down before right whales would have the potential to be exposed to levels of sound that would result in harassment, and to ensure the least practicable adverse impact on species or stocks and their habitat.

Comment 3: The NGOs recommended that NMFS require that PAM be used 24 hours per day during surveys.

Response: Mitigation measures in the previous IHA, and proposed for this IHA renewal, include a requirement for at least one visual PSO on duty at all times and one PAM operator on duty at night. We have determined the requirements for visual and acoustic monitoring are sufficient to ensure the EZs and Watch Zone are adequately monitored and that they are sufficient to meet the MMPA standard that mitigation measures must ensure the least practicable adverse impact on species or stocks and their habitat. While PAM can be beneficial to supplement visual monitoring, especially in low-visibility conditions, its utility is limited in that it is only beneficial when animals are vocalizing. When potential benefits of a 24-hour PAM requirement (especially given the small harassment zone) are considered in concert with the potential increased costs on the part of the applicant that would result from such a requirement, we have determined a requirement for 24-hour PAM operation is not warranted in this case.

Comment 4: The NGOs recommended that NMFS impose a restriction on site assessment and characterization activities that have the potential to injure or harass the North Atlantic right whale from November 1st to April 30th in the New York Bight and that NMFS address potential impacts to other species like endangered fin whales and blue whales.

Response: In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, we carefully consider two primary factors: (1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat; and (2) the practicability of the measures for applicant implementation, which may consider such things as relative cost and impact on operations.

Equinor determined the planned duration of the survey based on their data acquisition needs, which are largely driven by BOEM's data collection requirements prior to required submission of a construction and operations plan (COP). Any effort on the part of NMFS to restrict the months during which the survey could operate may have the effect of forcing the applicant to conduct additional months of surveys the following year, resulting in increased costs incurred by the applicant and additional time on the water with associated additional production of underwater noise which could have further potential impacts to marine mammals. Thus, the time and area restrictions recommended by the commenters would not be practicable for the applicant to implement and would to some degree offset the benefit of the recommended measure. In addition, our analysis of the potential impacts of the survey on right whales does not indicate that such closures are warranted, as potential impacts to right whales from the survey activities would be limited to short-term behavioral responses; no marine mammal injury is expected as a result of the survey, nor is injury authorized in the IHA. Thus, in this case, the limited potential benefits of time and area restrictions, when considered in concert with the impracticability and increased cost on the part of the applicant that would result from such restrictions, suggests time and area restrictions are not warranted in this case. Existing mitigation measures, including exclusion zones, ramp-up of survey equipment, and vessel strike avoidance measures, are sufficiently protective to ensure the least practicable adverse impact on species or stocks and their habitat. Finally, it should be noted that, given both the timing of the issuance of this IHA Renewal and the anticipated duration of remaining survey days (*i.e.,* 56 days), it is unlikely that Equinor's planned surveys would occur for more than a few days (if at all) within the period that the commenters have recommended for seasonal closure (*i.e.,* November through April).

With respect to the recommendation that NMFS ''address potential impacts to other species like endangered fin whales and blue whales'', we note that we have thoroughly analyzed potential impacts to fin whales, as described in detail in the **Federal Register** notices of the original proposed and final authorizations; blue whales are not anticipated to occur in the project area.

Comment 5: The NGOs recommended that geophysical surveys commence, with ramp-up, during daylight hours only to maximize the probability that North Atlantic right whales are detected and confirmed clear of the exclusion zone.

Response: We acknowledge the limitations inherent in detection of marine mammals at night. However, restricting the ability of the applicant to conduct surveys only during daylight hours would have the likely result of an overall increase in survey duration. In the event that NMFS imposed the restriction suggested by the commenters, the survey vessel would be on the water introducing noise into the marine environment for an extended period of time and may result in increased costs incurred by Equinor. Given that the potential impacts to marine mammals from the survey activities would be limited to short-term behavioral responses, NMFS has determined that a shorter overall survey duration represents the least impactful scenario in terms of potential impacts to marine mammals. Therefore, in consideration of potential effectiveness of the recommended measure and its practicability for the applicant, NMFS does not believe that restricting survey start-ups to daylight hours is warranted in this case.

Comment 6: The Commission questioned whether the public notice provisions for IHA Renewals fully satisfy the public notice and comment provision in the MMPA and discussed

the potential burden on reviewers of reviewing key documents and developing comments quickly. Therefore, the Commission recommended that NMFS use the IHA Renewal process sparingly and selectively for activities expected to have the lowest levels of impacts to marine mammals and that require less complex analysis.

Response: NMFS has taken a number of steps to ensure the public has adequate notice, time, and information to be able to comment effectively on IHA Renewals within the limitations of processing IHA applications efficiently. The **Federal Register** notice for the initial proposed IHA (83 FR 7655; February 22, 2018) had previously identified the conditions under which a one-year Renewal IHA might be appropriate. This information is presented in the *Request for Public Comments* section of the initial proposed IHA and thus encourages submission of comments on the potential of a one-year renewal as well as the initial IHA during the 30-day comment period. In addition, when we receive an application for a Renewal IHA, we publish a notice of the proposed IHA Renewal in the **Federal Register** and provide an additional 15 days for public comment, for a total of 45 days of public comment. We will also directly contact all commenters on the initial IHA by email, phone, or, if the commenter did not provide email or phone information, by postal service to provide them the opportunity to submit any additional comments on the proposed Renewal IHA.

NMFS also strives to ensure the public has access to key information needed to submit comments on a proposed IHA, whether an initial IHA or a Renewal IHA. The agency's website includes information for all projects under consideration, including the application, references, and other supporting documents. Each **Federal Register** notice also includes contact information in the event a commenter has questions or cannot find the information they seek.

Regarding the Commission's comment that Renewal IHAs should be limited to certain types of projects, NMFS has explained on its website and in individual **Federal Register** notices that Renewal IHAs are appropriate where the continuing activities are identical, nearly identical, or a subset of the activities for which the initial 30-day comment period applied. Where the commenter has likely already reviewed and commented on the initial proposed IHA for these activities, the abbreviated additional comment period is sufficient for consideration of the results of the preliminary monitoring report and new information (if any) from the past year.

Comment 7: The Commission noted that in light of required exclusion zones, the potential for marine mammals to be taken incidental to conducting the planned survey is very small, and that as NMFS looks to streamline and improve the efficiency of its authorization process, it should consider whether, in such situations, incidental harassment authorizations are necessary given the very small size of the Level A and B harassment zones and the added protection afforded by the BOEM lease-stipulated exclusion zones.

Response: NMFS appreciates the point that the Commission makes and will take it into consideration, noting that multiple factors are analyzed in determining whether an incidental take authorization is warranted. We look forward to collaborating with the Commission in identifying where the MMPA incidental take authorization process can be streamlined further while ensuring that NMFS fulfills its statutory obligations under section 101(a)(5) of the MMPA.

National Environmental Policy Act

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as implemented by the regulations published by the Council on Environmental Quality (40 CFR parts 1500–1508), NMFS prepared an Environmental Assessment (EA) to consider the direct, indirect and cumulative effects to the human environment resulting from the issuance of the initial IHA in 2018. NMFS made the EA available to the public for review and comment. Also in compliance with NEPA and the CEQ regulations, NMFS signed a Finding of No Significant Impact (FONSI) on April 24, 2018. The 2018 NEPA documents are available at: *www.fisheries.noaa.gov/action/incidental-take-authorization-statoil-wind-site-characterization-surveys-offshore-new-york.* We have reviewed Equinor's application for a Renewal of the 2018 IHA and the 2018 monitoring report as well as comments received on our Notice of Proposed IHA Renewal (84 FR 13246; April 4, 2019). Based on that review, we have determined that the action follows closely the IHA issued and implemented in 2018 and does not present any substantial changes, or significant new circumstances or information relevant to environmental concerns which would require a supplement to the 2018 EA or preparation of a new NEPA document. Therefore, we have determined that a new or supplemental EA or Environmental Impact Statement is unnecessary, and will rely on the existing EA and FONSI.

Determinations

Equinor's planned activity is identical to the activity analyzed in our previously issued notices of proposed IHA (83 FR 7655; February 22, 2018) and issued IHA (83 FR 19532; May 3, 2018) (with the exception of the duration of the survey, which is less than the duration analyzed in those documents). We concluded that the initial IHA would have a negligible impact on all marine mammal stocks and species and that the taking would be small relative to population sizes. The marine mammal information, potential effects, and the mitigation and monitoring measures remain the same as those analyzed in the previously issued notices of proposed IHA and issued IHA, therefore the extensive analysis, as well as the associated findings, included in the prior documents remain applicable.

The only differences between the initial IHA and this Renewal is that the duration of the survey and the numbers of incidental marine mammal take expected to occur are lower than the numbers analyzed and authorized in the previously issued IHA. As both the duration of the survey and the number of takes expected to occur, and authorized, are lower than in the initial IHA, we have concluded that the effects of the Renewal would be the same or less than those that were analyzed in the Notices of the initial proposed IHA and issued IHA.

NMFS has concluded that there is no new information suggesting that our analysis or findings should change from those reached for the initial IHA. Based on the information and analysis contained here and in the referenced documents, NMFS has determined the following: (1) The required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) Equinor's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action, and; (5) appropriate monitoring and reporting requirements are included.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the NMFS Greater Atlantic Regional Fisheries Office (GARFO), whenever we propose to authorize take for endangered or threatened species.

The NMFS Office of Protected Resources is authorizing the incidental take of three species of marine mammals which are listed under the ESA: The North Atlantic right, fin, and sperm whale. BOEM consulted with NMFS GARFO under section 7 of the ESA on commercial wind lease issuance and site assessment activities on the Atlantic Outer Continental Shelf in Massachusetts, Rhode Island, New York and New Jersey Wind Energy Areas. NMFS GARFO issued a programmatic Biological Opinion in 2013 concluding that these activities may adversely affect but are not likely to jeopardize the continued existence of the North Atlantic right, fin, and sperm whale. The Biological Opinion was later amended to include the Office of Protected Resources as an action agency. The Biological Opinion can be found online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable.* The programmatic consultation established a procedure for reviewing future actions to determine if they and their effects fell within the scope of the Biological Opinion, and noted that for future MMPA authorizations for such activities, the Biological Opinion's incidental take statement (ITS) could be amended to exempt the take of ESA listed marine mammals. In April 2018, NMFS GARFO amended the ITS to exempt the take of right, sperm and fin whales as a result of the site characterization surveys authorized via the previously issued IHA.

NMFS GARFO has determined that the 2013 Biological Opinion remains valid and that this MMPA authorization provides no new information about the effects of the action, nor does it change the extent of effects of the action, or any other basis to require reinitiation of the opinion. The Biological Opinion meets the requirements of section 7(a)(2) of the ESA and implementing regulations at 50 CFR 402 for our issuance of an IHA under the MMPA, and no further consultation is required.

Renewal

NMFS has issued an IHA Renewal to Equinor for conducting marine site characterization surveys off the coast of New York and coastal waters where cable route corridors will be established, from April 24, 2019 through April 23, 2020.

Dated: April 29, 2019.

Donna S. Wieting,

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

[FR Doc. 2019–08949 Filed 5–1–19; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 190325274–9274–01]

RIN 0648–XG926

Revisions to NOAA's Policy for the Assessment of Civil Administrative Penalties and Permit Sanctions

AGENCY: Office of General Counsel (OGC), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) announces the availability of draft revisions to NOAA's Policy for the Assessment of Civil Administrative Penalties and Permit Sanctions (Penalty Policy) for public review and comment. The revisions to the policy reflect new legislation enacted and regulations promulgated, the most recent adjustments to the maximum civil monetary penalties authorized under statutes administered and enforced by NOAA, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, and clarifications to improve enforcement consistency nationally, increase predictability in enforcement, improve transparency in enforcement, and more effectively protect natural resources.

DATES: The draft revisions to the Penalty Policy will remain available for public review until June 3, 2019. To ensure that comments will be considered, NOAA must receive written comments by June 3, 2019.

ADDRESSES: Interested persons may submit comments by any of the following methods:

- *Electronic Submissions:* Submit electronic public comments, identified by NOAA–HQ–2019–0029, at *http://www.regulations.gov*. The docket established for this rule-making can be found at: *http://www.regulations.gov/#!docketDetail;D=NOAA-HQ-2019-0029*. Click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Enforcement Section, Office of the General Counsel, National Oceanic and Atmospheric Administration, 1315 East-West Highway, SSMC–3 15424, Silver Spring, MD 20910, Attn: Meggan Engelke-Ros.

The draft revisions to the Penalty Policy are available electronically at the following website: *https://www.gc.noaa.gov/enforce-office3.html*. Commenters may also request a hard copy of the draft revisions to the Penalty Policy by sending a self-addressed envelope (size 8.5 x 11 inches) to the street address provided above. Comments submitted in response to this notice are a matter of public record. Before including an address, phone number, email address, or other personal identifying information in a comment, please be aware that comments—including any personal identifying information—can and will be made publicly available. While a request can be made to withhold personal identifying information from public review, NOAA cannot ensure that it will be able to do so.

Comments submitted electronically will generally be posted to *http://www.regulations.gov* without change. For posted comments, all personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NOAA will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Meggan Engelke-Ros at 301–427–2202.

SUPPLEMENTARY INFORMATION: On April 14, 2011, NOAA published its new NOAA Policy for the Assessment of Civil Administrative Penalties and Permit Sanctions (76 FR 20959). On July 1, 2014, NOAA issued a revised Penalty Policy. As explained more fully in the text of the revised Penalty Policy, the purpose of this Policy is to continue to ensure that: (1) Civil administrative penalties and permit sanctions are assessed in accordance with the laws that NOAA enforces in a fair and consistent manner; (2) penalties and permit sanctions are appropriate for the gravity of the violation; (3) penalties and

permit sanctions are sufficient to deter both individual violators and the regulated community as a whole from committing violations; (4) economic incentives for noncompliance are eliminated; and (5) compliance is expeditiously achieved and maintained to protect natural resources.

This revised Penalty Policy also reflects legislation passed and regulations promulgated since issuance of the 2014 Policy, in particular:

• The Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2015, Public Law 114–81, which implemented the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported, and Unregulated Fishing and amended the enforcement provisions of a number of statutes administered by NOAA; and

• The most recent adjustments to the maximum civil monetary penalties authorized under statutes administered and enforced by NOAA, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (see 84 FR 2445, February 7, 2019).

Under this revised Policy, NOAA will continue to promote consistency at a national level, provide greater predictability for the regulated community and the public, maintain transparency in enforcement, and more effectively protect natural resources. The major changes to the existing Penalty Policy made by this revision include:

(1) Additional clarity on what would be considered ''such other matters as justice may require'' under the adjustment factors;

(2) Clarification on our policy for when and how the newly adjusted statutory penalty maximums will apply;

(3) Clarification of the policy on application of prior offenses to penalty assessments;

(4) Updates to the penalty schedules to reflect new statutory authorities or regulations;

(5) Adjustments to the penalty matrixes to reflect the most recent adjustments to the maximum civil monetary penalties.

Some of the statutory adjustments to the maximum civil monetary penalties were significant and required a rebalancing of our distribution of the penalty ranges in the penalty matrixes. In making these adjustments, there were two primary considerations that affected the revised penalty matrixes. First, for each matrix that was adjusted, a percentage increase was applied across the entire matrix and the percentage increase was, in all cases, less than the percentage increase to the statutory maximum (numbers were rounded). This was done so as to take a conservative approach to the statutory penalty increases, which reflected a ''catch-up'' application of adjustments for inflation causing some significant penalty increases. Second, the matrixes were adjusted to ensure each individual matrix utilized the full penalty range in a balanced manner so that the penalty ranges increased gradually as the gravity level of the violations increased, rather than having an exponential increase in penalty ranges from one gravity level to the next.

The revised Penalty Policy will supersede the previous Penalty Policy regarding the assessment of penalties or permit sanctions, and previous penalty and permit sanction schedules issued by the NOAA Office of General Counsel. This Penalty Policy provides guidance for the NOAA General Counsel's Office in assessing penalties but is not intended to create a right or benefit, substantive or procedural, enforceable at law or in equity, in any person or company. NOAA retains discretion to assess the full range of penalties authorized by statute in any particular case.

The full revised Penalty Policy, along with examples, matrixes, and schedules can be found at *https://www.gc.noaa.gov/enforce-office3.html*. More information about the NOAA General Counsel Enforcement Section can be found at *https://www.gc.noaa.gov/enforce-office.html*.

Dated: April 25, 2019.

Jeff Dillen,

Deputy General Counsel, National Oceanic and Atmospheric Administration.

[FR Doc. 2019–08895 Filed 5–1–19; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG818

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to U.S. Navy Target and Missile Launch Activities on San Nicolas Island, California

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

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy) for authorization to take marine mammals incidental to target and missile launch activities on San Nicolas Island (SNI), California for the Naval Air Warfare Center Weapons Division (NAWCWD), Point Mugu Sea Range (PMSR). Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-year renewal that could be issued under certain circumstances and if all requirements are met, as described in *Request for Public Comments* at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision. The Navy's activity is considered a military readiness activity pursuant to MMPA, as amended by the National Defense Authorization Act for Fiscal Year 2004 (NDAA).

DATES: Comments and information must be received no later than June 3, 2019.

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

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

FOR FURTHER INFORMATION CONTACT: Stephanie Egger, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list

of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

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

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

The NDAA (Pub. L. 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as it applies to a ''military readiness activity.'' The activity for which incidental take of marine mammals is being requested addressed here qualifies as a military readiness activity. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment. This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental harassment authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On December 13, 2018, NMFS received a request from the Navy for an IHA to take marine mammals incidental to target and missile launch activities on SNI. The application was deemed adequate and complete on April 10, 2019. The Navy's request is for take of California sea lions (*Zalophus californianus*), harbor seals (*Phoca vitulina*), and northern elephant seals (*Mirounga angustirostris*) by Level B harassment only. Neither Navy nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS has previously issued incidental take authorizations to the Navy for similar launch activities since 2001 with the current authorization in effect until June 3, 2019 (79 FR 32678; June 6, 2014 and 79 FR 32919; June 9, 2014). Navy complied with all the requirements (*e.g.,* mitigation, monitoring, and reporting) of the previous authorizations and information regarding their monitoring results may be found in the *Potential Effects of Specified Activity on Marine Mammals and their Habitat* and *Estimated Take* sections. This proposed IHA would cover one year of on-going activity for which Navy obtained prior authorizations. The on-going activity involves continuation of target and missile launches from SNI. The Navy is considering a subsequent IHA or renewal in 2020 as well as a request for incidental take regulations in 2021 for future activities.

Description of Proposed Activity

Overview

The Navy proposes to continue a target and missile launch program from two launch sites on SNI. Missiles vary from tactical and developmental weapons to target missiles used to test defensive strategies and other weapons systems. Some launch events involve a single missile, while others involve the launch of multiple missiles in quick succession. The Navy proposes to conduct up to 40 missile launch events from SNI, but the total may be less than 40 depending on operational requirements. Launch timing will be determined by operational, meteorological, and logistical factors. Up to 10 of the 40 launches may occur at night, but this is also dependent on operational requirements and only conducted when required by test objectives. Airborne sound from these launch events may take pinnipeds that are hauled out on SNI by Level B harassment. All flights over SNI would be subsonic; therefore, there would be no sonic booms that could affect pinnipeds hauled out at sites on SNI.

The purpose of these launches is to support training and testing activities associated with operations on the NAWCWD PMSR. The PMSR is used by the U.S. and allied military services to test and evaluate sea, land, and air weapon systems; to provide realistic training opportunities; and to maintain operational readiness of these forces. Some of the launches are used for practicing defensive drills against the types of weapons simulated by these missiles and some launches are conducted for the related purpose of testing new types of targets.

Dates and Duration

The Navy is requesting an IHA for the continuation of specific launch activities at SNI for one year, from June 4, 2019 to June 3, 2020. The timing of launch activities is variable and subject to test and training requirements, and meteorological and logistical limitations. To meet the Navy's operational testing and training requirements, up to 40 launch events may be conducted at any time of year, day or night. However, only 10 of the 40 launches per year may occur at night, but this is also dependent on operational requirements and only conducted when required by test objectives. No more than 25 launches have occurred in any single year since 2001. Given the launch acceleration and flight speed of the missiles, most launch events are of extremely short duration. Strong launch sounds are typically

detectable near the beaches at western SNI for no more than a few seconds per launch.

Location of the Activity

The Navy is proposing launch activities on SNI, California for testing and training activities associated with operations on the NAWCWD PMSR (see Figure 1–1 of the application). SNI is one of the eight Channel Islands in the Southern California Bight, located about 105 kilometers (km) southwest of Point Mugu. The missiles are launched from one of several fixed locations on the western end of SNI. Missiles launched from SNI fly generally west, southwest, and northwest through the PMSR. The primary launch locations are the Alpha Launch Complex, located 190 meters (m) above sea level on the west-central part of SNI and the Building 807 Launch Complex, which accommodates several fixed and mobile launchers, at the western end of SNI at approximately 11 m above sea level. The Point Mugu airfield on the mainland, the airfield on SNI, and the target sites in the PMSR will be a routine part of proposed launch operations.

Many of the beaches and rocky outcroppings around the perimeter of SNI are pinniped resting, molting, or breeding sites. The Alpha Launch Complex is approximately 2 km from the nearest beach where pinnipeds are known to routinely haul out. The Building 807 Launch Complex is 30 m from the nearest pinniped haulout. However, few pinnipeds are known to haul out on the shoreline immediately adjacent to this launch site. Refer to Figure 1–2 of the application for launch sites and anticipated launch azimuths in relation to potentially affected pinniped haulout areas on SNI.

Detailed Description of Specific Activity

Missiles are rocket-propelled weapons designed to deliver an explosive warhead with accuracy at high speed. Missiles vary from small tactical weapons that are effective out to only a few hundred feet to much larger strategic weapons that have ranges of several thousand miles. Almost all missiles contain some form of guidance and control mechanism and are therefore often referred to as guided missiles. Guided missiles have four system components: Targeting or missile guidance, flight system, engine, and warhead. A guided missile powered along a low, level flight path by an air-breathing jet engine is called a cruise missile. An unguided military missile, as well as any launch vehicle, is usually referred to as a rocket. Tactical guided missiles are generally categorized according to the location of the launch platform and target and include: Air-to-air, air-to-surface, surface-to-air, anti-ship, and anti-tank (or assault).

Missiles can be propelled by either liquid-fueled or solid-fueled rocket engines; however, solid fuel is preferred for military uses. Such engines commonly propel tactical guided missiles (*i.e.,* missiles intended for use within the immediate area) toward their targets at twice the speed of sound. Cruise or ballistic missiles are designed to strike targets far beyond the immediate area, and are therefore also known as strategic missiles. Cruise missiles are jet-propelled at subsonic speeds throughout their flights, while ballistic missiles are rocket-powered only in the initial (boost) phase of flight, after which they follow an arcing trajectory to the target. As gravity pulls the ballistic warhead back to Earth, speeds of several times the speed of sound are reached. Ballistic missiles are most often categorized as short-range, medium-range, intermediate-range, and intercontinental ballistic missiles. Missiles weights range between 54–2,900 kilograms (kg), but total weight is dependent on fuel or boosters.

Below is the number of launches that have occurred at SNI since 2001 (Table 1) and the missile types that are proposed to be launched under this IHA. There have not been more than 25 launch events conducted in any given year since 2001.

TABLE 1—THE TOTAL NUMBER OF LAUNCHES THAT HAVE OCCURRED SINCE 2001 AT SNI

Time period	Number of launches
August 2001 to October 2005	69
February 2006 to December 2009	11
January 2010 to December 2014	36
December 20015 to November 2018	30

Missile descriptions are representative of some of the types of missiles typically launched from SNI. While this list is not inclusive of all potential missiles that could be launched annually, the descriptions and the sound profiles are representative of the diversity of the types of missiles typically launched. For information on the sound levels these missiles produce please refer to Section 1.2 of the application.

Rolling Airframe Missiles

At SNI, Rolling Airframe Missiles (RAMs) are launched from the Building 807 Launch Complex, near the shoreline.

GQM–163A ''Coyote''

The Coyote, designated GQM–163A, is an expendable Supersonic Sea-Skimming Target (SSST) powered by a ducted-rocket ramjet. This missile is designed to provide a ground-launched, aerial target system to simulate a supersonic, sea-skimming Anti-Ship Cruise missile threat. The Coyote utilizes a previously installed launcher at the Alpha Launch Complex on SNI with a Launcher Interface Kit. Coyote launches are expected to be the primary large missile launched from SNI over the next several years. Coyotes are launched from the inland location (Alpha Launch Complex).

Multi-Stage Sea Skimming Target (MSST)

The Multi-Stage Sea Skimming Target (MSST) is a subsonic cruise missile with a supersonic terminal stage that approaches its target at low-level at Mach 2.8. The MSST is launched from the Alpha Launch Complex on SNI.

Standard Missile (SM–2, SM–3, SM–6)

The Standard family of missiles consists of a range of air defense missiles including supersonic, medium, and extended range surface-to-air and surface-to-surface missiles. The Standard Missile 3 Block IIA (SM–3) is a ship-based missile system used to intercept short- to intermediate-range ballistic missiles as a part of the Aegis Ballistic Missile Defense System. Although primarily designed as an antiballistic missile defensive weapon, the SM–3 has also been employed in an anti-satellite capacity against a satellite at the lower end of low Earth orbit. Similarly, the SM–6 is a vertically launched, extended range missile compatible with the Aegis Weapon System to be used against extended range threats. The SM–6 Block I/IA combines the tested legacy of the SM–2 propulsion system and warhead with an active radio frequency seeker modified from the AIM–120 Advanced Medium Range Air-to-Air Missile. The new features allow for over-the-horizon engagements, enhanced capability at extended ranges and increased firepower. To date, only the SM–3 has been launched from SNI.

Other Missiles That May Be Used During Launch Events

The Navy may also launch other missiles to simulate various types of threat missiles and aircraft and to test other systems. For example, on August 23, 2002, a Tactical Tomahawk was launched from Building 807 Launch Complex. A Falcon was launched from the Alpha Launch Complex.

Missiles of the BQM–34, BQM–74, or BQM–177 aerial target type could also be launched. These are small, unmanned aircraft that are launched using jet-assisted take-off rocket bottles; they then continue offshore powered by small turbojet engines. If launches of other missile types occur, they would be included within the total of 40 launches anticipated per year.

General Launch Operations

Aircraft and helicopter flights between the Point Mugu airfield on the mainland, the airfield on SNI, and the target sites in the PMSR are a routine part of a planned launch operation. These flights generally do not pass at low level over the beaches where pinnipeds are expected to be hauled out. Aircraft and helicopters will maintain a minimum altitude of 305 m from pinniped haulouts and rookeries, with some exceptions, like emergencies, and are not expected to result in any incidental take of pinnipeds.

Movements of personnel are restricted near the launch sites at least several hours prior to a launch for safety reasons. No personnel are allowed on the western end of SNI during launches. Movements of personnel or missiles near pinniped haulout sites and rookeries are also restricted at other times of the year for purposes of environmental protection and preservation of cultural resource sites.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see *Proposed Mitigation* and *Proposed Monitoring and Reporting*).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the Navy's application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*https://www.fisheries.noaa.gov/find-species*).

Table 2 below lists all species with expected potential for occurrence in the project area and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2018). PBR is defined by the MMPA 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 optimum sustainable population (as described in NMFS' SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Pacific and Alaska SARs (Carretta *et al.,* 2018). All values presented in Table 2 are the most recent available at the time of publication (draft SARs available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports*).

Marine mammal species likelihood of occurrence (designated as ''unlikely,'' ''potential'' or ''likely'') was determined through review of NMFS SARs, species-specific literature research, and SNI monitoring reports (Table 2). ''Unlikely'' means occurrence is not expected, ''potential'' means the species may occur or there is casual occurrence history, and ''likely'' means there is a strong possibility of or regular occurrence in the project area.

The Channel Islands, located in the Southern California Bight, are inhabited by large populations of pinnipeds. California sea lions, northern elephant seals, and harbor seals are the most numerous pinniped species at the Channel Islands (Lowry *et al.,* 2008; Lowry *et al.,* 2014; Lowry *et al.,* 2017). California sea lions and harbor seals are found at all of the Channel Islands (Lowry *et al.,* 2008; Lowry *et al.,* 2014; Lowry *et al.,* 2017). Northern fur seals (*Callorhinus ursinus*) have only been observed at a single island, and Steller sea lions (*Eumetopias jubatus*) and Guadalupe fur seals (*Arctocephalus philippii townsendi*) are rare visitors to the Channel Islands (Bonnell *et al.,* 1980; Stewart and Yochem, 1984; Orr, *et al.,* 2012). SNI is one of the islands within the Channel Islands where pinnipeds occur.

Six species of pinnipeds have been observed on SNI. All pinniped species that could potentially occur in the proposed survey areas are included in Table 2. As described below, three pinniped species (with three managed stocks) temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur. The three pinniped species likely to occur on shore in the activity area either regularly or in large numbers during certain times of the year are California sea lions, harbor seals, and northern elephant seals, and we propose authorizing take for these species.

An additional three pinniped species haul out rarely or occasionally on SNI. These include the northern fur seal, the Guadalupe fur seal, and the Steller sea lion. The temporal and/or spatial occurrence of these three additional pinniped species is such that take is not expected to occur, and they are not discussed further beyond the explanation provided below in this section.

TABLE 2—MARINE MAMMALS OCCURRENCE IN THE PROJECT AREA

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]	Occurrence
Order Carnivora—Superfamily Pinnipedia							
Family Otariidae (eared seals and sea lions):							
California sea lion	*Zalophus californianus*	U.S	-, -, N	257,606 (N/A, 233,515, 2014)	14,011	≥319	Likely.
Northern Fur Seal	*Callorhinus ursinus*	CA	-, D, N	14,050 (N/A, 7,524, 2013)	451	1.8	Potential.
Steller Sea Lion	*Eumetopias jubatus*	Eastern	T, D, Y	41,638 (see SAR, 41,638, 2015)	2,498	108	Unlikely.

TABLE 2—MARINE MAMMALS OCCURRENCE IN THE PROJECT AREA—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]	Occurrence
Guadalupe Fur Seal	*Arctocephalus philippii townsendi.*	Mexico	T, D, Y	20,000 (N/A, 15,830, 2010)	542	≥3.2	Potential.
Family Phocidae (earless seals):							
Harbor Seal	*Phoca vitulina*	CA	-, -, N	30,968 (N/A, 27,348, 2012)	1,641	43	Likely.
Northern Elephant Seal	*Mirounga angustirostris*	CA Breeding	-, -, N	179,000 (N/A, 81,368, 2010)	4,882	8.8	Likely.

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

Note: *Italicized species are not expected to be taken or proposed for authorization.*

Distribution of California sea lions, harbor seals, and harbor seals on SNI, as well as on the other Channel Islands, was conducted during the NMFS' Southwest Fisheries Science Center (SWFSC) July 2011–2015 survey. In 1987, the SWFSC began using aerial photography at the Channel Islands to census pinnipeds. Years later, the survey expanded to include all the Channel Islands in aerial surveys). July surveys are intended to census California sea lions after all pups have been born to monitor population trends and abundance of the U.S. population and to collect summer residence count-data for northern elephant seals and harbors seals (Lowry *et al.*, 20187b). The perimeter of each SNI was divided into small area-coded units to describe intra-island distribution of pinnipeds as shown in Figure 1 below. We include Figure 1 here as a reference when describing some of the census data by Lowry *et al.* (2017b) below and later in the *Estimated Take* section, to describe what areas may be impacted by launch events and where the Navy is monitoring pinnipeds.

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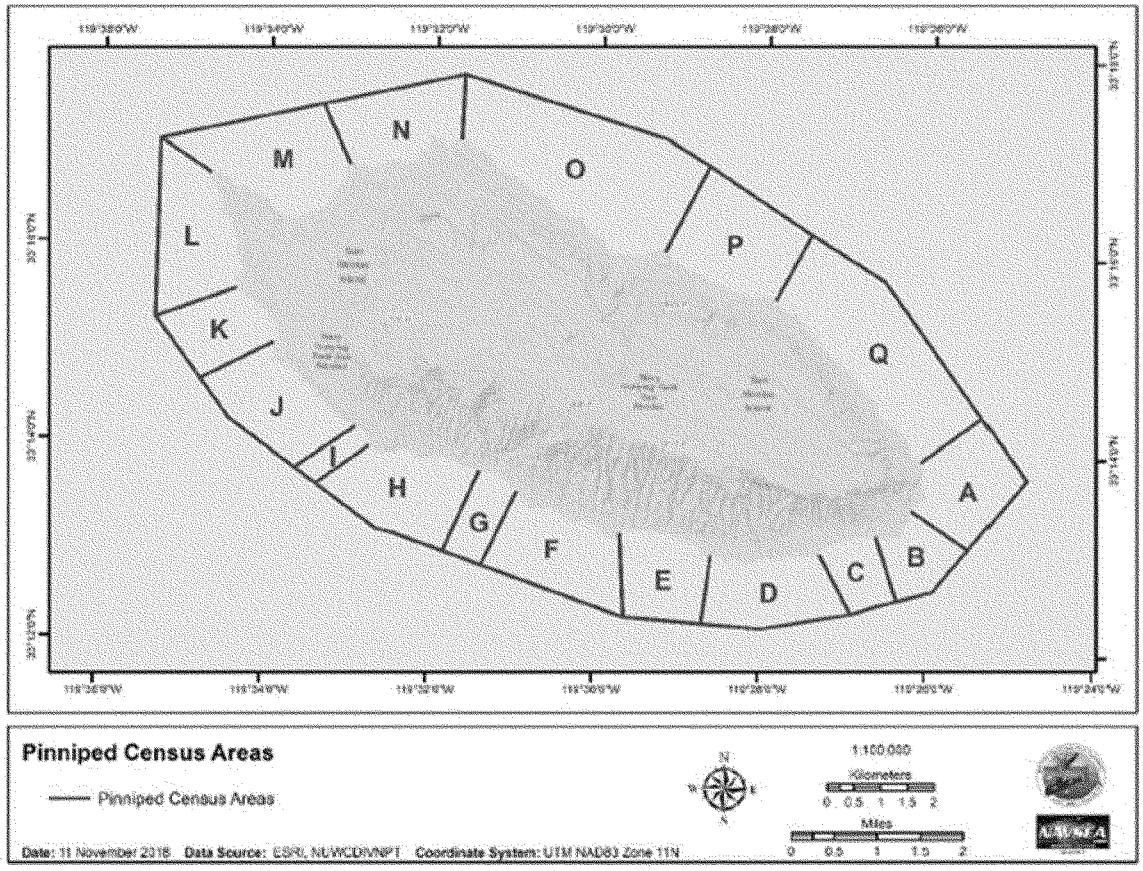

Figure 1. Census and Monitoring Areas on SNI associated with the July 2011-2015 pinniped survey of the Channel Islands (Lowry *et al.*, 2017b).

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California Sea Lion

The California sea lion is by far the most common pinniped on SNI. This species hauls out at many sites along the south side of SNI and at some sites on the western part of the island. Peak abundance of California sea lions is during June and July (breeding season) and pupping occurs on the beaches from mid-May to mid-July. Female California sea lions with pups haul out during most of the year at SNI. Females nurse their pups for about eight days before coming into estrus and then begin an alternating pattern of foraging at sea and nursing the pup on land; this pattern may last for eight months (with some pups nursing up to one year after birth). Many juveniles move north to forage although some continue to periodically haul out at SNI.

Barlow *et al.* (1997) reported that 47 percent of the U.S. stock, or 49 percent of the PMSR population, used the shoreline of SNI to breed, pup, or haul out in 1994. The population of California sea lions at SNI generally grew from 1975–2014 with inter-annual variability due to intermittent El Niño events (Lowry *et al.,* 2017a). During July 2011–2015 surveys, SNI had the second largest number of California sea lions among the Channel Islands and averaged 52,634.8 individuals per year (SD = 9,899.0) (Lowry *et al.,* 2017b) (see Table 3 of the application). California sea lions were not uniformly distributed around the perimeter of SNI, but had the most total numbers of at Areas D, H, L and Q (see Figure 1). California sea lions continue to expand their range and occupy new areas on SNI (Lowry *et al.,* 2017a; Lowry *et al.,* 2017b). Over the course of the year, over 100,000 sea lions use SNI. Please refer to the application for additional information on California sea lions on SNI.

Harbor Seals

Peak abundance of harbor seals is during late-May to early June (molt season in southern California) and pupping occurs on the beaches from February to May. The California population of harbor seals increased between 1981 and 2004 but this increase has slowed since 1995 with a decrease after 2005 (see Figure 4.1 of the application) (Carretta *et al.,* 2017). Counts from 1975 to 2012 fluctuated between 128 and 858 harbor seals, based on peak counts (Fluharty 1999; Le Boeuf *et al.,* 1978; Lowry *et al.,* 2008; Lowry pers. comm. as cited in the application). During May–July 2002, 2004, 2007, and 2009, 584, 784, 858 and 754 harbor seals were hauled out on SNI respectively, representing between about 15 and 18 percent of the harbor seals in the Channel Islands (Lowry *et al.,* 2008). During July 2011–2015 surveys, harbor seal counts on SNI were variable, ranging from 229 to 673 during the period from 2011 to 2015 (Lowry *et al.,* 2017b). Lowry *et al.* (2017b) only counted 259 harbor seals on SNI in 2015 (18.9 percent of harbor seals in the Channel Islands). Harbor seals were not uniformly distributed around the perimeter of SNI. Harbor seals at SNI were mostly found in areas L, N, and Q (see Figure 1) (Lowry *et al.,* 2017b).

Please refer to the application for additional information on harbor seals on SNI.

Northern Elephant Seal

Peak abundance for northern elephant seals at SNI is during January and February (breeding season). Northern elephant seals also haul out during the molting periods in the spring and summer, and smaller numbers haul out at other times of year. Given that elephant seals forage in areas that are a great distance from SNI and the PMSR, with adult males foraging as far north as the Aleutian Islands, and adult females in the north-central Pacific Ocean, it is unlikely that large numbers are present outside of the breeding season at PMSR at any one time. Pupping occurs on beaches at SNI from January to early February, and pups are typically weaned through March. During this period, they undergo their first molt (Le Boeuf and Laws 1994). By the end of April, 80 percent of pups have left the rookery, and the remainder leave in May.

SNI is currently the second largest elephant seal rookery and haulout in Southern California (Lowry *et al.,* 2017b). In July 2015, when all of the Channel Islands were surveyed for elephant seals, approximately 62 percent of northern elephant seals hauled out on San Miguel Island, approximately 20.5 percent on SNI, and 17 percent on Santa Rosa Island (Lowry *et al.,* 2017b. Increasing numbers of elephant seals haul out at various sites around SNI, including the western part of the island. Northern elephant seals were not uniformly distributed around the perimeter of SNI, and Area K at SNI had the most northern elephant seals on island during the July 2011–2015 surveys (Lowry *et al.,* 2017b) (see Figure 1). The timing of haul out by various age and sex categories of seals is reflected in the bi-modal peak pattern in the counts of hauled-out elephant seals on the island (Stewart and Yochem 1984). The population of northern elephant seals on SNI is likely increasing, based on recent counts (Lowry, pers. comm. 2018 as cited in the application). Please refer to the application for additional information on harbor seals on SNI.

Steller Sea Lions

There are two distinct population segments (DPSs) identified in U.S. waters for the Steller sea lion: The Eastern U.S. stock, which includes animals born east of Cape Suckling, Alaska (at 144 degrees West longitude), and the Western U.S. stock, which includes animals born at and west of Cape Suckling (Loughlin 1998). Steller sea lions often disperse widely outside of the breeding season. A northward shift in the overall breeding distribution has occurred, with a contraction of the range in southern California and new rookeries established in Southeast Alaska (Pitcher *et al.,* 2007).

Steller sea lions are rare on the northern Channel Islands, and their nearest breeding rookery is in northern California. The Steller sea lion was once abundant in the waters off southern California, but numbers have declined since 1938. At San Miguel Island, formerly the southern extent of the species' breeding range, Steller sea lions are no longer known to breed; the last mature Steller sea lion was seen there in 1983 (DeLong and Melin 1999). Historically, Steller sea lions were sighted occasionally at SNI (Bartholomew and Boolootian 1960). A sub-adult male Steller sea lion was sighted at San Clemente Island on April 27, 2013 and individuals have been sighted at San Miguel Island and one adult male at SNI in 2010 (Lowry, pers. comm. as cited in the application.). While few Steller sea lion adults have been sighted recently at the Channel Islands, they are rare and it is unlikely any would be hauled out on SNI during launch events. Therefore, take of Steller sea lions is not proposed for authorization.

Guadalupe Fur Seal

Guadalupe fur seal were abundant prior to seal exploitation, when they were likely the most abundant pinniped species on the Channel Islands, but are considered uncommon in Southern California. Guadalupe fur seal is an occasional visitor to the Channel Islands. Adult and juvenile male Guadalupe fur seals have been observed at San Miguel Island, California, since the mid-1960s (Melin and DeLong 1999), and sightings have also occurred at Santa Barbara, San Nicolas, and San Clemente Islands in the Channel Islands (Bartholomew 1950; Stewart 1981b; Stewart et al., 1993). On San Miguel Island, one to several male Guadalupe fur seals had been observed annually between 1969 and 2000 (DeLong and Melin 2000) and juvenile animals of both sexes have been seen occasionally over the years (Stewart *et al.,* 1987). Twenty-one sightings of Guadalupe fur seals were made on SNI from 1949 to 1986 (Bartholomew 1950; Stewart 1981b; Stewart et al. 1987; G. Smith, NAWCWD, pers. comm.). Most sightings were either juveniles of undetermined sex or adult males. One male was observed in six consecutive years from 1981 to 1986: It was defending a territory amongst breeding California sea lions along the south shore approximately 6.9 km from the western tip of the island. A lone female was observed on the south side of SNI in the summer of 1997 (G. Smith, NAWCWD, pers. comm.). The first adult female at San Miguel Island was also seen in 1997. This fur seal gave birth to a pup in rocky habitat along the south side of the island and, over the next year, reared the pup to weaning age. This was apparently the first pup born in the Channel Islands in at least 150 years. A lone male Guadalupe fur seal was again seen defending a territory on the south shore of SNI between 2006 and 2009 and again in 2012 (J. Laake, NOAA, pers. comm. as cited in the application.). Because only single individuals of this species have been seen on SNI since 1981 and the most recent observations were on the south shore far from launch operations, it is unlikely any Guadalupe fur seals would occur ashore during the proposed activities or be in the area impacted by missile launch sounds. Therefore, take of Guadalupe fur seals is not proposed for authorization.

Northern Fur Seal

San Miguel Island and the adjacent Castle Rock are the only known rookeries of northern fur seals in California. Comprehensive count data for northern fur seals on San Miguel Island are not available, therefore the best available information on northern fur seal abundance on the northern Channel Islands comes from subject matter experts which indicates the population is at its maximum in summer (June–August) with an estimated 13,384 animals at San Miguel Island, with approximately half that number present in the fall (September and October) and approximately 50–200 animals present from November through May (pers. comm. Sharon Melin, NMFS MML, to J. Carduner, NMFS OPR). San Miguel Island is the only island in the northern Channel Islands on which northern fur seals have been observed, and on San Miguel Island they only occur at the west end of the island and on Castle Rock (a small offshore rock on the northwest side of the island) (pers. comm. Sharon Melin, NMFS MML, to J. Carduner, NMFS OPR). Given the limited sightings of northern fur seal on SNI, it is unlikely that northern fur seals would be impacted by missile launches. Missile launches are not expected to impact San Miguel Island where northern fur seals would be expected. Therefore, take of northern fur seals is not proposed for authorization.

Unusual Mortality Events

Below, we include additional information about the marine mammals in the project area, that will inform our analysis, such as where Unusual Mortality Events (UME) have been designated. Two UMEs that could be relevant to informing the current analysis are discussed below. The Guadalupe fur seal UME in California is still active and involves an ongoing investigation.

California Sea Lion UME

From January 2013 through September 2016, a greater than expected number of young malnourished California sea lions stranded along the coast of California. Sea lions stranding from an early age (6–8 month old) through to two years of age were consistently underweight without other disease processes detected. Of the 8,122 stranded animals in this age class, 93 percent stranded alive (n = 7,587, with 3,418 of these released after rehabilitation) and 7 percent (n = 531) stranded dead. Several factors are hypothesized to have impacted the ability of nursing females and young sea lions to acquire adequate nutrition. In late 2012, decreased anchovy and sardine recruitment (CalCOFI data July 2013) may have led to nutritionally stressed adult females. Biotoxins were present at various times throughout the UME, and while they were not detected in the young sea lions (which were not eating), they may have impacted the adult females. Therefore, the role of biotoxins in this UME, via its possible impact on adult females, is unclear. The primary cause of the UME is related to shifts in distribution and abundance of sea lion prey items around the Channel Island rookeries during critical sea lion life history events (nursing by adult females, and transitioning from milk to prey by young sea lions). These prey shifts were most likely driven by unusual oceanographic conditions at the time due to the warm water blob and El Niño. This investigation will soon be closed. NMFS staff recently confirmed that the mortality of pups and yearlings returned to normal in 2017 and 2018 and the Working Group will be reviewing a closure package shortly (Deb Fauquier, NMFS, pers. comm. 2019). Please refer to NMFS' website at *https://www.fisheries.noaa.gov/national/marine-life-distress/2013-2017-california-sea-lion-unusual-mortality-event-california* for more information on this UME.

Guadalupe Fur Seal UME

Increased strandings of Guadalupe fur seals began along the entire coast of California in January 2015 and were eight times higher than the historical average (approximately 10 seals/yr). Strandings have continued since 2015 and have remained well above average through 2018. As of March 18, 2019, the total number of Guadalupe fur seals to date in the UME is 286. Strandings are seasonal and generally peak in April through June of each year. The Guadalupe fur seal strandings have been mostly weaned pups and juveniles (1–2 years old) with both live and dead strandings occurring. Current findings from the majority of stranded animals include primary malnutrition with secondary bacterial and parasitic infections. Additionally a few seals have had evidence of some biotoxin (domoic acid) exposure especially in 2015. The preliminary cause of this UME is related to ecosystems changes secondary to unusual oceanographic conditions such as the warm water blob and El Niño. This UME occurred in the same area as the 2013–2016 California sea lion UME. This investigation is ongoing but a closure package will be submitted shortly to the Working Group to consider (Deb Fauquier, NMFS, pers. comm. 2019). Please refer to *https://www.fisheries.noaa.gov/national/marine-life-distress/2015-2019-guadalupe-fur-seal-unusual-mortality-event-california* for more information on this UME.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 dB threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. The functional group and the associated frequencies for this proposed IHA are indicated below in Table 4 (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group).

TABLE 4—RELEVANT MARINE MAMMAL FUNCTIONAL HEARING GROUPS AND THEIR GENERALIZED HEARING RANGES

Hearing group	Generalized hearing range *
Pinnipeds (in air)	75 Hz to 30 kHz.

* Southall *et al.*, 2007.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the proposed activity may impact marine mammals and their habitat. The *Estimated Take* section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The *Negligible Impact Analysis and Determination* section considers the content of this section, the *Estimated Take* section, and the *Proposed Mitigation* section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Description of Sound Sources

This section contains a brief technical background on sound, the characteristics of certain sound types, and on metrics used in this proposal inasmuch as the information is relevant to the specified activity and to a discussion of the potential effects of the specified activity on marine mammals found later in this document. Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz (Hz) or cycles per

second. Wavelength is the distance between two peaks or corresponding points of a sound wave (length of one cycle). Higher frequency sounds have shorter wavelengths than lower frequency sounds, and typically attenuate (decrease) more rapidly, except in certain cases in shallower water. Amplitude is the height of the sound pressure wave or the ''loudness'' of a sound and is typically described using the relative unit of the dB. A sound pressure level (SPL) in dB is described as the ratio between a measured pressure and a reference pressure and is a logarithmic unit that accounts for large variations in amplitude; therefore, a relatively small change in dB corresponds to large changes in sound pressure. For airborne sound pressure, the reference amplitude is usually 20 μPa and is expressed as dB re 20 μPa. The source level (SL) represents the SPL referenced at a distance of 1 m from the source while the received level is the SPL at the listener's position.

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Root mean square is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). Root mean square accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

Sound exposure level (SEL; represented as dB re 1 μPa2-s) represents the total energy contained within a pulse and considers both intensity and duration of exposure. Peak sound pressure (also referred to as zero-to-peak sound pressure or 0–p) is the maximum instantaneous sound pressure measurable in the water at a specified distance from the source and is represented in the same units as the rms sound pressure. Another common metric is peak-to-peak sound pressure (pk–pk), which is the algebraic difference between the peak positive and peak negative sound pressures. Peak-to-peak pressure is typically approximately 6 dB higher than peak pressure (Southall *et al.,* 2007).

Animals are not equally sensitive to sounds across their hearing range, so weighting functions are used to emphasize ranges of best hearing and de-emphasize ranges of less or no sensitivity. In the Navy's application, there are three types of weighting considered for received source levels. F weighting means flat, so no weighting at all; M means M-weighting associated with Navy Phase III criteria and thresholds *(Criteria and Thresholds for U.S. Navy Acoustic and Explosive Effects Analysis (Phase III) Technical Report* (U.S. Department of the Navy, 2017)) that considered new data on marine mammal hearing and the effect of noise on marine mammals. Separate weighting functions were developed for categories of marine mammals with the functions being appropriate in relation to the hearing abilities of the particular group of marine mammals (Mpa is the weighting function specifically for pinnipeds in air); and A weighting is weighted in regards to human hearing in air and seen in units of dBA. Weighting essentially acts as a filter to filter out sounds an animal/human is not as sensitive to or as susceptible to in terms of hearing loss. For example, when referring to Table 6–3 of the Navy's application for the range of sound levels of launch events, values are presented as F-, A-, and M-weighted where the values that are F or flat weighted are the highest (no sound filtered), while M-weighted values are higher than A weighted (in other words A weighting is filtering out more of the sound than M-weighting).

Sounds are often considered to fall into one of two general types: Pulsed and non-pulsed (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.* (2007) for an in-depth discussion of these concepts.

Pulsed sound sources (*e.g.,* airguns, explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986, 2005; Harris, 1998; NIOSH, 1998; ISO, 2003) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or non-continuous (ANSI, 1995; NIOSH, 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems (such as those used by the U.S. Navy). The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

The effects of sounds on marine mammals are dependent on several factors, including the species, size, and behavior (feeding, nursing, resting, etc.) of the animal; the intensity and duration of the sound; and the sound propagation properties of the environment. Impacts to marine species can result from physiological and behavioral responses to both the type and strength of the acoustic signature (Viada *et al.,* 2008). The type and severity of behavioral impacts are more difficult to define due to limited studies addressing the behavioral effects of sounds on marine mammals. Potential effects from impulsive sound sources can range in severity from effects such as behavioral disturbance or tactile perception to physical discomfort, slight injury of the internal organs and the auditory system, or mortality (Yelverton *et al.,* 1973).

Masking

Any man-made noise that is strong enough to be heard has the potential to reduce (mask) the ability of marine mammals to hear natural sounds at similar frequencies, including calls from conspecifics and environmental sounds such as surf noise. However, the infrequent launch events (up to 40 per year) of which some will be small missiles, could cause masking, but it would be expected for no more than a very small fraction of the time during any single day (*e.g.,* usually less than 2 seconds and rarely more than 5 seconds during a single launch). Occasional brief episodes of masking at SNI would have no significant effects on the ability of pinnipeds to hear one another or to detect natural environmental sounds that may be relevant. Due to the expected sound levels of the activities proposed and the distance of the activity from marine mammal habitat, the effects of sounds from the proposed activities are unlikely to result masking. Therefore, masking is not discussed further.

Temporary or Permanent Hearing Loss

Very strong sounds have the potential to cause temporary or permanent reduction in hearing sensitivity. Received sound levels must far exceed the animal's hearing threshold for there to be any temporary hearing impairment or temporary threshold shift (TTS). For transient sounds, the sound level necessary to cause TTS is inversely related to the duration of the sound. Received levels must be even higher for there to be risk of permanent hearing impairment, or permanent threshold shift (PTS). Although it is possible that some pinnipeds may incur TTS during launches from SNI, hearing impairment has not been measured for pinniped species exposed to launch sounds. Auditory brainstem response *(i.e.,* hearing assessment using measurements of electrical responses of the brain) was used to demonstrate that harbor seals did not exhibit loss in hearing sensitivity following launches of large rockets at Vandenberg Air Force Base (VAFB) (Thorson *et al.,* 1999; Thorson *et al.,* 1998). However, the hearing tests did not begin until at least 45 minutes after the launch; therefore, harbor seals may have incurred TTS which was undetectable by the time testing was begun. There was no sign of PTS in any of the harbor seals tested (Thorson *et al.,* 1999; Thorson *et al.,* 1998). Since 2001, no launch events at SNI have exposed pinnipeds to noise levels at or exceeding those where PTS could be incurred.

Based on measurements of received sound levels during previous launches at SNI (Burke 2017; Holst *et al.,* 2010; Holst *et al.,* 2005a; Holst *et al.,* 2008; Holst *et al.,* 2011; Ugoretz 2016; Ugoretz and Greene Jr. 2012), the Navy expects that there is a very limited potential of TTS for a few of the pinnipeds present, particularly for phocids. Available evidence from launch monitoring at SNI in 2001–2017 suggests that only a small number of launch events produced sound levels that could elicit TTS for some pinnipeds (Burke 2017; Holst *et al.,* 2008; Holst *et al.,* 2011; Ugoretz 2016; Ugoretz and Greene Jr. 2012). Table 6–1 of the Navy's application present the TTS and PTS thresholds for impulsive sources (unweighted SEL) with the TTS threshold for phocids in air at 123 dB SEL (unweighted) and 146 dB SEL (unweighted) for otariids in air. In the 2017 monitoring report, the SEL-f for launches were between 94 and 117 dB SEL-f (with the SEL–A and SEL-Mpa being even lower). Sounds at these levels are not expected to cause TTS or PTS for pinnipeds. There was one launch event in 2017 where the SEL-f at Dos Coves (associated with a Coyote launch from the Alpha Complex) exceeded the TTS value for phocids at 132.1 dB SEL-f; however, harbor seals were not hauled out on Dos Cove as they would be the most sensitive for hearing during these launches. Dos Cove is dominated by California sea lions and harbor seal do not normally frequent Dos Cove. Generally, harbor seals no longer haul out on beaches on the western side of SNI, but are north of the anticipated launch azimuths on Phoca Reef and Pirates Cove. Sound levels recorded from Coyote launches at Phoca Reef and Pirates Cove have been lower than those within the azimuth of the missiles launched at the western end of SNI. Also in the 2017 monitoring report, a sound level of 89.3 dB SEL-f (73.7 SEL–A, 78.9 SEL-Mpa) was measured at Phoca Reef, well below the TTS threshold. In 2016, sound levels at Pirates Cove were measured at 94.9 dB SEL-f (85.4 SEL–A, 92.0 SEL-Mpa) and 93.9 dB SEL-f (83.4 SEL–A, 90.8 SEL-Mpa) during Coyote launch events, also well below the TTS threshold.

In general, if any TTS were to occur to pinnipeds, it is expected to be mild and reversible. It is possible that some launch sounds as measured close to the launchers may exceed the permanent threshold shift (PTS) criteria, but it is not expected that any pinnipeds would be close enough to the launchers to be exposed to sounds strong enough to cause PTS. Due to the expected sound levels of the activities proposed and the distance of the activity from marine mammal habitat, the effects of sounds from the proposed activities are unlikely to result in PTS and therefore, PTS is not discussed further.

Non-Auditory Physical or Physiological Effects

If noise-induced stress does occur in marine mammals, it is expected to occur primarily in those exposed to chronic or frequent noise. It is very unlikely that it would occur in animals, specifically California sea lions, harbor seals, and northern elephant seals, exposed to only a few very brief launch events over the course of a year. Due to the expected sound levels of the activities proposed and the distance of the activity from marine mammal habitat, the effects of sounds from the proposed activities are unlikely to result non-auditory physical or physiological responses and are not discussed further in this section.

Flushing or Stampede-Related Injury or Mortality

It is possible that launch-induced stampedes could have adverse impacts on individual pinnipeds on the west end of SNI. Bowles and Stewart (1980) reported that harbor seals on San Miguel Island reacted to low-altitude jet overflights with alert postures and often with rapid movement across the haulout sites, especially when aircraft were visible. During missile launches in 2001–2017, there was no evidence of launch-related injuries or deaths (Burke 2017; Holst *et al.* 2010; Holst *et al.* 2005a; Holst *et al.* 2008; Holst *et al.* 2011; Ugoretz 2016; Ugoretz and Greene Jr. 2012). On several occasions, harbor seals and California sea lion adults moved near and sometimes over older pups (*i.e.,* greater than four months old) as the animals moved in response to the launches, but the pups were not injured (Holst *et al.,* 2010; Holst *et al.,* 2005a; Holst *et al.,* 2008; Holst *et al.,* 2011; Ugoretz and Greene Jr. 2012).

Disturbance Reactions

Missile launches are characterized by sudden onset of sound, moderate to high peak sound levels (depending on the type of missile and distance), and short sound duration. Disturbance includes a variety of effects, including subtle changes in behavior, more conspicuous changes in activities, and displacement. Behavioral responses to sound are highly variable and context-specific and reactions, if any, depend on species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day, and many other factors (Richardson *et al.,* 1995; Wartzok *et al.,* 2003; Southall *et al.,* 2007). Pinnipeds may be exposed to airborne sounds that have the potential to result in behavioral harassment, depending on an animal's distance from the sound and the type of missile being launched. Sound could cause hauled out pinnipeds to exhibit changes in their normal behavior, such as temporarily abandoning their habitat.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. Behavioral state may affect the type of response as well. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC, 2003; Wartzok *et al.,* 2003).

Controlled experiments with captive marine mammals have shown pronounced behavioral reactions, including avoidance of loud underwater sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). These may be of limited relevance to the proposed activities given that airborne sound, and not underwater sound, may result in harassment of marine mammals as a result of the proposed activities; however we present this information as background on the potential impacts of sound on marine mammals. Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic guns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; Thorson and Reyff, 2006; see also Gordon *et al.,* 2004; Wartzok *et al.,* 2003; Nowacek *et al.,* 2007).

The onset of noise can result in temporary, short-term changes in an animal's typical behavior and/or avoidance of the affected area. These behavioral changes may include: Reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior; avoidance of areas where sound sources are located; and/or flight responses (Richardson *et al.,* 1995).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could potentially be biologically significant if the change affects growth, survival, or reproduction. The onset of behavioral disturbance from anthropogenic sound depends on both external factors (characteristics of sound sources and their paths) and the specific characteristics of the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall *et al.,* 2007).

Responses of pinnipeds on beaches exposed to acoustic disturbance arising from launches are highly variable. Harbor seals can be more reactive when hauled out compared to other species, such as northern elephant seals. Northern elephant seals generally exhibit no reaction at all, except perhaps a heads-up response or some stirring. If northern elephant seals do react, it may occur if California sea lions are in the same area mingled with the northern elephant seals and the sea lions react strongly. Responsiveness also varies with time of year and age class, with juvenile pinnipeds being more likely to react by leaving the haulout site. The probability and type of behavioral response will also depend on the season, the group composition of the pinnipeds, and the type of activity in which they are engaged. For example, in some cases, harbor seals at SNI appear to be more responsive during the pupping/breeding season (Holst et al. 2005a; Holst et al. 2008) while in others, mothers and pups seem to react less to launches than lone individuals (Ugoretz and Greene Jr. 2012), and California sea lions seem to be consistently less responsive during the pupping season (Holst et al. 2010; Holst et al. 2005a; Holst et al. 2008; Holst et al. 2011; Holst et al. 2005b; Ugoretz and Greene Jr. 2012). Though pup abandonment could theoretically result from these reactions, site-specific monitoring data indicate that pup abandonment is not likely to occur as a result of the specified activity because it has not been previously observed. While the reactions are variable, and can involve abrupt movements by some individuals, biological impacts of these responses appear to be limited. The responses are not expected to result in significant injury or mortality, or long-term negative consequences to individuals or pinniped populations on SNI.

Monitoring Data

Given this variability in responses as described above, the Navy assumes that behavioral disturbance will sometimes occur upon exposure to launch sounds with SELs of 100 dB or higher; but for harbor seals, this level may be lower. Previous monitoring at SNI has shown that California sea lions and harbor seals move along the beach and/or enter the water at Mpa-weighted SELs above 100 dB re 20 $\mu Pa^2 \cdot s$. Some harbor seals have been shown to leave the haulout site and/or enter the water at Mpa-weighted SELs as low as 60 dB re20 $\mu Pa^2 \cdot s$, although the proportion of animals reacting is smaller when levels are lower (Holst et al. 2005a; Holst et al. 2008; Holst et al. 2011; Holst et al. 2005b). Stampedes of California sea lions into the water are infrequent during launch events and even more so when received sound levels are below 100 dB re 20 $\mu Pa^2 \cdot s$ (Holst *et al.,* 2005a; Holst *et al.,* 2008; Holst *et al.,* 2011; Holst *et al.,* 2005b). Nearly 20 years of monitoring data exists on pinniped responses to the stimuli associated with the proposed activities in the particular geographic area of the proposed activities. Therefore, we consider these data to be the best available information in regard to estimating take of pinnipeds to stimuli associated with the proposed activities. These data suggest that pinniped responses to the stimuli associated with the proposed activities are dependent on species and intensity of the stimuli. The data recorded by the Navy has shown that pinniped responses to launch noise vary depending on the species, the intensity of the stimulus, and the location (*i.e.,* the western haulouts within the launch azimuths and where sound exposure would be 100 dB SEL or greater on SNI); but in general responses are generally brief and limited.

Anticipated Effects on Marine Mammal Habitat

Impacts on marine mammal habitat are part of the consideration in making a finding of negligible impact on the species and stocks of marine mammals. Habitat includes, but is not necessarily limited to, rookeries, mating grounds, feeding areas, and areas of similar significance. We do not anticipate that the proposed operations would result in any temporary or permanent effects on the habitats used by the marine mammals in the proposed area, including the food sources they use (*i.e.,* fish and invertebrates). While it is anticipated that the proposed activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat is temporary and reversible and was considered in further detail earlier in this document, as behavioral modification. The main impact associated with the proposed activity will be temporarily elevated noise levels and the associated direct effects on marine mammals, previously discussed in this notice.

Various beaches around SNI are used by pinnipeds as places to rest, molt, and breed. These beaches consist of sand (*e.g.,* Red Eye Beach), rock ledges (*e.g.,* Phoca Reef), and rocky cobble (*e.g.,* Bachelor Beach). Pinnipeds continue to use beaches around the western end of SNI, and indeed are expanding their use of some beaches despite ongoing launch activities for many years. Similarly, it appears that sounds from prior launches have not affected pinniped use of coastal areas at VAFB.

Pinnipeds forage in the open ocean and in the waters near SNI; however, the airborne launch sounds would not persist in the water near SNI. Therefore, it is not expected that the launch activities would impact prey resources, Essential Fish Habitat (EFH), or feeding success of pinnipeds. Three types of EFH are present in the activity area: Groundfish, coastal pelagic species, and highly migratory species, as well as canopy kelp Habitat Areas of Particular

Concern (HAPC). However, none of these types of EFH or HAPC will be impacted by the proposed activity.

Boosters from missiles (*e.g.,* jet-assisted take off rocket bottles for BQM drone missiles) may be jettisoned shortly after launch and fall on the island and would be collected, but are not expected to impact beaches. Fuel contained in these boosters is consumed rapidly and completely, so there would be no risk of contamination even in the very unlikely event that a booster did land on a beach or nearshore waters. Overall, the proposed missile launch activity is not expected to cause significant impacts or have permanent, adverse effects on pinniped habitats or on their foraging habitats and prey.

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform NMFS' negligible impact determination.

Harassment is the only type of take expected to result from these activities. For this military readiness activity, the MMPA defines ''harassment'' as (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns (and/or TTS, although only some missile launches have exceeded the level at which TTS onset might occur, particularly for phocids) for individual marine mammals resulting from exposure to airborne sounds from rocket and missile launch. Based on the nature of the activity, Level A harassment is neither anticipated nor proposed to be authorized.

As described previously, no mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the proposed take estimate.

Acoustic Thresholds

Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. Generally, for in-air sounds, NMFS predicts that harbor seals exposed above received levels of 90 dB re 20 μPa (rms) will be behaviorally harassed, and other pinnipeds will be harassed when exposed above 100 dB re 20 μPa (rms). However, more recent data suggest that pinnipeds will be harassed when exposure is above 100 dB SEL (unweighted) (*Criteria and Thresholds for U.S. Navy Acoustic and Explosive Effects Analysis (Phase III) Technical Report* (U.S. Department of the Navy, 2017)). NMFS previously helped develop the Phase III criteria and has determined that the criteria and thresholds shown in Table 5 are appropriate to determine when Level B harassment by behavioral disturbance may occur as a result of exposure to airborne sound on SNI. This behavioral disturbance criterion was used to determine the areas that the Navy should monitor based on the sound levels recorded at the pinniped haul outs during launch events. This criterion is not being used to directly estimate the take, rather to assume areas within which pinnipeds hauled out on particular beaches may be harassed (based on the previous acoustic monitoring).

TABLE 5—BEHAVIORAL THRESHOLD FOR IMPULSIVE SOUND FOR PINNIPEDS

Species	Level B harassment by behavior disturbance threshold
All pinniped species (in-air)	100 dB re 20 μPa2s SEL (unweighted).

Thresholds have also been developed identifying the received level of in-air sound for the onset of TTS (no PTS is anticipated to occur) for pinnipeds and discussed previously in this document (U.S. Department of the Navy, 2017). The TTS/PTS threshold for pinnipeds (in-air) are repeated here (see Table 6 below).

TABLE 6—TTS/PTS THRESHOLDS FOR PINNIPEDS

[In-air]

Group	Non-impulsive		Impulsive			
	TTS threshold SEL [a] (weighted)	PTS threshold SEL [a] (weighted)	TTS threshold SEL [a] (weighted)	TTS threshold peak SPL [b] (unweighted)	PTS threshold SEL [b] (weighted)	PTS threshold peak SPL [b] (unweighted)
OA [c]	157	177	146	170	161	176

TABLE 6—TTS/PTS THRESHOLDS FOR PINNIPEDS—Continued

[In-air]

Group	Non-impulsive		Impulsive			
	TTS threshold SEL [a] (weighted)	PTS threshold SEL [a] (weighted)	TTS threshold SEL [a] (weighted)	TTS threshold peak SPL [b] (unweighted)	PTS threshold SEL [b] (weighted)	PTS threshold peak SPL [b] (unweighted)
PA [d]	134	154	123	155	138	161

[a] SEL thresholds are in dB re(20μPa)^2·s.
[b] SPL thresholds in dB 20μPa in air.
[c] OA-Otariid in air (California sea lion).
[d] PA-Phocid in air (harbor seal, northern elephant seal).

Ensonified Area

In-air sound propagation from missile launch sources at SNI had not been well studied prior to monitoring work during 2001–2007. During the 2001–2017 period, the strongest sounds originating from a missile in flight over the beaches at SNI were produced by Vandal (no longer launched from SNI) and Coyote launches, with the exception of one SM–2 launched in 2015 (see Table 6–3 of the application, but also Table 7 below). The range of sound levels recorded on SNI during Coyote launches were 128 dB re 20 μPa2·s SEL-f (115 dB SEL–A, 123 dB SEL-Mpa) closest to the launcher and ranged from 87 to 119 dB re 20 μPa2·s SEL-f (46 to 107 dB SEL–A, 60 to 114 dB SEL-Mpa weighted) at nearshore locations. These values demonstrate that the sound levels are high enough to cause disturbance based on the behavioral thresholds (Table 5), but below the TTS thresholds (Table 6) during Coyote launches (most frequently launched missile on SNI). For additional information on sound levels please refer to the application.

Coyotes are launched from the inland Alpha Launch Complex so there would be no pinnipeds near the launcher. The pinnipeds closest to the Coyote launches are on the beaches (areas L and M) directly below the flight trajectory, for which the CPA distance is about 0.9 km. Stronger sounds were also recorded at the launcher, but sound levels were dependent on the size of the missile launched. Launches of smaller missiles typically occur from the Building 807 Complex near the beach where the closest pinniped haulouts (area L and portions of K) are located about 0.3 km from the CPA. Harbor seal haulouts (areas L and J) are located at least 1 km from the CPA from the Building 807 Complex. It is important to note that in recent years, harbor seals are not always present when Navy conducts their monitoring during launch events, and there have not been many places to observe harbor seals during the launches. There is not a constant occupation of harbor seals on haul outs and occupation is dependent on tides. Harbor seals tend to be more sensitive to visual cues as well and do not prefer beaches with California sea lions. Most of the beaches where harbor seals are hauled out, and which Navy has been able to monitor, occur in area O which is north of both the Alpha Launch Complex and Building 307 Complex and not in the trajectory of launches that occur from these sites.

The Navy will continue to conduct marine mammal and acoustic measurements during every launch event at three pinniped sites per launch event within areas K, L, M or O. As an example in 2017, the Navy conducted acoustic and marine mammal monitoring during their launch events at beaches with hauled out pinnipeds (see Navy's Table 2.2 from the 2017 monitoring report) in areas M and L (beaches of Dos Cove and Redeye Beach) and in area O (beaches of Pirates Cove and Phoca Reef).

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. Some pinnipeds that haulout on the western end of SNI are expected to be within the area where noise from launches exceeds 100 dB SEL. However, it is likely that far fewer pinnipeds occur within the area where sounds from smaller launch missiles, such as the BQM missiles, reach above 100 dB SEL and none of the recorded SELs appear to be sufficiently strong to induce TTS. Previous monitoring during 2001–2017 showed that SELs above 100 dB re 20 μPa^2·s were measured in pinniped areas K, L, and M (Cormorant Rock to Red Eye Beach); therefore, these are the areas that the Navy focuses their marine mammal monitoring on. In more recent years, Navy started monitoring area O (Phoca Reef and Pirates Cove) as harbor seals are hauling out here now and not as frequently in areas K, L, and M. Refer to Figure 1 for a map of these areas.

California Sea Lions

During the July 2011–2015 census, California sea lion counts on SNI averaged 52,634.8 individuals per year (SD = 9,899.0) (Lowry *et al.,* 2017b). Between 2001 and 2017, a maximum of 2,807 instances of take of California sea lions by Level B harassment were estimated to have been potentially harassed in a single monitoring year incidental to missile launches at SNI (Burke 2017; Holst et al. 2010; Holst et al. 2008; Holst et al. 2011; Ugoretz 2016; Ugoretz and Greene Jr. 2012). From the 2015–2017 monitoring seasons, there was a total of 4,940 instances of take of California sea lions by Level B harassment (702 sea lions in 2017, 1431 sea lions in 2016, and 2,807 sea lions in 2015) over 18 launches. Of these results, an average of 274.44 instances of take of sea lions by Level B harassment per launch occurred.

Harbor Seals

During the July 2011–2015 census, in July 2015 when all the Channel Islands were surveyed for harbor seals, 259 seals were counted at SNI (18.9 percent) (Lowry *et al.,* 2017b). Harbor seals are not uniformly distributed around the perimeter of SNI. During the July 2011–2015 census most harbor seals were mostly found in areas L, N, and Q on SNI (see Figure 1 for a map of these areas). However, in recent years, the Navy has indicated that harbor seals are mostly found and monitored in area O, just north of the launch azimuths on the northern side of the island so that is where they conduct their acoustic and marine mammal monitoring for harbor seals. Between 2001 and 2017, a maximum of 31 instances of take of harbor seals by Level B harassment were estimated in a single monitoring year incidental to missile launches at SNI (Burke 2017; Holst et al. 2010; Holst et al. 2008; Holst et al. 2011; Ugoretz 2016; Ugoretz and Greene Jr. 2012). From the 2015–2017 monitoring seasons, a total

of 43 instances of take of harbor seals (8 in 2017, 4 in 2016, and 31 in 2015) by Level B harassment occurred over 18 total launches. Of these results, an average of 2.39 instances of take of harbor seals by Level B harassment per launch occurred. These harbor seals were mostly observed in area O (Phoca Reef and Pirates Cove).

Northern Elephant Seals

During the July 2011–2015 census, in 2015, when all islands were surveyed for elephant seals, 932 elephant seals were found on SNI (20.5 percent of total). Northern elephant seals were not uniformly distributed around the perimeter of SNI. Area K at SNI had the most elephant seals on island (Lowry *et al.,* 2017b). From the 2015–2017 monitoring seasons, a total of 11 instances of take of elephant seals by Level B harassment occurred (0 in 2017, 1 in 2016, 10 in 2015) of the 100 animals that were observed. Overall, from the 2015–2017 monitoring seasons, 11 instances of take of northern elephant seals by Level B harassment occurred over 18 launch events for an average of 0.61 per launch event.

Take Calculation and Estimation

The NDAA of 2004 (Pub. L. 103–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as it applies to a ''military readiness activity'' to read as follows (section 3(18)(B) of the MMPA): (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A Harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered (Level B Harassment).

It is difficult to derive unequivocal criteria to identify situations in which launch sounds are expected to cause significant disturbance responses to pinnipeds hauled out on SNI. One or more pinnipeds blinking its eyes, lifting or turning its head, or moving a few feet along the beach as a result of a human activity is not considered a ''take'' under the MMPA definition of harassment. Therefore, the criteria used by the Navy to determine if an animal is affected by a launch event and is taken by Level B harassment is as follows:

1. Pinnipeds that are exposed to launch sounds strong enough to cause TTS; or

2. Pinnipeds that leave the haulout site, or exhibit prolonged movement (>10 m) or prolonged behavioral changes (such as pups separated from mothers) relative to their behavior immediately prior to the launch.

Here we describe how the information provided above is brought together to produce a quantitative take estimate. Previously, take estimates were calculated based on areas ensonified above the behavioral disturbance criterion and the estimated numbers of pinnipeds exposed to at or above that level. However, for this IHA we rely on the past three seasons of monitoring of pinnipeds to determine the take estimate.

For California sea lions, take estimates were derived from three monitoring seasons (2015 to 2017) where an average of 274.44 instances of take of sea lions by Level B harassment occurred per launch event. Therefore, 275 sea lions was then multiplied by 40 launch events, for a conservative take estimate of 11,000 instances of take for California sea lions by Level B harassment (Table 7). This estimate is conservative because the Navy has not conducted more than 25 launch events (although authorized for more) in a given year since 2001.

For harbor seals, take estimates were derived from three monitoring seasons (2015 to 2017) where an average of 2.39 instances of take of harbor seals by Level B harassment occurred per launch event. Therefore, 3 harbor seals was then multiplied by 40 launch events for a conservative take estimate of 120 instances of take for harbor seals by Level B harassment (Table 7).

For northern elephant seals, take estimates were derived from three monitoring seasons (2015 to 2017) where an average of 0.61 instances of take of northern elephant seals by Level B harassment occurred per launch event. Therefore, one northern elephant seal was then multiplied by 40 launch events for a conservative take estimate of 40 instances of take of northern elephant seals by Level B harassment (Table 7). Generally, northern elephant seals do not react to launch events other than simple alerting responses such as raising their heads or temporarily going from sleeping to being awake; however, to account for the rare instances where they have reacted, the Navy considered that some northern elephant seals that could be taken during launch events.

TABLE 7—LEVEL B HARASSMENT TAKE ESTIMATES FOR PINNIPEDS ON SNI

Species	Proposed Level B harassment	Stock abundance (percent taken by Level B harassment)
California sea lion	11,000	257,606 (4.27 percent).
Harbor seal	120	30,968 (less than 1 percent).
Northern elephant seal	40	179,000 (less than 1 percent).

Proposed Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)). The NDAA for FY 2004 amended the MMPA as it relates to military readiness activities and the incidental take authorization process such that ''least practicable impact'' shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where

applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) the practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Personnel Mitigation

Personnel will not enter pinniped haulouts. Personnel will be adjacent to pinniped haulouts below the predicted missile path for two hours prior to a launch only for monitoring purposes.

Launch Mitigation

Missiles will not cross over pinniped haulouts at elevations less than 305 m (1,000 ft). Launches at night will be limited. Launches will be avoided during harbor seal pupping season (February through April) unless constrained by mission objectives. Launches will be limited during the pupping season for northern elephant seal (January through February) and California sea lion (June through July) unless constrained by mission objectives or certain other factors. It is vital that the Navy effectively executes readiness activities to ensure naval forces can effectively execute military operations. The ability to schedule and locate training and testing without excessively burdensome restrictions within the Study Area is crucial to ensure those activities are practical, effective, and safe to execute. To meet its military readiness requirements (mission objectives), the Navy requires consistent access to a variety of realistic, tactically-relevant oceanographic and environmental conditions (*e.g.,* bathymetry, topography, surface fronts, and variations in sea surface temperature), and sea space and airspace that is large enough or situated in a way that allows activities to be completed without physical or logistical obstructions, in order to achieve the highest skill proficiency and most accurate testing results possible in areas analogous to where the military operates.

Aircraft Operation Mitigation

All aircraft and helicopter flight paths must maintain a minimum distance of 1,000 ft (305 m) from recognized seal haulouts and rookeries), except in emergencies.

Based on our evaluation of the Navy's proposed mitigation measures, as well as other measures considered by NMFS, NMFS has preliminarily determined that the proposed mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

The Navy has proposed a suite of monitoring measures on SNI to document impacts of the proposed launch events on marine mammals. These proposed monitoring measures are described below.

Visual and Video Camera Monitoring

The Navy proposes to conduct marine mammal monitoring during launches from SNI, using visual monitoring as well as simultaneous autonomous audio recording of launch sounds and video recording of pinniped behavior. The monitoring (all land-based) will provide data required to characterize the extent and nature of ''taking.'' In particular, it will provide the information needed to document the nature, frequency, occurrence, and duration of any changes in pinniped behavior that might result from the missile launches, including the occurrence of stampedes.

Visual monitoring, before and after launches, is a scan of the haul out beaches to count pinnipeds over a wider FOV than can be captured by a stationary video camera. This is typically done over a 15–30 minute period. Visual monitoring is conducted while the equipment is being set up and broken down for video and acoustic monitoring which is described in greater detail below. Prior to a launch event, Navy personnel will make observations of the monitored haulout and record the numbers and types of pinnipeds observed, noting the information on field data sheets. After a launch event, Navy personnel will return to the monitored haulout as soon as it is safe, and record the numbers and types of pinnipeds that remain on the haulout sites and any notable changes.

Video monitoring is conducted by recording continuously from a minimum of 2 hours before the event to approximately 1 hour after the event.

These video and audio records will be used to document pinniped responses to the launches. This will include the following components:

▪ Identify and document any change in behavior or movements that may occur at the time of the launch;

▪ Compare received levels of launch sound with pinniped responses, based on acoustic and behavioral data from up to three monitoring sites at different distances from the launch site and missile path during each launch; from the data accumulated across a series of launches, to attempt to establish the ''dose-response'' relationship for launch sounds under different launch conditions if possible;

▪ Ascertain periods or launch conditions when pinnipeds are most and least responsive to launch activities, and

▪ Document take by harassment.

The launch monitoring program will include remote video recordings before, during, and after launches when pinnipeds are present in the area of potential impact, as well as visual assessment by trained observers before and after the launch. Remote cameras are essential during launches because safety rules prevent personnel from being present in most of the areas of interest. In addition, video techniques will allow simultaneous ''observations'' at up to three different locations, and will provide a permanent record that can be reviewed in detail. During some launches, the use of video methods may allow observations of up to three pinniped species during the same launch, though in general one or two species will be recorded.

The Navy will seek to obtain video and audio records from up to three locations at different distances from the flight path of each missile launched from SNI. The Navy will try and reduce factors that limit recordings. On occasion, paired video and audio data were obtained from less than three sites during some launches, due to various potential problems with video and acoustic recorders, timing of remote recordings when launches are delayed, absence of pinnipeds from some locations at some times, etc. Corresponding data is available from the previous monitoring periods (2001–2018).

Two different types of cameras will be available for use in obtaining video data simultaneously from three sites:

(1) Small handheld high-definition video cameras on photographic tripods will be set up by Navy personnel at various locations on the day of a launch, with the video data being accessible following the launch. Recording duration varies between 300 and 600 minutes following initiation of record mode on these cameras, depending upon battery life, external memory card availability and other factors. The digital data is later copied to DVD–ROMs for subsequent viewing and analysis; and

(2) Portable Forward-Looking Infrared Radiometer (FLIR) video cameras will be set up by the Navy for nighttime launches. These cameras have a recording duration of approximately 300 minutes from initiation of the record mode. The FLIR video data will be accessible following the launch. The digital data will later be copied to DVD–ROMs for subsequent viewing and analysis.

Before each launch, Navy personnel will set up or activate up to three of the available video cameras such that they overlook chosen haulout sites. Placement will be such that disturbance to the pinnipeds is minimized, and each camera will be set to record a focal subgroup of sea lions or harbor seals within the haulout aggregation for the maximum recording time permitted by the videotape capacity. The entire haulout aggregation on a given beach will not be recorded during some launches, as the wide-angle view necessary to encompass an entire beach would not allow detailed behavioral analyses (Holst *et al.,* 2005a; Holst *et al.,* 2008). It will be more effective to obtain a higher-magnification view of a sample of the animals on the beach. Prior to selecting a focal animal group, a pan of the entire haul out beach and surrounding area will be made in order to document the total number of animals in the area.

Following each launch, video recordings will continue for at least 15 minutes and up to several hours. Greater post-launch time intervals are not advisable as storms and other events may alter the composition of pinniped haulout groups independent of launch events.

Video data will be transferred to DVD–ROMs. A trained biologist will review and code the data from the video data as they are played back to a monitor (Holst *et al.,* 2005a; Holst *et al.,* 2008). The variables transcribed from the videos, or recorded directly at the beach sites, will include:

▪ Composition of the focal subgroup of pinnipeds (approximate numbers and sexes of each age class);

▪ Description and timing of disruptive event (launch); this will include documenting the occurrence of launch, whether launch noise is evident on audio channel, and duration of audibility; and

▪ Movements of pinnipeds, including number and proportion moving, direction and distance moved, pace of movement (slow or vigorous). In addition, the following variables concerning the circumstances of the observations will also be recorded from the videotape or from direct observations at the site:

○ Study location;

○ Local time;

○ Weather (including an estimate of wind strength and direction, and presence of precipitation); and

○ Tide state (Exact times for local high and low tides will be determined by consulting relevant tide tables for the day of the launch).

Acoustic Monitoring

Acoustical recordings will be obtained during each monitored launch. These recordings will be suitable for quantitative analysis of the levels and characteristics of the received launch sounds. In addition to providing information on the magnitude, characteristics, and duration of sounds to which pinnipeds are exposed during each launch, these acoustic data will be combined with the pinniped behavioral data to determine if there is a ''dose-response'' relationship between received sound levels and pinniped behavioral reactions. The Navy will use up to four autonomous audio recorders to make acoustical measurements. During each launch, these will be located as close as practical to monitored pinniped haulout sites and near the launch pad itself. The monitored haulout sites will typically include one site as close as possible to the missile's planned flight path and one or two locations farther from the flight path within the area of potential impact with pinnipeds present. Autonomous Terrestrial Acoustic Recorders (ATARs) will be deployed at the recording locations on the launch day well before the launch time, and will be retrieved later the same day.

During each launch, data on the type and trajectory of the missile will be documented. From these records the CPA of the missile to the microphone will be determined, along with its altitude above the shoreline. These data will be important in comparing acoustic data with those from other launches. Other factors to be considered will include wind speed and direction and launch characteristics (*e.g.,* low- vs. high-angle launch). These analyses will include data from previous and ongoing monitoring work (Burke 2017; Holst *et al.,* 2010; Holst *et al.,* 2005a; Holst *et al.,* 2008; Holst *et al.,* 2011; Ugoretz 2016; Ugoretz and Greene Jr. 2012), as well as measurements to be obtained during launches under this IHA.

Reporting

A technical report will be submitted to the NMFS' Office of Protected Resources within 90 days from the date the IHA expires. This report will provide full documentation of methods, results, and interpretation pertaining to all monitoring tasks for launches activities at SNI that are covered under this proposed IHA.

The technical report containing the following information: Species present, number(s), general behavior, presence of pups, age class, gender, numbers of pinnipeds present on the haulout prior to commencement of the launch, numbers of pinnipeds that responded at a level that would be considered harassment length of time(s) pinnipeds remained off the haulout (for pinnipeds that flushed), and any behavioral responses by pinnipeds that were likely in response to the specified activities. Launch reports would also include date(s) and time(s) of each launch; date(s) and location(s) of marine mammal monitoring, and environmental conditions including: Visibility, air temperature, clouds, wind speed and direction, tides, and swell height and direction. If a dead or seriously injured pinniped is found during post-launch monitoring, the incident must be reported to the NMFS Office of Protected Resources and the NMFS' West Coast Regional Stranding Coordinator immediately. Results of acoustic monitoring, including the recorded sound levels associated with the launch and/or sonic boom (if applicable) would also be included in the report.

In the unanticipated event that any cases of pinniped mortality are judged to result from launch activities at any time during the period covered by this IHA, this will be reported to NMFS immediately.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the discussion of our analyses applies to all the species listed in Table 7, given that the anticipated effects of this activity on these different marine mammal species are expected to be similar. Activities associated with the proposed activities, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment only, from airborne sounds of target and missile launch events. Based on the best available information, including monitoring reports from similar activities that have been authorized by NMFS, behavioral responses will likely be limited behavioral reactions such as alerting to the noise, with some animals possibly moving toward or entering the water, depending on the species and the intensity of the launch noise. Repeated exposures of individuals to levels of sound that may cause Level B harassment are unlikely to result in hearing impairment or to significantly disrupt foraging behavior. Given the launch acceleration and flight speed of the missiles, most launch events are of extremely short duration. Strong launch sounds are typically detectable near the beaches at western SNI for no more than a few seconds per launch (Holst *et al.,* 2010; Holst *et al.,* 2005a; Holst *et al.,* 2008; Holst *et al.,* 2005b). Pinnipids hauled out on beaches where missiles fly over launched from the Alpha Launch Complex routinely haul out and continue to use these beaches in large numbers. At the Building 807 Launch Complex few pinnipeds are known to haul out on the shoreline immediately adjacent to this launch site. Thus, even repeated instances of Level B harassment of some small subset of an overall stock is unlikely to result in any significant realized decrease in fitness to those individuals, and thus would not result in any adverse impact to the stock as a whole. Level B harassment would be reduced to the level of least practicable adverse impact through use of mitigation measures described above.

If a marine mammal responds to a stimulus by changing its behavior (*e.g.,* through relatively minor changes in locomotion direction/speed), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals or on the stock or species could potentially be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007). Flushing of pinnipeds into the water has the potential to result in mother-pup separation, or could result in a stampede, either of which could potentially result in serious injury or mortality. However, based on the best available information, including reports from almost 20 years of marine mammal monitoring during launch events, no serious injury or mortality of marine mammals is anticipated as a result of the proposed activities.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No injury, serious injury, or mortality are anticipated or authorized;
- The anticipated incidences of Level B harassment are expected to consist of temporary modifications in behavior (*i.e.,* movements of more than 10 m and occasional flushing into the water with return to haulouts), which are not expected to adversely affect the fitness of any individuals;
- The proposed activities are expected to result in no long-term changes in the use by pinnipeds of rookeries and haulouts in the project area, based on nearly 20 years of monitoring data; and
- The presumed efficacy of planned mitigation measures in reducing the effects of the specified activity to the level of least practicable adverse impact.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds

that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to the Navy for conducting rocket and missile launch events, on SNI from June 4, 2019 to June 3, 2020, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.*

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this Notice of Proposed IHA for the proposed Navy target and missile launch activities. We also request comment on the potential for renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

On a case-by-case basis, NMFS may issue a one-year IHA renewal with an expedited public comment period (15 days) when (1) another year of identical or nearly identical activities as described in the Specified Activities section is planned or (2) the activities would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to expiration of the current IHA.
- The request for renewal must include the following:

(1) An explanation that the activities to be conducted under the proposed Renewal are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take because only a subset of the initially analyzed activities remain to be completed under the Renewal); and

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

- Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: April 29, 2019.

Donna S. Wieting,

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

[FR Doc. 2019–08948 Filed 5–1–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Surveys to Collect Data on Use and NOAA Ecological Forecast Products.

OMB Control Number: 0648–XXXX.

Form Number(s): None.

Type of Request: Regular (This is a request for a new collection).

Number of Respondents: 850.

Average Hours per Response: 0.167 (10 minutes).

Burden Hours: 143.

Needs and Uses: In recent years, harmful algal blooms (HABs) and waterborne pathogens such as *Vibrio vulnificus* have caused major health, ecological, and economic concerns. HABs and other waterborne pathogens can lead to a number of impacts including impaired drinking water, reduced recreational opportunities, and human health impacts from either ingesting affected fish/water or contact with the bloom. To better serve the public and its stakeholders, NOAA has developed forecasts of HABs extent and severity in the western Lake Erie and in the Gulf of Mexico and is finalizing development of a forecast for *Vibrio vulnificus* in Chesapeake Bay. These forecast products are designed to provide stakeholders and the public with information that can be used to make better decisions that would mitigate the impacts of HABs and waterborne pathogens.

This request is for a set of related surveys to collect information on how stakeholders use NOAA's ecological forecast products in western Lake Erie, the Gulf of Mexico (the western shore of Florida and the Texas coastline), and Chesapeake Bay. The surveys are designed to collect similar information from the public and other stakeholders across the three geographic regions covered by the forecast products. The information from these surveys will assist NOAA in understanding how stakeholders, including the public, would use the forecast products. This information will help NOAA further improve upon research, development, and delivery of forecast products nation-wide.

NOAA will collect information from the public on how using the information in the forecast products would affect decisions related to fishing (Lake Erie and Gulf of Mexico), beach-going/swimming (all three regions), and boating (Lake Erie only). These three recreational activities (fishing, swimming and boating) reflect the types of activities likely to be affected by HABs in each area. For Chesapeake Bay, NOAA would implement one survey focused on recreational swimmers since the primary risk posed by Vibrio vulnificus is through skin contact with the bacterium. A companion survey would ask charter boat operators on Lake Erie how information in the

forecast would affect their decisions regarding fishing operations. Drinking water is also at risk in Lake Erie due to HABs, but NOAA has information on how drinking water facilities respond to HABS and is also discussing use of the forecast products with a small (fewer than 10) number of drinking water facilities.

Affected Public: Individuals or households; Business or other for-profit.

Frequency: Once.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–08968 Filed 5–1–19; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH009

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Surfclam and Ocean Catch Share Program Review Oversight Team will hold a public meeting.

DATES: The meeting will be held on Monday, May 13, 2019, from 10 a.m. until 12 p.m.

ADDRESSES: The meeting will be held via webinar. Details on the proposed agenda, connection information, and briefing materials will be posted at the MAFMC's website: *www.mafmc.org.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss the findings of the Surfclam and Ocean Quahog Catch Share Program Review Report, review public comment received on the Review Report, and to recommend any next steps to the Council. An agenda and background documents will be posted at the Council's website (*www.mafmc.org*) prior to the meeting.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: April 29, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–08928 Filed 5–1–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Limits of Application of the Take Prohibitions.

OMB Control Number: 0648–0399.

Form Number(s): None.

Type of Request: Regular (extension, without change, of a currently approved collection).

Number of Respondents: 301.

Average Hours per Response: 5 hours for a diversion screening limit project; 20 hours for a road maintenance agreement; 30 hours for an urban development package; 20 hours for a tribal plan; 10 hours for a fishery harvest plan; 5 hours for a report of aided, salvaged, or disposed of salmonids; 2 hours for research permits; 5 hours for artificial propagation plans; and 2 hours for annual reports.

Burden Hours: 935.

Needs and Uses: Section 4(d) of the Endangered Species Act of 1973 (ESA) requires the National Marine Fisheries Service (NMFS) to adopt such regulations as it ''deems necessary and advisable to provide for the conservation of'' threatened species. Those regulations may include any or all of the prohibitions provided in section 9(a)(1) of the ESA, which specifically prohibits ''take'' of any endangered species (''take'' includes actions that harass, harm, pursue, kill, or capture). There are presently 22 separate Evolutionarily Significant Units (ESUs) of west coast salmonids listed as threatened, covering a large percentage of the land base in California, Oregon, Washington and Idaho. On June 28, 2005 (70 FR 37160), February 1, 2006 (71 FR 5178), and September 25, 2008 (73 FR 55451), NMFS issued final regulations which makes ESA section 9 prohibitions generally applicable to these threatened ESUs except in 13 programs and circumstances.

The final regulations at 50 CFR 223.203, as well as online information posted at *https://www.westcoast.fisheries.noaa.gov/permits/section_4d.html,* describe 13 programs or circumstances that contribute to the conservation of, or are being conducted in a way that adequately limits impacts on, listed salmonids. Certain of these 13 ''Limits'' on the take prohibitions entail voluntary submission of a plan(s) to NMFS and require annual or occasional reports by entities wishing to take advantage of these Limits, or continue within them.

Affected Public: Federal government; State, local, or tribal government; business or other for-profit organizations.

Frequency: Annual.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–08972 Filed 5–1–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG559

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Boost-Back and Landing of Falcon 9 Rockets

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

ACTION: Notice; withdrawal of an Incidental Harassment Authorization (IHA) application.

SUMMARY: Notice is hereby given that Space Exploration Technology Corporation (SpaceX) has withdrawn its application for an IHA to take marine mammals incidental to boost-back and landing of Falcon 9 rockets at Vandenberg Air Force Base (VAFB) in California, and at contingency landing locations in the Pacific Ocean. Accordingly, NMFS has withdrawn its related proposed IHA.

FOR FURTHER INFORMATION CONTACT: Amy Fowler, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On August 20, 2018 NMFS received an IHA application from SpaceX for the taking of marine mammals incidental to Falcon 9 First Stage recovery activities, including in-air boost-back maneuvers and landings of the First Stage of the Falcon 9 rocket at VAFB in California, and at contingency landing locations offshore. NMFS determined that the application was adequate and complete on October 23, 2018. The requested IHA would have authorized take, by Level B harassment only, of six marine mammal species as a result from the specified activity. NMFS published a notice of the proposed IHA in the **Federal Register** (83 FR 57432) on November 15, 2018. On April 18, 2019, NMFS accepted notice from SpaceX withdrawing their IHA application for the proposed action after take of marine mammals incidental to their proposed activities was authorized by Letters of Authorization issued in accordance with 50 CFR 217, Subpart G—Taking of Marine Mammals Incidental to Rocket and Missile Launches and Aircraft Operations at Vandenberg Air Force Base (VAFB), California. Therefore, NMFS has withdrawn its proposed IHA for the action.

Dated: April 29, 2019.

Donna S. Wieting,

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

[FR Doc. 2019–08947 Filed 5–1–19; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting Notice

TIME AND DATE: Thursday, May 2, 2019; 1:00 p.m.*

PLACE: Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, MD 20814.

STATUS: Commission Meeting—Closed to the Public.

MATTER TO BE CONSIDERED: Compliance Matters: Staff will brief the Commission on the status of a compliance matter.

CONTACT PERSON FOR MORE INFORMATION: Alberta E. Mills, Secretary, Division of the Secretariat, Office of the General Counsel, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7479.

* The Commission unanimously determined by recorded vote that Agency business requires calling the meeting without seven calendar days advance public notice.

Dated: April 29, 2019.

Alberta E. Mills,

Secretary.

[FR Doc. 2019–09026 Filed 4–30–19; 11:15 am]

BILLING CODE 6355–01–P

DELAWARE RIVER BASIN COMMISSION

Notice of Public Hearing and Business Meeting May 15 and June 12, 2019

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, May 15, 2019 at the Commission's office building, 25 Cosey Road, West Trenton, New Jersey. A business meeting will be held the following month on Wednesday, June 12, 2019 at the West Trenton Volunteer Fire Company, 40 West Upper Ferry Road, Ewing, New Jersey. The hearing and meeting are open to the public.

Public Hearing. The public hearing on May 15, 2019 will begin at 1:30 p.m. Hearing items subject to the Commission's review will include draft dockets for withdrawals, discharges, and other projects that could have a substantial effect on the basin's water resources, as well as resolutions to: (a) Adopt the Commission's Annual Current Expense and Capital Budgets for the fiscal year ending June 30, 2020 (July 1, 2019 through June 30, 2020); and (b) apportion among the signatory parties the amounts required for the support of the Current Expense and Capital Budgets for the fiscal year ending June 30, 2020.

The list of projects scheduled for hearing, including project descriptions, and the text of the proposed resolutions will be posted on the Commission's website, *www.drbc.gov,* in a long form of this notice at least ten days before the hearing date.

Written comments on matters scheduled for hearing on May 15 will be accepted through 5:00 p.m. on May 20.

The public is advised to check the Commission's website periodically prior to the hearing date, as items scheduled for hearing may be postponed if additional time is needed to complete the Commission's review, and items may be added up to ten days prior to the hearing date. In reviewing docket descriptions, the public is also asked to be aware that the details of projects may change during the Commission's review, which is ongoing.

Public Meeting. The public business meeting on June 12, 2019 will also begin at 1:30 p.m. and will include: Adoption of the Minutes of the Commission's March 13, 2019 Business Meeting, announcements of upcoming meetings and events, a report on hydrologic conditions, reports by the Executive Director and the Commission's General Counsel, and consideration of any items for which a hearing has been completed or is not required. The latter may include but are not limited to Resolutions for the Minutes: (a) Authorizing the Executive Director to retain an accounting firm to perform the Commission's annual independent audits; and (b) providing for election of the Commission Chair, Vice Chair and Second Vice Chair for the year commencing July 1, 2019 and ending June 30, 2020.

After all scheduled business has been completed and as time allows, the Business Meeting will be followed by up to one hour of Open Public Comment, an opportunity to address the Commission on any topic concerning management of the basin's water resources outside the context of a duly noticed, on-the-record public hearing.

There will be no opportunity for additional public comment for the record at the June 12 Business Meeting on items for which a hearing was completed on May 15 or a previous date. Commission consideration on June 12 of items for which the public hearing

is closed may result in approval of the item (by docket or resolution) as proposed, approval with changes, denial, or deferral. When the Commissioners defer an action, they may announce an additional period for written comment on the item, with or without an additional hearing date, or they may take additional time to consider the input they have already received without requesting further public input. Any deferred items will be considered for action at a public meeting of the Commission on a future date.

Advance Sign-Up for Oral Comment. Individuals who wish to comment on the record during the public hearing on May 15 or to address the Commissioners informally during the Open Public Comment portion of the meeting on June 12 as time allows, are asked to sign-up in advance through EventBrite. Links to EventBrite for the Public Hearing and the Business Meeting are available at *www.drbc.gov.* For assistance, please contact Ms. Paula Schmitt of the Commission staff, at *paula.schmitt@drbc.gov.*

Addresses for Written Comment. Written comment on items scheduled for hearing may be made through the Commission's web-based comment system, a link to which is provided at *www.drbc.gov.* Use of the web-based system ensures that all submissions are captured in a single location and their receipt is acknowledged. Exceptions to the use of this system are available based on need, by writing to the attention of the Commission Secretary, DRBC, P.O. Box 7360, 25 Cosey Road, West Trenton, NJ 08628–0360. For assistance, please contact Paula Schmitt at *paula.schmitt@drbc.gov.*

Accommodations for Special Needs. Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the meeting or hearing should contact the Commission Secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how we can accommodate your needs.

Additional Information, Contacts. Additional public records relating to hearing items may be examined at the Commission's offices by appointment by contacting Denise McHugh, 609–883–9500, ext. 240. For other questions concerning hearing items, please contact David Kovach, Project Review Section Manager at 609–883–9500, ext. 264.

Dated: April 25, 2019.

Pamela M. Bush,

Commission Secretary and Assistant General Counsel.

[FR Doc. 2019–08980 Filed 5–1–19; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0056]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; GEAR UP Applications for Partnership and State Grants

AGENCY: Office of Postsecondary Education (OPE), 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 June 3, 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–0056. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Craig Pooler, 202–453–6195.

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: GEAR UP Applications for Partnership and State Grants.

OMB Control Number: 1840–0821.

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: 545.

Total Estimated Number of Annual Burden Hours: 30,700.

Abstract: Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP), created in the Higher Education Act Amendments of 1998 (Title IV, Section 404A–404H), is a discretionary grant program which encourages applicants to provide support and maintain a commitment to eligible low-income students, including students with disabilities, to assist the students in obtaining a secondary school diploma and preparing for and succeeding in postsecondary education. GEAR UP provides grants to states and partnerships to provide services at high-poverty middle and high schools. GEAR UP grantees serve an entire cohort of students beginning no later than the seventh grade and follow them through graduation and, optionally, the first year of college.

The purpose of the GEAR UP partnership and state applications is to allow partnerships and states to apply for funding under the GEAR UP program.

Dated: April 29, 2019.

Kate Mullan,

PRA Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–08932 Filed 5–1–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Tests Determined To Be Suitable for Use in the National Reporting System for Adult Education

AGENCY: Office of Career, Technical, and Adult Education, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary announces tests, test forms, and delivery formats that the Secretary determines to be suitable for use in the National Reporting System for Adult Education (NRS). This notice relates to the approved information collections under OMB control numbers 1830–0027 and 1830–0567.

FOR FURTHER INFORMATION CONTACT: John LeMaster, Department of Education, 400 Maryland Avenue SW, Room 11–152, Potomac Center Plaza, Washington, DC 20202–7240. Telephone: (202) 245–6218. Email: *John.LeMaster@ed.gov.*

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

SUPPLEMENTARY INFORMATION: On January 14, 2008, and as amended on August 19, 2016, we published in the **Federal Register** final regulations for 34 CFR part 462, Measuring Educational Gain in the National Reporting System for Adult Education (NRS regulations) (73 FR 2305, Jan. 14, 2008, as amended at 81 FR 55552, Aug. 19, 2016). The NRS regulations established the process the Secretary uses to determine the suitability of tests for use in the NRS by States and local eligible providers. We annually publish in the **Federal Register**, and post on the internet at *www.nrsweb.org,* a list of the names of tests and the educational functioning levels the tests are suitable to measure in the NRS as required by § 462.12(c)(2).

On September 7, 2017, the Secretary published in the **Federal Register** (82 FR 42339) an annual notice of tests determined to be suitable for use in the NRS (September 2017 notice). In the September 2017 notice, the Secretary announced a new test and test forms that were determined to be suitable for use in the NRS, in accordance with § 462.13.

On February 5, 2018, the Secretary published in the **Federal Register** (83 FR 5087) an annual notice of tests determined to be suitable for use in the NRS (February 2018 notice). In the February 2018 notice, the Secretary announced a new test and test forms that were determined to be suitable for use in the NRS, in accordance with § 462.13.

On September 21, 2018, the Secretary published in the **Federal Register** (83 FR 47910) an annual notice of tests determined to be suitable for use in the NRS (September 2018 notice). In the September 2018 notice, the Secretary announced a list of English as a Second Language (ESL) tests and test forms determined to be suitable for use in the NRS, previously approved for an extended period through February 2, 2019, and approved these tests and test forms for an additional period through February 2, 2021. The Secretary also announced a list of tests with NRS approvals expiring on February 2, 2019, which States and local providers may continue to use during a sunset period ending on June 30, 2019.

On March 7, 2019, the Secretary published in the **Federal Register** (84 FR 8322) an annual notice of tests determined to be suitable for use in the NRS (March 2019 notice). In the March 2019 notice, the Secretary announced a new test and test forms that were determined to be suitable for use in the NRS, in accordance with § 462.13.

In this notice, the Secretary announces new tests that have been determined to be suitable for use in the NRS, in accordance with § 462.13. These tests measure the new NRS educational functioning levels for Literacy/English Language Arts and Mathematics at Adult Basic Education (ABE) levels 2 through 6, as described in Appendix A of Measures and Methods for the National Reporting System for Adult Education (OMB Control Number: 1830–0027).

Adult education programs must use only the forms and computer-based delivery formats for the tests approved in this notice or in the September 2017, February 2018, September 2018, or March 2019 notices. If a particular test form or computer delivery format is not explicitly specified for a test in this notice or in the September 2017, February 2018, September 2018, or March 2019 notices, it is not approved for use in the NRS.

Tests Determined To Be Suitable for Use in the NRS for a 7-Year Period From the Publication Date of This Notice

The Secretary has determined that the following tests are suitable for use at ABE levels 2 through 6 of the NRS for a period of 7 years from the publication date of this notice:

(1) Massachusetts Adult Proficiency Test—College and Career Readiness (MAPT–CCR) for Reading. This test is approved for use through a computer-adaptive delivery format. Publisher: Massachusetts Department of Elementary and Secondary Education and University of Massachusetts Amherst, College of Education, 156 Hills South, University of Massachusetts Amherst, Amherst, MA 01003. Telephone: (413) 545–0564. Internet: *www.doe.mass.edu/acls/assessment/.*

(2) Massachusetts Adult Proficiency Test—College and Career Readiness (MAPT–CCR) for Mathematics. This test is approved for use through a computer-adaptive delivery format. Publisher: Massachusetts Department of Elementary and Secondary Education and University of Massachusetts Amherst, College of Education, 156 Hills South, University of Massachusetts Amherst, Amherst, MA 01003. Telephone: (413) 545–0564. Internet: *www.doe.mass.edu/acls/assessment/.*

Revocation of Tests: Under certain circumstances, the Secretary may revoke the determination that a test is suitable (see § 462.12(e)). If the Secretary revokes the determination of suitability, the Secretary announces the revocation, as well as the date by which States and local eligible providers must stop using the revoked test, through a notice published in the **Federal Register** and posted on the internet at *www.nrsweb.org.*

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

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

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

Program Authority: 29 U.S.C. 3292.

Scott Stump,

Assistant Secretary for Career, Technical, and Adult Education.

[FR Doc. 2019–08938 Filed 5–1–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2019–ICCD–0018]

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

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), 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 June 3, 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–0018. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9089, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact April Trice, 202–245–6074.

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: Application for Client Assistance Program.

OMB Control Number: 1820–0520.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 57.

Total Estimated Number of Annual Burden Hours: 9.

Abstract: This form is used by states to request funds to establish and carry out Client Assistance Programs (CAP). CAP is mandated by the Rehabilitation Act of 1973, (Rehabilitation Act), as amended by Title IV of the Workforce Innovation and Opportunity Act to assist consumers and applicants in their relationships with projects, programs and services provided under the Rehabilitation Act including the Vocational Rehabilitation and Supported Employment programs and the Independent Living Services for Older Individuals Who Are Blind program.

Dated: April 24, 2019.

Stephanie Valentine,

PRA Clearance Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–09061 Filed 4–30–19; 1:30 pm]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Orders Issued Under Section 3 of The Natural Gas Act During March 2019

	FE Docket Nos.
VENTURE GLOBAL CALCASIEU PASS, LLC	13–69–LNG; 14–88–LNG; 15–25–LNG
DERSA OIL & GAS CORPORATION	19–13–NG
CITIGROUP ENERGY CANADA, ULC	19–14–NG
ROYAL BANK OF CANADA	18–182–NG
SOCIETE GENERALE ENERGY, LLC	19–22–NG
PILOT POWER GROUP, INC	19–15–NG
PACIFICORP	19–18–NG
ST. LAWRENCE GAS COMPANY, INC	19–19–NG
KOCH ENERGY SERVICES, LLC	19–20–NG
2IYE, LLC	19–21–LNG
ALLIANCE CANADA MARKETING LP	19–16–NG
FREEPOINT COMMODITIES LLC	19–24–NG
TIDEWATER MIDSTREAM AND INFRASTRUCTURE LTD	19–25–NG
HERMISTON GENERATING COMPANY, L.P	17–54–NG
IRVING OIL COMMERCIAL GP AND IRVING OIL TERMINALS OPERATIONS LLC	15–165–NG

	FE Docket Nos.
NEXTERA ENERGY MARKETING, LLC	19–29–NG; 18–176–NG
MAGNOLIA LNG LLC	12–183–LNG; 13–131–LNG
CITIGROUP COMMODITIES CANADA ULC	19–30–NG
LOGISTIC ENERGY AND PETROLEUM SERVICES INC.	19–31–LNG
MIECO INC	19–32–NG
PEMBINA MIDSTREAM (U.S.A.) INC	19–17–NG
ENERGIA COSTA AZUL, S. DE R.L. DE C.V	18–144–LNG
ENERGIA COSTA AZUL, S. DE R.L. DE C.V	18–145–LNG
RBC ENERGY SERVICES LP	19–33–NG
NORTHLAND POWER ENERGY MARKETING (US) INC	19–26–NG

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during March 2019, it issued orders granting authority to import and export natural gas, to import and export liquefied natural gas (LNG), amending and vacating prior authorization. These orders are summarized in the attached appendix and may be found on the FE website at *https://www.energy.gov/fe/listing-doefe-authorizationsorders-issued-2019*.

They are also available for inspection and copying in the U.S. Department of Energy (FE–34), Division of Natural Gas Regulation, Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on April 29, 2019.

Amy Sweeney,

Director, Division of Natural Gas Regulation.

Appendix

DOE/FE ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS

4346	03/05/19	13–69–LNG; 14–88–LNG; 15–25–LNG (Consolidated).	Venture Global Calcasieu Pass, LLC.	Opinion and Order 4346 granting long-term authority to export LNG to Non-Free Trade Agreement Nations, includes Record of Decision.
4347	03/11/19	19–13–NG	Dersa Oil & Gas Corporation	Order 4347 granting blanket authority to export natural gas to Mexico.
4348	03/11/19	19–14–NG	Citigroup Energy Canada, ULC	Order 4348 granting blanket authority to import/export natural gas from/to Canada.
4349	03/11/19	18–182–NG	Royal Bank of Canada	Order 4349 granting blanket authority to import/export natural gas from/to Canada.
4350	03/11/19	19–22–NG	Societe Generale Energy LLC	Order 4350 granting blanket authority to import/export natural gas from/to Canada/Mexico.
4351	03/11/19	19–15–NG	Pilot Power Group, Inc	Order 4351 granting blanket authority to import/export natural gas from/to Canada/Mexico.
4352	03/11/19	19–18–NG	PacifiCorp	Order 4352 granting blanket authority to import/export natural gas from/to Canada.
4353	03/11/19	19–19–NG	St. Lawrence Gas Company, Inc.	Order 4353 granting blanket authority to export natural gas to Canada.
4354	03/11/19	19–20–NG	Koch Energy Services, LLC	Order 4354 granting blanket authority to import/export natural gas from/to Canada.
4355	03/11/19	19–21–LNG	2iye Energy, LLC	Order 4355 granting blanket authority to import LNG from various international sources by vessel.
4356	03/11/19	19–16–NG	Alliance Canada Marketing LP	Order 4356 granting blanket authority to import natural gas from Canada.
4357	03/11/19	19–24–NG	Freepoint Commodities LLC	Order 4357 granting blanket authority to import/export natural gas from/to Canada/Mexico.
4358	03/11/19	19–25–NG	Tidewater Midstream and Infrastructure Ltd.	Order 4358 granting blanket authority to import/export natural gas from/to Canada.
4030–A	03/11/19	17–54–NG	Hermiston Generating Company, LP.	Order 4030–A vacating blanket authority to import natural gas from Canada.
3765–C	03/11/19	15–165–NG	Irving Oil Commercial GP and Irving Oil Terminals Operations LLC.	Order 3765–C granting Request to Amend authority to import/export natural gas from/to Canada.
4359; 4310–A	03/18/19	19–29–NG; 18–176–NG	NextEra Energy Marketing, LLC.	Order 4359 granting blanket authority to import/export natural gas from/to Canada, to export natural gas to Mexico, and Order 4310–A vacating prior authority.
3245–A; 3406–A	03/21/19	12–183–LNG; 13–131–LNG	Magnolia LNG LLC	Orders 3245–A and 3406–A amending Long-Term Multi-Contract authority to export LNG by vessel from the proposed Magnolia LNG Terminal to Free Trade Agreement Nations.
4360	03/27/19	19–30–NG	Citigroup Commodities Canada ULC.	Order 4360 granting blanket authority to import/export natural gas from/to Canada.
4361	03/27/19	19–31–LNG	Logistic Energy and Petroleum Services Inc.	Order 4361 granting blanket authority to import LNG from various international sources by vessel.
4362	03/27/19	19–32–NG	Mieco Inc	Order 4362 granting blanket authority to import/export natural gas from/to Canada.
4363	03/27/19	19–17–NG	Pembina Midstream (U.S.A.) Inc.	Order 4363 granting blanket authority to import natural gas from Canada.
4364	03/29/19	18–144–LNG	Energia Costa Azul, S. de R.L. de C.V.	Order 4364 granting long-term authority to export natural gas to Mexico and to re-export LNG from Mexico to Free Trade Agreement Nations and Non-Free Trade Agreement Nations (Mid-Scale).

DOE/FE ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS—Continued

4365	03/29/19	18–145–LNG	Energia Costa Azul, S. de R.L. de C.V.	Order 4365 granting long-term authority to export natural gas to Mexico and to re-export LNG from Mexico to Free Trade Agreement Nations and Non-Free Trade Agreement Nations (Large-Scale).
4366	03/27/19	19–33–NG	RBC Energy Services LP	Order 4366 granting blanket authority to import/export natural gas from/to Canada.
4367	03/27/19	19–26–NG	Northland Power Energy Marketing (US) Inc.	Order 4367 granting blanket authority to import/export natural gas from/to Canada.

[FR Doc. 2019–08942 Filed 5–1–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–472]

Application To Export Electric Energy; Luminant Energy Company LLC

AGENCY: Office of Electricity, Department of Energy (DOE).

ACTION: Notice of application.

SUMMARY: Luminant Energy Company LLC (Applicant or LUME) has applied for authorization to transmit electric energy from the United States to Canada pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before June 3, 2019.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) regulates exports of electricity from the United States to a foreign country, pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b) and 7172(f)). Such exports require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On April 17, 2019, DOE received an application from LUME for authorization to transmit electric energy from the United States to Canada as a power marketer for a five-year term using existing international transmission facilities. The Applicant states that it is certified as a Qualified Scheduling Entity with the Electric Reliability Council of Texas (ERCOT) and that it is registered with the Public Utility Commission of Texas as a wholesale power marketer. LUME is also conditionally authorized to sell wholesale electric energy, capacity, and ancillary services outside of ERCOT at market-based rates pursuant to authority granted by the Federal Energy Regulatory Commission (FERC).

In its application, the Applicant states that it ''does not own any electric generation, transmission facilities, or distribution facilities and does not hold a franchise or service territory or native load obligation.'' The electric energy that the Applicant proposes to export to Canada over international electric transmission facilities would be surplus energy acquired from U.S. generating sources. The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five (5) copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning LUME's application to export electric energy to Canada should be clearly marked with OE Docket No. EA–472. An additional copy is to be provided directly to both Jessica H. Miller, Vistra Energy, 1005 Congress Avenue, Suite 750, Austin, Texas 78701, and Tracey L. Bradley, Bracewell LLP, 2001 M Street NW, Suite 900, Washington, DC 20036.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE determines that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program website at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Signed in Washington, DC, on April 26, 2019.

Christopher Lawrence,

Management and Program Analyst, Transmission Permitting and Technical Assistance, Office of Electricity.

[FR Doc. 2019–08958 Filed 5–1–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[EERE–2018–BT–DET–0014]

Preliminary Analysis Regarding Energy Efficiency Improvements in the 2018 International Energy Conservation Code (IECC)

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

ACTION: Notice of availability.

SUMMARY: The U.S. Department of Energy (DOE) is announcing the availability of a Preliminary Energy Savings Analysis of the 2018 International Energy Conservation Code (Preliminary Analysis). DOE welcomes written comments from interested parties on any subject within the scope of this Preliminary Analysis.

DATES: DOE will accept written comments and information on the Preliminary Analysis no later than June 3, 2019.

ADDRESSES: A copy of the Preliminary Analysis is available at *https://www.energycodes.gov/development/determinations.*

Any comments submitted must provide docket number EERE–2018–BT–DET–0014. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: 2018IECC2018DET0014@ee.doe.gov.* Include the docket number in the subject line of the message.

3. *Postal Mail:* Building Energy Codes Program, U.S. Department of Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, EE–5B, Washington, DC 20585–0121. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Building Energy Codes Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, EE–5B, Suite 600, Washington, DC 20024.

If possible, please submit all items on a CD, in which case it is not necessary to include printed copies. For detailed instructions on submitting comments, see section II of this document (Public Participation).

Public Docket: The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov.* All documents in the docket are listed in the *http://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available. A link to the docket on the *Regulations.gov* site can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2018-BT-DET-0014.* The *Regulations.gov* web page will contain instructions on how to access all documents, including public comments, in the docket. See section II for further information on how to submit comments through *Regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Jeremiah Williams; U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW, EE–5B, Washington, DC 20585; (202) 441–1288; *Jeremiah.Williams@ee.doe.gov.*

For legal issues, please contact Kavita Vaidyanathan; U.S. Department of Energy, Office of the General Counsel, 1000 Independence Avenue SW, GC–33, Washington, DC 20585; (202) 586–0669; *Kavita.Vaidyanathan@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background
II. Public Participation

I. Background

Title III of the Energy Conservation and Production Act, as amended (ECPA), establishes requirements for building energy conservation standards, administered by the DOE Building Energy Codes Program. (42 U.S.C. 6831 *et seq.*) Section 304(a)(5)(A), as amended, of ECPA provides that whenever the CABO Model Energy Code, or any successor to that code, is revised, the Secretary of Energy (Secretary) must make a determination, not later than 12 months after such revision, whether the revised code would improve energy efficiency in residential buildings, and must publish notice of such determination in the **Federal Register**. (42 U.S.C. 6833(a)(5)(A)) The International Energy Conservation Code (IECC) is the contemporary successor to the CABO Model Energy Code specified in ECPA.

The 2018 IECC (2018 edition), the most recent edition, was published in August 2017, triggering the statutorily-required DOE review process. The IECC is developed through an industry consensus process administered by the International Code Council (ICC). The ICC has an established program for regular review of the IECC, identifying whether proposed changes have energy and cost impacts, and incorporating changes approved by the ICC governmental voting body. Updated editions of the IECC are typically published every three years. More information on the ICC code development process is available at: *https://www.iccsafe.org/codes-tech-support/codes/code-development-process/code-development-2/.*

II. Discussion of Findings

To meet the statutory requirement, DOE conducted a Preliminary Energy Savings Analysis of the 2018 International Energy Conservation Code (Preliminary Analysis) to quantify the expected energy savings associated with the 2018 IECC. The Preliminary Analysis indicates, of the 47 proposed code changes which directly impact energy use, 11 changes resulted in a *reduction* of energy use, with 3 changes projected to *increase* energy use. The remaining 33 changes are projected to have no or limited effect on energy usage.

Preliminary Energy and Cost Savings Analysis

DOE's Preliminary review and analysis of the 2018 IECC identified two key changes which result in the bulk of the energy savings associated with the updated code:

- RE31 (Fenestration): Lowers (improves) fenestration U-factors in climate zones 3–8
- RE127 (Lighting): Increases high-efficacy lighting from 75% to 90% of permanently installed fixtures in all homes.

These changes are expected to have a significant and measurable impact on energy efficiency in residential buildings. These changes are expected to increase energy savings, impact a significant fraction of new homes, and can be reasonably quantified through the established methodology.

Together, the key impacts identified above are expected to result in life-cycle cost savings ranging from a low of $398 in climate zone 1 to a high of $1071 in climate zone 8. Expected payback ranges from 0.0 years (immediate payback) in climate zones 1 and 2 to 1.8 years in climate zone 3. National average savings are $480 with a payback of 1.1 years.

More information on these two changes and their expected energy savings impacts are presented in a separate technical analysis, *Preliminary Energy Savings Analysis: 2018 IECC Residential Requirements.*[1]

Preliminary Determination of Impacts on Energy Efficiency

Review of the 2018 IECC indicates the updated model code will increase energy efficiency in residential buildings. Residential buildings meeting the 2018 IECC (compared to the previous 2015 IECC edition) are expected to incur the following savings on a weighted national average basis:

- 1.68 percent of annual *site energy;*
- 1.91 percent of annual *source energy,* and;
- 1.97 percent of annual *energy costs.*

The full Preliminary Analysis, including an assessment of the expected energy and cost impacts, is available via the DOE Building Energy Codes Program: *https://www.energycodes.gov/development/determinations.*

Request for Comment on IECC Changes

DOE welcomes written comments from interested parties on these technical documents and cost saving analysis.

III. Public Participation

DOE will accept comments, data, and information regarding the Preliminary Analysis no later than the date provided in the **DATES** section at the beginning of this notice. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this notice.

[1] *https://www.energycodes.gov/sites/default/files/documents/2018_IECC_PreliminaryDetermination_TSD.pdf.*

Submitting Comments via the Regulations.gov Website

The *Regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies Office staff only. Your contact information will not be publicly viewable, except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Do not submit to *http://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *http://www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section below.

DOE processes submissions made through *Regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *Regulations.gov* provides after you have successfully uploaded your comment.

Submitting Comments via Email, Hand Delivery/Courier, or Mail

Comments and documents submitted via email, hand delivery, or mail also will be posted to *Regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter, including your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery/courier, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign Form Letters

Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information

According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

Signed in Washington, DC, on April 25, 2019.

David Nemtzow,

Acting Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2019–08963 Filed 5–1–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–471]

Application To Export Electric Energy; Luminant Energy Company LLC

AGENCY: Office of Electricity, Department of Energy (DOE).

ACTION: Notice of application.

SUMMARY: Luminant Energy Company LLC (Applicant or LUME) has applied for authorization to transmit electric energy from the United States to Mexico pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before June 3, 2019.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) regulates exports of electricity from the United States to a foreign country, pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b) and 7172(f)). Such exports require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On April 17, 2019, DOE received an application from LUME for authorization to transmit electric energy from the United States to Mexico as a power marketer for a five-year term using existing international transmission facilities. The Applicant states that it is certified as a Qualified

Scheduling Entity with the Electric Reliability Council of Texas (ERCOT) and that it is registered with the Public Utility Commission of Texas as a wholesale power marketer. LUME is also conditionally authorized to sell wholesale electric energy, capacity, and ancillary services outside of ERCOT at market-based rates pursuant to authority granted by the Federal Energy Regulatory Commission (FERC).

In its application, the Applicant states that it ''does not own any electric generation, transmission facilities, or distribution facilities and does not hold a franchise or service territory or native load obligation.'' The electric energy that the Applicant proposes to export to Mexico over international electric transmission facilities would be surplus energy acquired from U.S. generating sources. The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five (5) copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning LUME's application to export electric energy to Mexico should be clearly marked with OE Docket No. EA–471. An additional copy is to be provided directly to both Jessica H. Miller, Vistra Energy, 1005 Congress Avenue, Suite 750, Austin, Texas 78701, and Tracey L. Bradley, Bracewell LLP, 2001 M Street NW, Suite 900, Washington, DC 20036.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE determines that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program website at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Signed in Washington, DC, on April 26, 2019.

Christopher Lawrence,

Management and Program Analyst, Transmission Permitting and Technical Assistance, Office of Electricity.

[FR Doc. 2019–08957 Filed 5–1–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Office of Environmental Management, Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, May 16, 2019, 6:00 p.m.

ADDRESSES: West Kentucky Community and Technical College, Emerging Technology Center, Room 109, 5100 Alben Barkley Drive, Paducah, Kentucky 42001.

FOR FURTHER INFORMATION CONTACT: Jennifer Woodard, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6825.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

- Call to Order, Introductions, Review of Agenda
- Administrative Issues
- Public Comments (15 minutes)
- Adjourn

Breaks Taken as Appropriate

Public Participation: The meeting is open to the public. The EM SSAB, Paducah, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Jennifer Woodard as soon as possible in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Jennifer Woodard at the telephone number listed above. Requests must be received as soon as possible prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments. The EM SSAB, Paducah, will hear public comments pertaining to its scope (clean-up standards and environmental restoration; waste management and disposition; stabilization and disposition of non-stockpile nuclear materials; excess facilities; future land use and long-term stewardship; risk assessment and management; and clean-up science and technology activities). Comments outside of the scope may be submitted via written statement as directed above.

Minutes: Minutes will be available by writing or calling Jennifer Woodard at the address and phone number listed above. Minutes will also be available at the following website: *https://www.energy.gov/pppo/pgdp-cab/listings/meeting-materials.*

Signed in Washington, DC, on April 25, 2019.

Antionette M. Watkins,

Acting Deputy Committee Management Officer.

[FR Doc. 2019–08894 Filed 5–1–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP16–454–000; CP16–455–000]

Rio Grande LNG, LLC, Rio Bravo Pipeline Company, LLC; Notice of Availability of the Final Environmental Impact Statement for the Proposed Rio Grande LNG Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a final environmental impact statement (EIS) for the Rio Grande LNG Project (Project)

proposed by Rio Grande LNG, LLC (RG LNG) and Rio Bravo Pipeline Company, LLC (RB Pipeline) (collectively referred to as the RG Developers) in the above-referenced dockets. RG LNG requests authorization pursuant to section 3(a) of the Natural Gas Act (NGA) to construct and operate liquefied natural gas (LNG) export facilities in Cameron County, Texas, and RB Pipeline requests a Certificate of Public Convenience and Necessity pursuant to section 7(c) of the NGA to construct, operate, and maintain a new pipeline system in Jim Wells, Kleberg, Kenedy, Willacy, and Cameron Counties, Texas.

The final 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). The FERC staff concludes that construction and operation of the Rio Grande LNG Project would result in some adverse environmental impacts, but these impacts would be reduced to less than significant levels. However, the Rio Grande LNG Project, combined with other projects within the geographic scope, including the Texas LNG and Annova LNG Projects, would contribute to potential significant cumulative impacts from construction noise during nighttime pile-driving; sediment/turbidity and shoreline erosion within the Brownsville Ship Channel during operations from vessel transits; on the federally listed ocelot and jaguarundi from habitat loss and potential for increased vehicular strikes during construction; on the federally listed northern aplomado falcon from habitat loss in combination with past actions; and on visual resources from the presence of aboveground structures. Construction and operation of the Rio Grande LNG Project would result in mostly temporary or short-term environmental impacts; however, some long-term and permanent environmental impacts would occur.

The U.S. Army Corps of Engineers, U.S. Coast Guard, U.S. Department of Energy, U.S. Department of Transportation's (DOT) Pipeline and Hazardous Materials Safety Administration, the DOT's Federal Aviation Administration, the U.S. Fish and Wildlife Service, the National Park Service, the U.S. Environmental Protection Agency, and the National Oceanic and Atmospheric Administration—National Marine Fisheries Service participated as cooperating agencies in the preparation of the 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. Although the cooperating agencies provided input to the conclusions and recommendations presented in the final EIS, the agencies will present their own conclusions and recommendations in their respective Records of Decision for the Project.

The final EIS addresses the potential environmental effects of the construction and operation of the following proposed facilities:

- Six liquefaction trains at the Rio Grande LNG Terminal, each with a nominal capacity of 4.5 million tons per annum of LNG for export, resulting in the total nominal capacity of 27.0 million tons per annum;
- four LNG storage tanks, each with a net capacity of 180,000 cubic meters;
- LNG truck loading facilities with four loading bays, each with the capacity to load 12 to 15 trucks per day;
- a refrigerant storage area and truck unloading facilities;
- a condensate storage area and truck loading facilities;
- a new marine slip with two LNG vessel berths to accommodate simultaneous loading of two LNG vessels, an LNG vessel and support vessel maneuvering area, and an LNG transfer system;
- a materials off-loading facility;
- 2.4 miles of 42-inch-diameter pipeline, including 0.8 mile of dual pipeline, to gather gas from existing systems in Kleberg and Jim Wells Counties (referred to as the Header System);
- 135.5 miles of parallel 42-inch-diameter pipelines originating in Kleberg County and terminating at the Rio Grande LNG Terminal in Cameron County (referred to as Pipelines 1 and 2);
- four stand-alone metering sites along the Header System;
- two new interconnect booster compressor stations, each with a metering site;
- three new compressor stations (one at the LNG Terminal site); and
- other associated utilities, systems, and facilities (yards, access roads, etc.).

The Commission mailed a copy of the *Notice of Availability* of the final EIS to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the project area. The final EIS is only available in electronic format. It may be viewed and downloaded from the FERC's website (*www.ferc.gov*), on the Environmental Documents page (*https://www.ferc.gov/industries/gas/enviro/eis.asp*). In addition, the final 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.,* CP16–454 or CP16–455). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Additional information about the Projects is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*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*.

Dated: April 26, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–08902 Filed 5–1–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC19–81–000.

Applicants: Alta Oak Realty, LLC, Oak Creek Wind Power, LLC, ON Wind Energy, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of Alta Oak Realty, LLC, et al.

Filed Date: 4/25/19.

Accession Number: 20190425–5180.

Comments Due: 5 p.m. ET 5/16/19.

Docket Numbers: EC19–82–000.

Applicants: Utah Red Hills Renewable Park, LLC.

Description: Application for Authorization Under Section 203 of the

Federal Power Act, et al. of Utah Red Hills Renewable Park, LLC.

Filed Date: 4/25/19.

Accession Number: 20190425–5186.

Comments Due: 5 p.m. ET 5/16/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–81–000.

Applicants: Athens Energy, LLC.

Description: Report Filing: Response Regarding Refunds to be effective N/A.

Filed Date: 4/26/19.

Accession Number: 20190426–5003.

Comments Due: 5 p.m. ET 5/17/19.

Docket Numbers: ER19–915–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2019–04–26_Compliance to RAN Outage Coordination Filing to be effective 4/1/2019.

Filed Date: 4/26/19.

Accession Number: 20190426–5138.

Comments Due: 5 p.m. ET 5/17/19.

Docket Numbers: ER19–1137–002.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: Amended Filing in ER19–1137—East Texas Cooperatives Stated Rate Revisions to be effective 6/1/2019.

Filed Date: 4/26/19.

Accession Number: 20190426–5199.

Comments Due: 5 p.m. ET 5/6/19.

Docket Numbers: ER19–1364–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment: 2019–04–25_SA 3267_Astoria Substation Sub MPFCA (J493 J510) OTP to be effective 3/19/2019.

Filed Date: 4/25/19.

Accession Number: 20190425–5145.

Comments Due: 5 p.m. ET 5/6/19.

Docket Numbers: ER19–1634–001; ER13–1141–004; ER13–1142–004; ER17–1849–004; ER16–918–003; ER19–1633–001; ER15–1657–009; ER19–1638–001.

Applicants: Bridgeport Energy LLC, Essential Power Massachusetts, LLC, Essential Power Newington, LLC, Nautilus Power, LLC, Rhode Island State Energy Center, LP, Rumford Power LLC, SEPG Energy Marketing Services, LLC, Tiverton Power LLC.

Description: Notice of Non-Material Change in Status of Bridgeport Energy LLC, et al.

Filed Date: 4/25/19.

Accession Number: 20190425–5179.

Comments Due: 5 p.m. ET 5/16/19.

Docket Numbers: ER19–1678–000.

Applicants: New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 205 re: locational operating reserves region for NYC (Load Zone J) to be effective 6/26/2019.

Filed Date: 4/26/19.

Accession Number: 20190426–5001.

Comments Due: 5 p.m. ET 5/17/19.

Docket Numbers: ER19–1679–000.

Applicants: Duke Energy Florida, LLC.

Description: § 205(d) Rate Filing: Joint OATT Power Losses (DEF) 2019 to be effective 5/1/2019.

Filed Date: 4/26/19.

Accession Number: 20190426–5005.

Comments Due: 5 p.m. ET 5/17/19.

Docket Numbers: ER19–1680–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 2236R11 Golden Spread Electric Cooperative, Inc. NITSA NOA to be effective 4/1/2019.

Filed Date: 4/26/19.

Accession Number: 20190426–5006.

Comments Due: 5 p.m. ET 5/17/19.

Docket Numbers: ER19–1681–000.

Applicants: New England Power Company.

Description: § 205(d) Rate Filing: Related Facilities Agreement with Calpine Fore River Energy Center to be effective 3/28/2019.

Filed Date: 4/26/19.

Accession Number: 20190426–5042.

Comments Due: 5 p.m. ET 5/17/19.

Docket Numbers: ER19–1682–000.

Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: ATSI submits an ECSA, Service Agreement No. 5269 with The Ohio Edison Company to be effective 6/25/2019.

Filed Date: 4/26/19.

Accession Number: 20190426–5074.

Comments Due: 5 p.m. ET 5/17/19.

Docket Numbers: ER19–1683–000; TS19–3–000.

Applicants: Southern Power Company, Wildhorse Wind Energy, LLC.

Description: Petition for Waiver of the requirement of Order Nos. 888, et al. of Wildhorse Wind Energy, LLC.

Filed Date: 4/26/19.

Accession Number: 20190426–5140.

Comments Due: 5 p.m. ET 5/17/19.

Docket Numbers: ER19–1684–000.

Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.

Description: § 205(d) Rate Filing: 2019–04–26_SA 2005 Ameren-Hoosier WDS Agreement to be effective 7/1/2019.

Filed Date: 4/26/19.

Accession Number: 20190426–5139.

Comments Due: 5 p.m. ET 5/17/19.

Docket Numbers: ER19–1685–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 607R35 Westar Energy, Inc. NITSA NOA to be effective 4/1/2019.

Filed Date: 4/26/19.

Accession Number: 20190426–5159.

Comments Due: 5 p.m. ET 5/17/19.

Docket Numbers: ER19–1686–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–04–26_SA 2240 ITC-Sumpter Energy 1st Rev GIA (J043 J646) to be effective 4/10/2019.

Filed Date: 4/26/19.

Accession Number: 20190426–5160.

Comments Due: 5 p.m. ET 5/17/19.

Docket Numbers: ER19–1687–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: SPS Formula Rate Revisions to Incorporate Changes Accepted in ER18–2410 to be effective 1/1/2019.

Filed Date: 4/26/19.

Accession Number: 20190426–5188.

Comments Due: 5 p.m. ET 5/17/19.

Docket Numbers: ER19–1688–000.

Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.

Description: § 205(d) Rate Filing: 2019–04–26_SA 1951 Ameren-IMEA WDS Agreement to be effective 7/1/2019.

Filed Date: 4/26/19.

Accession Number: 20190426–5207.

Comments Due: 5 p.m. ET 5/17/19.

Docket Numbers: ER19–1689–000.

Applicants: Public Service Company of Colorado.

Description: Initial rate filing: 20190426_Non-Conforming Market-Based Rate Agreements to be effective 7/1/2019.

Filed Date: 4/26/19.

Accession Number: 20190426–5214.

Comments Due: 5 p.m. ET 5/17/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing

requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 26, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–08901 Filed 5–1–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–86–000]

Spire Storage West, LLC; Notice of Staff Protest to Proposed Blanket Certificate Activity

Commission staff (Protestor) hereby protests the prior notice request filed under the provisions of Part 157, subpart F, of the Commission's regulations, by Spire Storage West, LLC (Spire Storage) on February 13, 2019, in the above-referenced docket. Pursuant to its Part 157, subpart F, blanket certificate authority, Spire Storage proposes to construct and operate 10.1 miles of dual 20-inch-diameter pipelines, one new pipeline interconnection with measurement equipment, and related facilities in Uinta County, Wyoming. Protestor seeks to have this prior notice request processed as a case-specific application filed under section 7(c) of the Natural Gas Act and Part 157, subpart A, of the Commission's regulations.[1]

Protestor notes that Spire Storage did not provide documentation from the Wyoming State Historic Preservation Officer to demonstrate the Project's compliance with Section 106 of the National Historic Preservation Act, as required under section 157.208(c)(9) of the Commission's regulations. Without this information, environmental concerns cannot be adequately assessed before the protest period expires today.

Dated: April 26, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–08903 Filed 5–1–19; 8:45 am]

BILLING CODE 6717–01–P

[1] Section 157.205(f) provides that a protested prior notice filing shall be treated as though it had filed a case-specific application under the Natural Gas Act section 7, unless, pursuant to section 157.205(g), the protestor withdraws its protest within 30 days after protests were due.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14977–000]

Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications: kW River Hydroelectric

On March 4, 2019, kW River Hydroelectric 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 Hamilton Low Dam Hydroelectric Project to be located on the Great Miami River and near the City of Fairfield, in Butler County, Ohio. 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) Eleven 37-foot-long by 15-foot-wide turbine modules, each containing four 125-kilowatt (kW) turbines for a total project capacity of 5,500 kW; (2) two three-phase alternating current (A/C) generators, having a combined maximum power output capacity of 7,500 kW; (3) a 240-foot-long, 69-kV transmission line connecting to an existing transmission system (preferred option) or a 110-foot-long, 13.2-kV line connecting to an existing distribution system (secondary option); and (4) appurtenant facilities. The estimated annual generation of the Hamilton Low Dam Hydroelectric Project would be 3,066 megawatt-hours.

Applicant Contact: Mr. Paul Kling, kW River Hydroelectric, 5667 Krystal Court, Suite 100, Cincinnati, OH 45252; phone: (513) 673–2251.

FERC Contact: Tyrone Williams; phone: (202) 502–6331.

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,* (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–14977–000.

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–14977) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: April 26, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–08908 Filed 5–1–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13629–002]

Notice of Effectiveness of Withdrawal of License Application: Coleman Hydro LLC

On April 22, 2011, Coleman Hydro LLC (Coleman) filed a license application for an original minor license to construct and operate its proposed Coleman Hydroelectric Project No. 13629. The Commission issued a notice on April 1, 2019 that informed Coleman that its proposed LTC Hydro Project located at the same proposed site meets the qualifying conduit hydropower facility criteria and to withdraw its pending license application if it intends to pursue the project as a qualifying conduit hydropower facility. On April 9, 2019, Coleman filed a letter informing the Commission that it was withdrawing its minor license application for the project.

No motion in opposition to the notice of withdrawal has been filed, and the Commission has taken no action to disallow the withdrawal. Pursuant to Rule 216(b) of the Commission's Rules of Practice and Procedure, the withdrawal of the application became

effective on April 24, 2019 and this proceeding is hereby terminated.[1]

Dated: April 26, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–08907 Filed 5–1–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3820–011]

Aclara Meters, LLC; Notice of Withdrawal of Existing Licensee's Notice of Intent To File a New License Application, and Soliciting Pre-Application Documents and Notices of Intent To File a New License Application

On August 31, 2016, Aclara Meters, LLC (Aclara or licensee) filed a Notice of Intent (NOI) to file an application for a new license for its Somersworth Hydroelectric Project No. 3820 (project), pursuant to section 16.6 of the Commission's regulations.[1] On October 6, 2016, Commission staff issued a public notice of the NOI and approved the use of the traditional licensing process to develop the license application. The existing license for the project expires on August 31, 2021.[2]

On March 29, 2019, Aclara filed an application to surrender its license for the project.[3] In its filing, Aclara states that it will no longer seek to relicense the Somersworth Hydroelectric Project, and instead seeks to surrender its existing license. Accordingly, Aclara's surrender application is also deemed to be a withdrawal of its NOI to file an application for a new license for the project.

Pursuant to section 16.25(a) of the Commission's regulations, when an existing licensee, having previously filed an NOI to file a new license for a project, subsequently does not file an application for a new license, the Commission must solicit applications from potential applicants other than the existing licensee.[4] Any party interested in filing a license application or exemption (*i.e.,* a potential applicant) for the project must file an NOI and pre-application document within 90 days from the date of this notice.[5] While the integrated licensing process is the default process for preparing an application for a new license, a potential applicant may request to use alternative licensing procedures when it files its NOI.[6] An application for a new license or exemption for the Somersworth Hydroelectric Project No. 3820 must be filed within 18 months of the date of filing the NOI.

Questions concerning the process for filing an NOI should be directed to Patrick Crile at 202–502–8042 or *Patrick.Crile@ferc.gov*.

Dated: April 26, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–08906 Filed 5–1–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–178–000]

Enable Gas Transmission, LLC; Notice of Request Under Blanket Authorization

Take notice that on April 16, 2019, Enable Gas Transmission, LLC (Enable), 910 Louisiana Street, Ste. 48040 (48th Floor), Houston, Texas 77002, filed a prior notice request pursuant to sections 157.205, 157.208(b), and 157.210 of the Commission's regulations under the Natural Gas Act for authorization to decrease the maximum allowable operating pressure (MAOP) of Line JM–22 located in Monroe County, Arkansas. Specifically, Line JM–22 off of Enable's larger diameter pipeline, Line JM–20, is serving CenterPoint Energy-Arkansas Gas at the Cottonplant town border station located at the end of the line. Enable plans to improve safety and ensure compliance with Pipeline and Hazardous Materials Safety Administration regulations. Enable proposes to lower the historical MAOP of Line JM–22 from 686 psig to 400 psig, 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, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed Lisa Yoho, Sr. Director Regulatory & FERC Compliance, Enable Gas Transmission, LLC, 910 Louisiana St., Ste 48040, (48th Floor), Houston, Texas 77002, by telephone at (346) 701–2539, by fax at (346) 701–2905, or by email at *lisa.yoho@enablemidstream.com.*

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 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 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.

[1] 18 CFR 385.216(b) (2018).

[1] 18 CFR 16.6 (2018). At least five years before the expiration of a license for a major water power project, the licensee must file with the Commission an NOI that contains an unequivocal statement of the licensee's intention to file or not to file an application for a new license.

[2] The license for the project was issued with an effective date of September 1, 1981, for a term of 40 years. *General Electric Company,* 16 FERC 62,598 (1981).

[3] The surrender application filing may be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the d Aclara Meters, LLC docket number field to access the document. The Commission is not seeking public comment on the surrender application (Docket No. P–3820–012) at this time.

[4] 18 CFR 16.25(a) (2018).

[5] Pursuant to section 16.24(a)(2) of the Commission's regulations, the existing licensee is prohibited from filing an application either individually or in combination with other entities. 18 CFR 16.24(a)(2) (2018).

[6] 18 CFR 5.3(b) (2018).

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 commenter's will be placed on the Commission's environmental mailing list and will be notified of any meetings associated with the Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or 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*) under the e-Filing link. Persons unable to file electronically should submit original and 3 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Dated: April 26, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–08904 Filed 5–1–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP19–198–000]

Mississippi Hub, LLC; Notice of Application

Take notice that on April 22, 2019, Mississippi Hub, LLC (MS Hub), 10375 Richmond Ave., Suite 1900, Houston, TX 77042, filed in Docket No. CP19–198–000, an application pursuant to section 7(c) of the Natural Gas Act and Part 157 of the Commission's regulations to continue to own, operate and maintain an existing 4,735 horsepower gas-driven compressor unit at MS Hub's existing storage terminal in Simpson County, Mississippi. The applicant states that ArcLight Energy Partners Fund VI, L.P. (ArcLight) acquired all of the ownership interests in MS Hub from Sempra Energy after which a post-acquisition regulatory audit was conducted. The applicant states that the Certificate authorization for Gas Compressor 4, which the applicant claims was placed in service in 2012 and continues to operate, may have been inadvertently vacated by the prior owner, 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, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Todd Cash, Enstor Gas, LLC, 10375 Richmond Ave., Suite 1900, Houston, TX 77042, (281) 374–3085, *todd.cash@enstorinc.com* or Lisa M. Tonery, Orrick, Herrington & Sutcliffe LLP, 51 West 52nd Street, New York, N.Y. 10019, (212) 506–3710, *ltonery@orrick.com*.

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.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 3 copies of filings made with the Commission and must provide a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

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 commentors will be placed on the Commission's environmental mailing list and will be notified of any meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

As of the February 27, 2018 date of the Commission's order in Docket No. CP16–4–001, the Commission will apply its revised practice concerning out-of-time motions to intervene in any new Natural Gas Act section 3 or section 7 proceeding.[1] Persons desiring to become a party to a certificate proceeding are to intervene in a timely manner. If seeking to intervene out-of-time, the movant is required to ''show good cause why the time limitation should be waived, and should provide justification by reference to factors set forth in Rule 214(d)(1) of the Commission's Rules and Regulations.[2]

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov*. Persons unable to file electronically

[1] *Tennessee Gas Pipeline Company, L.L.C.,* 162 FERC 61,167 at 50 (2018).

[2] 18 CFR 385.214(d)(1).

should submit an original and 3 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE, Washington, DC 20426.

Comment Date: May 17, 2019.

Dated: April 26, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–08905 Filed 5–1–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9993–06–Region 5]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for Cargill, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition to object to Clean Air Act title V operating permit.

SUMMARY: The Environmental Protection Agency (EPA) Administrator signed an Order dated March 20, 2019, denying a petition dated July 11, 2014 from Michelle Ford (Petitioner). The Petitioner requested that EPA object to a Clean Air Act (CAA) title V operating permit issued by the Illinois Environmental Protection Agency (IEPA) to Cargill, Inc. (Cargill) for its Bloomington, Illinois, soybean processing facility.

ADDRESSES: EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view copies of the final Order, the Petition, and other supporting information. You may review copies of the final Order, the Petition, and other supporting information at the EPA Region 5 Office, 77 W Jackson Blvd., Chicago, Illinois 60604. You may view the hard copies Monday through Friday, from 9 a.m. to 4 p.m., excluding Federal holidays. If you wish to examine these documents, you should make an appointment at least 24 hours before the visiting day. Additionally, the final Order and Petition are available electronically at: *https://www.epa.gov/title-v-operating-permits/title-v-petition-database.*

FOR FURTHER INFORMATION CONTACT: David Ogulei, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–0987, *ogulei.david@epa.gov.*

SUPPLEMENTARY INFORMATION: The CAA affords EPA a 45-day period to review, and object, as appropriate, to title V operating permits proposed by State permitting authorities. Section 505(b)(2) of the CAA authorizes any person to petition the EPA Administrator within 60 days after the expiration of the EPA review period to object to a title V operating permit if EPA has not done so on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the State, unless the petitioner demonstrates that it was impracticable to raise issues during the comment period, or the grounds for the issues arose after this period.

On July 11, 2014, the Petitioner submitted a petition requesting that EPA object, pursuant to section 505(b)(2) of the CAA and 40 CFR 70.8(d), to the title V permit that IEPA issued on April 21, 2014 to Cargill for its Bloomington, Illinois, soybean processing facility. The Petitioner alleged that (1) the permit contains vague and undefined terms, including ''properly operated,'' ''reasonable steps,'' ''reasonable times,'' ''any records,'' ''other parameters,'' ''standard test methods,'' and an unclear date for when EPA notice started, among others; (2) the inspection provisions of the permit are inadequate because Cargill is forewarned of any inspections, may delay inspections, and has ample opportunity to correct any issues that would be found during inspection; (3) the permit improperly authorizes Cargill to operate ''outdated'' pre-1973 equipment and does not mandate upgrades to equipment to ensure compliance with permit limits; (4) the monitoring and control requirements of the permit are insufficient to address the facility's alleged historical violations of particulate matter emission limits; (5) the permit's recordkeeping requirements are inadequate because they do not require daily recordkeeping of the amount of grain processed; and (6) area residents' health, property and quality of life, including the ability to open windows or enjoy their property outdoors, have been severely impacted by Cargill's continued operation.

On March 20, 2019, the Administrator issued an order denying the petition. The order explains the basis for EPA's decision.

Sections 307(b) and 505(b)(2) of the CAA provide that a petitioner may request judicial review of those portions of an order that deny issues in a petition. Any petition for review of the Administrator's March 20, 2019 Order shall be filed in the United States Court of Appeals for the appropriate circuit no later than July 1, 2019.

Dated: April 18, 2019.

Cathy Stepp,

Regional Administrator, Region 5.

[FR Doc. 2019–08976 Filed 5–1–19; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting; Farm Credit Administration Board

AGENCY: Farm Credit Administration.

ACTION: Notice, regular meeting.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act, of the regular meeting of the Farm Credit Administration Board (Board).

DATES: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on May 9, 2019, from 9:00 a.m. until such time as the Board concludes its business.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090. Submit attendance requests via email to *VisitorRequest@FCA.gov.* See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

FOR FURTHER INFORMATION CONTACT: Dale Aultman, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: Name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- April 9, 2019.

B. New Business

- Statement on Regulatory Burden.

C. Closed Session

• Office of Secondary Market Oversight Periodic Report.[1]

Dated: April 29, 2019.

Dale Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2019–09043 Filed 4–30–19; 11:15 am]

BILLING CODE 6705–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC Systemic Resolution Advisory Committee; Notice of Charter Renewal

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of renewal of the FDIC Systemic Resolution Advisory Committee.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (FACA), and after consultation with the General Services Administration, the Chairman of the Federal Deposit Insurance Corporation has determined that renewal of the FDIC Systemic Resolution Advisory Committee (the Committee) is in the public interest in connection with the performance of duties imposed upon the FDIC by law.

FOR FURTHER INFORMATION CONTACT: Robert E. Feldman, Committee Management Officer of the FDIC, (202) 898–7043, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The Committee has been a successful undertaking by the FDIC and has provided valuable feedback to the agency on a broad range of issues regarding the resolution of systemically important financial companies pursuant to Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203 (July 21, 2010), 12 U.S.C. 5301 *et seq.* The Committee will continue to provide advice and recommendations on how the FDIC's systemic resolution authority, and its implementation, may impact regulated entities and other stakeholders potentially affected by the process. The structure and responsibilities of the Committee are unchanged from when it was originally established in May 2011. The Committee will continue to operate in accordance with the provisions of the Federal Advisory Committee Act.

Dated at Washington, DC, on April 29, 2019.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Committee Management Officer.

[FR Doc. 2019–08962 Filed 5–1–19; 8:45 am]

BILLING CODE 6714–01–P

[1] Session Closed-Exempt pursuant to 5 U.S.C. Section 552b(c)(8) and (9).

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

TIME AND DATE: Tuesday, May 7, 2019 at 10:00 a.m. and its continuation at the conclusion of the open meeting on May 9, 2019.

PLACE: 1050 First Street NE, Washington, DC.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Compliance matters pursuant to 52 U.S.C. 30109.

Matters relating to internal personnel decisions, or internal rules and practices.

Investigatory records compiled for law enforcement purposes and production would disclose investigative techniques.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

Matters concerning participation in civil actions or proceedings or arbitration.

* * * * *

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Laura E. Sinram,

Deputy Secretary of the Commission.

[FR Doc. 2019–09139 Filed 4–30–19; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Privacy Act of 1974; System of Records

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, notice is given that the Board of Governors of the Federal Reserve System (Board) proposes to modify an existing system of records, entitled BGFRS–1 ''FRB—Recruiting and Placement Records,'' to add the onboarding materials that prospective employees provide the Board before beginning employment at the Board and to clarify that the records also include ethics-related information such as potential conflicts of interest. The modified system of records, BGFRS–1, which will now be called ''FRB—Recruiting, Placement, and Onboarding Records,'' is a system of records that is used to identify, track, screen, and select individuals for positions at the Board and for onboarding prospective employees before they begin employment with the Board.

DATES: Comments must be received on or before June 3, 2019. This new system of records will become effective June 3, 2019, without further notice, unless comments dictate otherwise. The Office of Management and Budget (OMB), which has oversight responsibility under the Privacy Act, requires a 30-day period prior to publication in the **Federal Register** in which to review the system and to provide any comments to the agency. The public is then given a 30-day period in which to comment, in accordance with 5 U.S.C. 552a(e)(4) and (11).

ADDRESSES: You may submit comments, identified by *BGFRS–1 ''FRB—Recruiting, Placement, and Onboarding Records,''* by any of the following methods:

• *Agency Website: https://www.federalreserve.gov.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*

• *Email: regs.comments@federalreserve.gov.* Include SORN name and number in the subject line of the message.

• *Fax:* (202) 452–3819 or (202) 452–3102.

• *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: David B. Husband, Senior Attorney, (202) 530–6270, or *david.b.husband@frb.gov;* Alye S. Foster, Assistant General Counsel, (202) 452–5289, or

alye.s.foster@frb.gov; Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869.

SUPPLEMENTARY INFORMATION: The Board's new onboarding process will involve the collection of information from prospective employees to appropriate Board staff as well as the provision of information from Board staff to the prospective employees. The onboarding process will occur in the period between acceptance of offer and the prospective employee's start date. The Board will also collect and store ethics pre-hire conflict of interest screening information. Accordingly, BGFRS–1 is amended to update the system name, the system location, the system manager information, the authority for maintenance of the system, the purpose of the system, the categories of individuals, the categories of records in the system, the record source, the policies and practices for the retrieval, retention, and disposal of records, and the administrative and technical safeguards. The Board is not adding any new routine uses or amending any existing routine uses.

The Board is also making technical changes to BGFRS–1 consistent with the template laid out in OMB Circular No. A–108. Accordingly, the Board has made technical corrections and non-substantive language revisions to the following categories: ''Policies and Practices for Storage of Records,'' ''Policies and Practices for Retrieval of Records,'' ''Policies and Practices for Retention and Disposal of Records,'' ''Administrative, Technical and Physical Safeguards,'' ''Record Access Procedures,'' ''Contesting Record Procedures,'' and ''Notification Procedures.'' The Board has also created the following new fields: ''Security Classification'' and ''History.''

SYSTEM NAME AND NUMBER

BGFRS–1 ''FRB—Recruiting, Placement, and Onboarding Records''

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records will be maintained at the Board's central offices located at: Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. Copies of resumes, applications, supporting documentation, and offer information may also be stored by the hiring managers in their respective Board offices and electronic systems. Some of the records are stored by the Board's contractor, Oracle Corporation, located at 500 Oracle Parkway, Redwood Shores, CA 94065.

SYSTEM MANAGER(S):

The managers are located at the Board's central offices in Washington, DC. The system manager for records for all positions other than those involving the recruitment of economist or research assistant positions at the Board is Lewis Andrews, Sr. Manager, Human Resources Analytics, Systems and Operations, Management Division, (202) 452–3082, or *lewis.e.andrews@frb.gov.* The system manager for records involving the recruitment of economist or research assistant positions at the Board is Lil Shewmaker, Assistant Director, Division of Research and Statistics, (202) 452–3377, or *lil.shewmaker@frb.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 10 and 11 of the Federal Reserve Act (12 U.S.C. 244 and 248(l)) and Executive Order 9397.

PURPOSE(S) OF THE SYSTEM:

These records are collected and maintained to assist the Board in recruiting and hiring individuals for Board employment and onboarding prospective employees. The records will also assist the Board in retaining qualified employees and allow the Board to periodically review its hiring practices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who seek employment with the Board and prospective Board employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system include resumes, applications, and supporting documentation submitted by persons seeking employment; information from job fairs; job referrals; notes from interviews; notes on references; onboarding information from prospective employees; offer letters; and other recruiting related documentation, including verification of education, previous government service and/or military status. The records also include information regarding access to and use of the electronic systems. Certain information is also retained to enable the Board's Office of Diversity and Inclusion to monitor and track the Board's recruiting and hiring performance. Ethics-related information including potential conflicts are retained for compliance with the Board's ethics program requirements.

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom the record pertains; the individual's references and former employers; Board staff such as recruiters, interviewers, or contractors; job referrals; and official transcripts and other documentation from schools identified by the individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, I, and J apply to this system. These general routine uses are located at *https://www.federalreserve.gov/files/SORN-page-general-routine-uses-of-board-systems-of-records.pdf* and are published in the **Federal Register** at 83 FR 43872 at 43873–74 (August 28, 2018). In addition, records may also be used to disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested), when necessary to obtain information relevant to a Board decision to hire or retain an employee, issue a security clearance, conduct a security or suitability investigation of an individual, classify jobs, let a contract, or issue a license, grant, or other benefit.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper records in this system are stored in file folders with access limited to staff with a need to know. Electronic records are stored on a secure server with access limited to staff with a need to know.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Paper and electronic records can be retrieved by name or other personal identifiers.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The Board is presently re-evaluating the retention schedule for application records and until the existing retention period is confirmed as appropriate or a new retention period is set, the Board will maintain the records. The Board will maintain onboarding materials for prospective employees who do not enter on duty for one year, in accordance with GRS 2.1 item 142. Relevant application records for applicants who are hired are kept in the employee's official personnel file and maintained in accordance with the System of Records entitled BGFRS–4''FRB—General Personnel Records.'' Ethics-related

records for applicants who are hired may be maintained in accordance with the System of Records entitled BGFRS–41 ''FRB—Ethics Program Records.'' Onboarding records for hires who become employees of the Board are maintained in accordance with the respective Board system of records for the records including BGFRS–4 ''FRB—General Personnel Records,'' BGFRS–7 ''FRB—Payroll and Leave Records,'' BGFRS–24 ''FRB—EEO General Files,'' and BGFRS–34 ''FRB—ESS Staff Identification Card File.''

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records are secured by lock and key and electronic files are stored on secure servers. The system has the ability to track individual user actions within the system. The audit and accountability controls are based on NIST and Board standards which, in turn, are based on applicable laws and regulations. The controls assist in detecting security violations and performance or other issues in the system. Access to the system is restricted to authorized users within the Board who require access for official business purposes. Users are classified into different roles and common access and usage rights are established for each role. User roles are used to delineate between the different types of access requirements such that users are restricted to data that is required in the performance of their duties. Periodic assessments and reviews are conducted to determine whether users still require access, have the appropriate role, and whether there have been any unauthorized changes.

RECORD ACCESS PROCEDURES:

The Privacy Act allows individuals the right to access records maintained about them in a Board system of records. Your request for access must: (1) Contain a statement that the request is made pursuant to the Privacy Act of 1974; (2) provide either the name of the Board system of records expected to contain the record requested or a concise description of the system of records; (3) provide the information necessary to verify your identity; and (4) provide any other information that may assist in the rapid identification of the record you seek.

Current or former Board employees may make a request for access by contacting the Board office that maintains the record. The Board handles all Privacy Act requests as both a Privacy Act request and as a Freedom of Information Act request. The Board does not charge fees to a requestor seeking to access or amend his/her Privacy Act records.

You may submit your Privacy Act request to the—Secretary of the Board, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

You may also submit your Privacy Act request electronically through the Board's FOIA ''Electronic Request Form'' located here: *https://www.federalreserve.gov/secure/forms/efoiaform.aspx.*

CONTESTING RECORD PROCEDURES:

The Privacy Act allows individuals to seek amendment of information that is erroneous, irrelevant, untimely, or incomplete and is maintained in a system of records that pertains to them. To request an amendment to your record, you should clearly mark the request as a ''Privacy Act Amendment Request.'' You have the burden of proof for demonstrating the appropriateness of the requested amendment and you must provide relevant and convincing evidence in support of your request.

Your request for amendment must: (1) Provide the name of the specific Board system of records containing the record you seek to amend; (2) identify the specific portion of the record you seek to amend; (3) describe the nature of and reasons for each requested amendment; (4) explain why you believe the record is not accurate, relevant, timely, or complete; and (5) unless you have already done so in a related Privacy Act request for access or amendment, provide the necessary information to verify your identity.

NOTIFICATION PROCEDURES:

Same as ''Access procedures'' above. You may also follow this procedure in order to request an accounting of previous disclosures of records pertaining to you as provided for by 5 U.S.C. 552a(c).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Certain portions of this system of records may be exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act pursuant to subsections 5 U.S.C. 552a(k)(2) and (k)(5).

HISTORY:

This SORN was previously published in the **Federal Register** at 81 FR 39923 (June 20, 2016) and 73 FR 24984 at 24987 (May 6, 2008). The SORN was also amended to incorporate two new routine uses required by OMB at 83 FR 43872 (August 28, 2018).

Board of Governors of the Federal Reserve System, April 29, 2019.

Ann Misback,

Secretary of the Board.

[FR Doc. 2019–08978 Filed 5–1–19; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice and request for comment.

SUMMARY: The FTC requests that the Office of Management and Budget (OMB) extend for three years the current PRA clearance for information collection requirements contained in the agency's Health Breach Notification Rule. The existing clearance expires on May 31, 2019. The public should address comments to this notice to the OMB.

DATES: Comments must be received by June 3, 2019.

ADDRESSES: Comments in response to this notice should be submitted to the OMB Desk Officer for the Federal Trade Commission within 30 days of this notice. You may submit comments using any of the following methods:

Electronic: Write ''Health Breach Notification Rule: PRA Comment, P072108,'' on your comment and file your comment online at *https://www.regulations.gov,* by following the instructions on the web-based form.

Email: Wendy_L._Liberante@omb.eop.gov.

Fax: (202) 395–5806.

Mail: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Robin Wetherill, 202–326–2220, Attorney, Privacy & Identity Protection, Bureau of Consumer Protection, 600 Pennsylvania Ave. NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Title: Health Breach Notification Rule.

OMB Control Number: 3084–0150.

Type of Review: Extension of a currently approved collection.

Abstract: The Health Breach Notification Rule (Rule), 16 CFR part 318, requires vendors of personal health records and PHR related entities to

provide: (1) Notice to consumers whose unsecured personally identifiable health information has been breached; and (2) notice to the Commission. The Rule only applies to electronic health records and does not include recordkeeping requirements. The Rule requires third party service providers (*i.e.,* those companies that provide services such as billing or data storage) to vendors of personal health records and PHR related entities to provide notification to such vendors and PHR related entities following the discovery of a breach. To notify the FTC of a breach, the Commission developed a simple, two-page form requesting minimal information and consisting mainly of check boxes, which is posted at *www.ftc.gov/healthbreach*.

On February 8, 2019, the FTC sought comment on the information collection requirements associated with the Rule. 84 FR 2868. The FTC received seven non-germane comments that did not address either the burden associated with the Rule or any of the other issues raised by the public comment request. Pursuant to OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 *et seq.,* the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for the Rule. For more details about the Rule requirements and the basis for the calculations summarized below, see 84 FR 2868.

Likely Respondents: Vendors of personal health records, PHR related entities and third party service providers.

Estimated Annual Hours Burden: 4,779.

Estimated Frequency: 25,000 single-person breaches per year and 0.33 major breaches per year.

Total Annual Labor Cost: $96,656.[1]

Total Annual Capital or Other Non-Labor Cost: $29,952.[2]

[1] Hourly wages throughout this document are updated from the 60-Day **Federal Register** notice and are based on mean hourly wages found at *http://www.bls.gov/news.release/ocwage.htm* (''Occupational Employment and Wages–May 2018,'' U.S. Department of Labor, released March 2019, Table 1 (''National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2018'').

The breakdown of labor hours and costs is as follows: 50 hours of computer and information systems managerial time at approximately $73 per hour; 12 hours of marketing manager time at $71 per hour; 33 hours of computer programmer time at $43 per hour; and 5 hours of legal staff time at $69 per hour. The cost of telephone operators is estimated at $19/hour.

[2] Average wages for information security analysts are estimated at $49/hour.

Request for Comment

Your comment—including your name and your state—will be placed on the public record of this proceeding at the *https://www.regulations.gov* website. Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Heather Hippsley,

Deputy General Counsel.

[FR Doc. 2019–08909 Filed 5–1–19; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–19–19LI]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Long-term sequela of Rocky Mountain spotted fever (RMSF) to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on February 7, 2019 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

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

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Long-term sequela of Rocky Mountain spotted fever (RMSF)—New ICR—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Data collection for this investigation was initiated in July 2018 following OMB approval on 7/22/2018, with a second approval on 11/15/2018 under the Emergency Epidemic Investigations (EEI) Generic ICR (OMB Control Number 0920–1011, exp 1/31/2020). A full OMB package is being submitted to allow for continuation of the project. CDC is seeking three years of OMB approval.

Rocky Mountain spotted fever (RMSF), a life-threatening and rapidly progressive tickborne disease, is caused by infection with the bacterium Rickettsia rickettsii. Infection begins

with non-specific symptoms like fever, headache, and muscle pain, but when left untreated the bacteria can cause damage to blood vessels throughout the body leading to organ and tissue damage. Delay in recognition and treatment of RMSF can result in irreparable damage leading to amputation of extremities, neurological deficits (such as hearing loss, paralysis, and encephalopathy), and death.

Case series in the peer-reviewed literature document long term sequelae (LTS) from RMSF in anywhere from 3–55% of cases, yet characterization of the long-term impacts is still not well understood, and only a handful of studies have examined them in detail. Results of neurologic damage caused during acute RMSF illness may include symptoms ranging from paresthesia, insomnia and behavioral concerns to loss of hearing, motor or language dysfunction, and chronic pain.

This study will gather information related to neurologic sequela following RMSF illness. Information for this study will come from three sources: Medical charts, patient interviews, and neurological exams with a cognitive/developmental assessment for children. Resulting data will provide information to healthcare providers, patients, and policy makers about the long term consequences of severe RMSF, including time to recovery, self-reported impact to daily function, and will look to identify risk factors during acute illness which may be associated with long term impairment.

There is no cost to respondents other than the time to participate. Total estimated burden is 42 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
General Public	Patient screening questionnaire	84	1	10/60
	Neurological exam form	42	1	40/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2019–08930 Filed 5–1–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–19–0604]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled School-Associated Violent Deaths Surveillance System (SAVD) to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on February 2, 2019 to obtain comments from the public and affected agencies. CDC received four comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

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

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

School-Associated Violent Deaths Surveillance System (SAVD) (OMB#: 0920–0604, expiration 05/31/2019)—Revision—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Division of Violence Prevention (DVP), National Center for Injury Prevention and Control (NCIPC) proposes to maintain a system for the surveillance of school-associated homicides and suicides. The system relies on existing public records and interviews with law enforcement officials and school officials. The purpose of the system is to (1) estimate the rate of school-associated violent death in the United States and (2) identify common features of school-associated violent deaths. The system will contribute to the understanding of fatal violence associated with schools, guide further research in the area, and help direct ongoing and future prevention programs.

Violence is the leading cause of death among young people, and increasingly recognized as an important public health and social issue. In 2016, over 3,600 school-aged children (five to 18 years old) in the United States died violent deaths due to suicide, homicide, and unintentional firearm injuries. The vast majority of these fatal injuries were not school associated. However, whenever a homicide or suicide occurs in or around school, it becomes a matter of particularly intense public interest and concern. NCIPC conducted the first scientific study of school-associated violent deaths (SAVD) during the 1992–99 academic years to establish the true extent of this highly visible problem. Despite the important role of schools as a setting for violence research and

prevention interventions, relatively little scientific or systematic work has been done to describe the nature and level of fatal violence associated with schools. Until NCIPC conducted the first nationwide investigation of violent deaths associated with schools, public health and education officials had to rely on limited local studies and estimated numbers to describe the extent of school-associated violent death.

SAVD is an ongoing surveillance system that draws cases from the entire United States in an attempt to capture all cases of school-associated violent deaths that have occurred. Investigators review public records and published press reports concerning each school-associated violent death. For each identified case, investigators also contact the corresponding law enforcement agency and speak with an official in order to confirm or reject the case as an SAVD, and to request a copy of the official law enforcement report for confirmed SAVD cases.

In past years, investigators would interview an investigating law enforcement official (defined as a police officer, police chief, or district attorney), and a school official (defined as a school principal, school superintendent, school counselor, school teacher, or school support staff) who were knowledgeable about the case in question; however, moving forward, the interviews with these respondents will be eliminated, and instead CDC study personnel will abstract data from law enforcement reports to enter using a Data Abstraction Tool. Data to be abstracted from the law enforcement report include the following: Information on both the victim and alleged offender(s)—including demographic data, their criminal records, and their relationship to one another; the time and location of the incident precipitating the fatality; the circumstances, motive, and method of the fatal injury; and the security and violence prevention activities in the school and community where the death occurred, before and after the fatal injury event. The revised data collection process eliminating the use of telephone interviews will reduce respondents' burden greatly.

All data are secured through the use of technical, physical, and administrative controls. Hard copies of data are kept under lock and key in secured offices, located in a secured facility that can be accessed only by presenting the appropriate credentials. Digital data are password protected and then stored (and backed up routinely) onto a secure Local Area Network that can only be accessed by individuals who have been appropriately authorized. Study data are reported in the aggregate, such that no individual case can be identified from the reports. There are no costs to the respondents other than their time. The total estimated annual burden hours are 17.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Law Enforcement Officer	Law Enforcement Case Confirmation Script	50	1	5/60
	Letter to Local Law Enforcement Officials	50	1	15/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2019–08931 Filed 5–1–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—PS15–001SUPP, Positive Health Check Evaluation Trial.

Date: June 27, 2019.

Time: 10:00 a.m.–5:00 p.m., (EDT).

Place: Teleconference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Gregory Anderson, M.S., M.P.H., Scientific Review Officer, CDC, 1600 Clifton Road NE, Mailstop E60, Atlanta, Georgia 30329, (404) 718–8833, *gca5@cdc.gov.*

The Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Sherri Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–08929 Filed 5–1–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–1346]

Development of Antiviral Drugs for the Treatment of Adenoviral Infection in Immunocompromised Patients; Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the following public workshop entitled ''Development of Antiviral Drugs for the Treatment of Adenoviral Infection in

Immunocompromised Patients.'' The purpose of the public workshop is to discuss the scientific and clinical trial design considerations for development of antiviral products to treat adenoviral infection.

DATES: The public workshop will be held on August 8, 2019, from 8:30 a.m. to 4:30 p.m. Submit either electronic or written comments on this public workshop by September 8, 2019. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public workshop will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993. Entrance for the public workshop participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before September 8, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time on September 8, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–N–1346 for ''Development of Antiviral Drugs for the Treatment of Adenoviral Infection in Immunocompromised Patients.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Lori Benner and/or Jessica Barnes, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6221, Silver Spring, MD 20993–0002, 301–796–1300.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing a public workshop related to the development of antiviral drugs to treat adenoviral infection in immunocompromised patients. Discussions will focus on scientific and clinical trial design considerations and potential paths forward for antiviral drug development.

II. Topics for Discussion at the Public Workshop

Discussions are planned around the following topics:

- Trial design considerations (*e.g.,* trial endpoints, trial populations, treatment strategies, risk/benefit considerations, ethical considerations, virologic testing considerations)
- Diagnostic assay(s) considerations

The Agency encourages healthcare providers, other U.S. Government Agencies, academic experts, industry, and other stakeholders to attend this public workshop.

III. Participating in the Public Workshop

Registration: Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public workshop must register online by August 1, 2019, 11:59 p.m. Eastern Time. To register, please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone to *https://www.eventbrite.com/e/development-of-antiviral-drugs-for-the-treatment-of-adenoviral-infection-in-*

immunocompromised-tickets-55714561754.

Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when they have been accepted. If time and space permit, onsite registration on the day of the public workshop will be provided beginning at 7:30 a.m. We will let registrants know if registration closes before the day of the public workshop.

If you need special accommodations due to a disability, please contact Jessica Barnes or Lori Benner (see **FOR FURTHER INFORMATION CONTACT**) no later than August 1, 2019.

Requests for Oral Presentations: During online registration you may indicate if you wish to present during a public comment session or participate in a specific session, and which topic(s) you wish to address. We will do our best to accommodate requests to make public comments. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations, and request time for a joint presentation, or submit requests for designated representatives to participate in the focused sessions. Following the close of registration, we will determine the amount of time allotted to each presenter and the approximate time each oral presentation is to begin, and will select and notify participants by August 2, 2019. All requests to make oral presentations must be received by the close of registration on July 29, 2019. If selected for presentation, any presentation materials must be emailed to *ONDPublicMTGSupport@fda.hhs.gov* no later than August 5, 2019. No commercial or promotional material will be permitted to be presented or distributed at the public workshop.

Streaming Webcast of the Public Workshop: This public workshop will also be webcast at the following site: *https://collaboration.fda.gov/oapdavp080819.*

If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *https://www.adobe.com/go/connectpro_overview.* FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

Transcripts: Please be advised that as soon as a transcript of the public workshop is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (see **ADDRESSES**). A link to the transcript will also be available on the internet at *https://www.fda.gov/Drugs/NewsEvents/ucm630653.htm.*

Dated: April 29, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–08993 Filed 5–1–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–0001]

Preparation for International Cooperation on Cosmetics Regulation Thirteenth Annual Meeting; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the following public meeting entitled ''International Cooperation on Cosmetics Regulation (ICCR)—Preparation for ICCR–13 Meeting.'' The purpose of the public meeting is to invite public input on various topics pertaining to the regulation of cosmetics. We may use this input to help us prepare for the ICCR–13 meeting that will be held July 9 to 11, 2019, in Montreal, Canada.

DATES: The public meeting will be held on June 5, 2019, from 2 p.m. to 4 p.m. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public meeting will be held at the Food and Drug Administration, Center for Food Safety and Applied Nutrition, 5001 Campus Dr., Wiley Auditorium (first floor), College Park, MD 20740.

FOR FURTHER INFORMATION CONTACT: Jonathan Hicks, Office of Cosmetics and Colors, Food and Drug Administration, 5001 Campus Dr. (HFS–125), College Park, MD 20740, 240–402–1375, *Jonathan.Hicks@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The intention of the ICCR multilateral framework is to pave the way for the removal of regulatory obstacles to international trade while maintaining global consumer protection. The purpose of the meeting is to invite public input on various topics pertaining to the regulation of cosmetics. We may use this input to help us prepare for the ICCR–13 meeting that will be held July 9 to 11, 2019, in Montreal, Canada.

ICCR is a voluntary international group of cosmetics regulatory authorities from Brazil, Canada, the European Union, Japan, and the United States of America. These regulatory authority members will engage in constructive dialogue with their relevant cosmetics industry trade associations and public advocacy groups. Currently, the ICCR members are: The Brazilian Health Surveillance Agency; Health Canada; the European Commission Directorate-General for Internal Market, Industry, Entrepreneurship, and Small and Medium-sized Enterprises; the Ministry of Health, Labor, and Welfare of Japan; and FDA. All decisions are made by consensus and will be compatible with the laws, policies, rules, regulations, and directives of the respective administrations and governments. Members will implement and/or promote actions or documents within their own jurisdictions and seek convergence of regulatory policies and practices. Successful implementation will need input from stakeholders.

II. Topics for Discussion at the Public Meeting

We will make the agenda for the public meeting available on the internet at *https://www.fda.gov/Cosmetics/InternationalActivities/ICCR/default.htm.* Depending on the number of requests for oral presentations, we intend to have an agenda available by May 29, 2019.

III. Participating in the Public Meeting

Registration: To register for the public meeting, send registration information (including your name, title, affiliation, address, email, and telephone), to Jonathan Hicks by May 22, 2019. If you would like to listen to the meeting by phone, please submit a request for a dial-in number by May 22, 2019 (see **FOR FURTHER INFORMATION CONTACT**). If you need special accommodations due to a disability, please contact Jonathan Hicks by May 29, 2019.

Requests for Oral Presentations: If you wish to present, you should notify Jonathan Hicks by May 22, 2019, and submit a brief statement of the general nature of the presentation: What you wish to present, your name, title, affiliation, address, email, and telephone, and indicate the approximate amount of time needed to make your presentation. You may wish to present proposals for future ICCR agenda items, data, information, or views, in person or in writing, on issues pending at the

public meeting or a topic related to a previous meeting. There will be no presentations by phone. Time allotted for oral presentations may be limited to 10 minutes or less for each presenter, depending on the number of requests received.

Transcripts: Please be advised that as soon as a transcript of the public meeting is available, it will be accessible at *https://www.regulations.gov.* It may also be viewed at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20850.

Dated: April 26, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–08897 Filed 5–1–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of a HRSA-Initiated Supplemental Award to Recipients in the Reaching Practicing Maternal and Child Health (MCH) Professionals in Underserved Areas Through Education and Training Program

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice of a HRSA-Initiated Supplemental Award to Recipients in the Reaching Practicing Maternal and Child Health (MCH) Professionals in Underserved Areas through Education and Training Program.

SUMMARY: HRSA announces the award of a supplement of $705,246 for the Reaching Practicing MCH Professionals in Underserved Areas through Education and Training Program (hereafter Program) recipients. The supplement will allow the current four recipients, during the period of June 1, 2019–May 31, 2020, to continue supporting the development and implementation of in-depth training tailored to the specific needs of MCH public health professionals practicing in underserved communities, including rural and frontier areas and Indian reservations.

SUPPLEMENTARY INFORMATION:

Intended Recipients of Award: The Regents of the University of Colorado, The University of Texas Health Science Center at Houston, University of New Mexico, and University of Washington.

Amount of Non-Competitive Awards: $705,246.

Period of Supplemental Funding: 06/01/2019–05/31/2020.

CFDA Number: 93.110.

Authority: Social Security Act, Title V, § 501(a)(2) (42 U.S.C. 701(a)(2)).

Justification: The purpose of the Program is to strengthen the nation's (59 states and jurisdictions) public health system by developing the MCH public health workforce in underserved and geographically isolated communities, including rural, frontier areas, and Indian reservations. The purpose of the supplement from HRSA is to extend the performance period of the current four recipients to continue supporting the development and implementation of in-depth training tailored to the specific needs of MCH public health professionals practicing in underserved communities. These four recipients received their original awards for the period of June 1, 2014 through May 31, 2019 through a competitive process. The non-competitive supplement will allow grantees to complete training activities consistent with approved activities in their competing applications. Activities will include outreach and training for MCH professionals in tribal communities and training for MCH professionals on pressing topics such as mental health and substance use disorders. This supports the overall goal of the Program to strengthen the nation's public health system by developing the MCH public health workforce in underserved and geographically isolated communities.

FOR FURTHER INFORMATION CONTACT: Samantha Croffut, Division of Maternal and Child Health Workforce Development, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Room 18W62, Rockville, MD 20852, Phone: 301–443–3139, Email: *SCroffut@hrsa.gov.*

Grantee/organization name	Grant No.	State	FY 2018 authorized funding level	FY 2019 proposed funding level
The Regents of the University of Colorado	T04MC26890	CO	$175,866	Up to $175,866.
The University of Texas Health Science Center at Houston	T04MC12785	TX	$176,634	Up to $176,634.
University of New Mexico	T04MC26891	NM	$176,138	Up to $176,138.
University of Washington	T04MC26892	WA	$176,608	Up to $176,608.

Dated: April 26, 2019.

George Sigounas,

Administrator.

[FR Doc. 2019–08877 Filed 5–1–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of a HRSA-Initiated Supplemental Award to the University of Nebraska Medical Center/Board of Regents of the University of Nebraska for the Partnership for Urban Maternal and Child Health (MCH) Leadership Community Cooperative Agreement

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice of a HRSA-Initiated Supplemental Award to the University of Nebraska Medical Center/Board of Regents of the University of Nebraska for the Partnership for Urban Maternal and Child Health (MCH) Leadership Community Cooperative Agreement.

SUMMARY: HRSA announces the award of a supplement for $700,000 to the University of Nebraska Medical Center/Board of Regents of the University of Nebraska for the Partnership for Urban MCH Leadership Community Cooperative Agreement. The supplement will allow the current recipient, during the period of May 1, 2019–April 30, 2020, to assess the outcomes and impact of its collective impact learning collaborative with urban health departments.

SUPPLEMENTARY INFORMATION:

Intended Recipient of Award: University of Nebraska Medical Center/Board of Regents of the University of Nebraska.

Amount of Non-Competitive Award: $700,000.

Period of Supplemental Funding: 05/01/2019–04/30/2020.

CFDA Number: 93.110.

Authority: Social Security Act, Title V, § 501(a)(2) (42 U.S.C. 701(a)(2)).

Justification: The purpose of the Partnership for Urban MCH Leadership Community Cooperative Agreement program is to support urban MCH leaders as they work to improve public health programs and the delivery of MCH services, and to assure optimal alignment with the Title V MCH Services Block Grant program. This program focuses on the following three goals:

1. Assisting urban MCH leaders in achieving collective impact to respond to the MCH challenges faced by urban communities by performing an environmental scan, planning and convening a series of three learning collaborative for urban MCH leaders, and developing and disseminating a collective impact toolkit and compendium;

2. Strengthening local and State MCH analytic capacity through epidemiology training opportunities; and

3. Serving as an effective voice in communicating urban MCH issues and in developing strong partnerships and collaborations with State Title V programs and other national partners to advance urban MCH priorities.

The purpose of the supplement from HRSA is to give the University of Nebraska Medical Center/Board of Regents of the University of Nebraska for the Partnership for Urban MCH Leadership Community Cooperative Agreement, the opportunity to collect impact data for an additional year in support of goal one of this project. An additional year will allow the recipient to mature the current projects, continue collecting data from teams, and begin to assess the impact that this collective impact work has had on urban outcomes, as well as any impact at the State Title V National Performance Measure level. The recipient also will have the opportunity for more extensive data analysis to assess effective strategies that impact urban outcomes, and to identify lessons learned for potential future collective impact initiatives. With an extra year, the recipient will be able to assess penetration of collective impact into broader communities, and plan for providing technical assistance regarding replication of these learning collaborative in new urban areas.

This cooperative agreement also supports epidemiology training (Goal 2) and enables the award recipient to serve as a voice for advancing urban MCH priorities (Goal 3), which are ongoing needs. This supplement will maintain HRSA's investment in strengthening local and State MCH analytic capacity through epidemiology training opportunities, as provided by Goal 2, to assure optimal capacity to respond to MCH emerging and priority issues at the state and local level, such as opioids and neonatal abstinence syndrome. In addition, assuring that a national partner is continuing to communicate urban MCH issues, as addressed by Goal 3, is a foundational need of the state-urban MCH partnership, and is essential for optimizing Title V MCH Block Grant outcomes.

FOR FURTHER INFORMATION CONTACT: Kate Marcell, Division of State and Community Health, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Room 18N104D, Rockville, MD 20857, Phone: 301–443–4656, Email: *KMarcell@hrsa.gov.*

Grantee/organization name	Grant No.	State	FY 2018 Authorized funding level	FY 2019 Proposed funding level
University of Nebraska Medical Center/Board of Regents of the University of Nebraska.	U01MC17261	NE	$700,000	Up to $700,000.

Dated: April 26, 2019.

George Sigounas,

Administrator.

[FR Doc. 2019–08876 Filed 5–1–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Biodefense Science Board: In-Person Meeting

AGENCY: Office of the Assistant Secretary for Preparedness and Response (ASPR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The HHS Office of the Secretary is hosting the National Biodefense Science Board (NBSB) at an In-Person Meeting in Washington, DC, on June 10–11, 2019. The purpose of the NBSB In-Person Meeting is to gather expert advice provided by NBSB and guidance to the Secretary on scientific, technical, and other matters of special interest to HHS regarding current and future chemical, biological, nuclear, and radiological agents, whether naturally occurring, accidental, or deliberate.

DATES: The NBSB In-Person Meeting is being held on June 10–11, 2019, from 9:00 a.m. to 5:00 p.m. Eastern Daylight Time (EDT).

ADDRESSES: Please visit the NBSB website (*https://www.phe.gov/nbsb*) for all additional information regarding NBSB or the In-Person Meeting.

FOR FURTHER INFORMATION CONTACT: CDR Christopher Perdue, MD, MPH, Designated Federal Official, NBSB, ASPR, HHS; 202–401–5837; *christopher.perdue@hhs.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 319M of the Public Health Service Act, HHS has established the NBSB to provide expert advice and guidance to the Secretary on scientific, technical, and other matters of special interest to HHS regarding current and future chemical, biological, nuclear, and radiological agents, whether naturally occurring, accidental, or deliberate.

Availability of Materials: Participants are encouraged to visit the NBSB website (*http://www.phe.gov/nbsb*) for information about the meeting, including the agenda.

Procedures for Providing Public Input: Members of the public are encouraged to go to the NBSB website (*http://www.phe.gov/nbsb*) for instructions about the submission of written comments.

Dated: April 25, 2019.

Robert P. Kadlec,

Assistant Secretary for Preparedness and Response.

[FR Doc. 2019–08943 Filed 5–1–19; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Advisory Committee to the Director, National Institutes of Health, December 12, 2019, 09:00 a.m. to December 13, 2019, 01:00 p.m., National Institutes of Health, Building 45, 45 Center Drive, Conference Room D, Bethesda, MD, 20892 which was published in the **Federal Register** on February 15, 2019, 84 FR 4492.

The meeting notice is amended to change the meeting location from NIH, Natcher Building, Conference Room D, 45 Center Drive, Bethesda, MD 20892 to NIH, Building 1, Wilson Hall, 1 Center Drive, Bethesda, MD 20892. The meeting is open to the public.

Dated: April 26, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–08884 Filed 5–1–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Dental and Craniofacial Research Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and 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 Advisory Dental and Craniofacial Research Council.

Date: May 23, 2019.

Open: 9:00 a.m. to 12:30 p.m.

Agenda: Report to the Director, NIDCR.

Place: National Institutes of Health, Building 35, 8600 Rockville Pike, Bethesda, MD 20892.

Closed: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 35, Room 620/630, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Alicia J. Dombroski, Ph.D., Director, Division of Extramural Activities, National Instit of Dental and Craniofacial Research; National Institutes of Health, Bethesda, MD 20892, 301–594–4805, *adombroski@nidcr.nih.gov*.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nidcr.nih.gov/about*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: April 26, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–08881 Filed 5–1–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory General Medical Sciences Council, September 19, 2019, 09:00 a.m. to September 20, 2019, 12:00 p.m., National Institutes of Health, Natcher Building, 45 Center Drive, Conference Rooms E1 & E2, Bethesda, MD, 20892 which was published in the **Federal Register** on February 14, 2019, 84 FR 4089.

The meeting notice is amended to change the Contact Person from: Ann A. Hagan, Ph.D., Associate Director for Extramural Activities; NIGMS, NIH, DHHS; 45 Center Drive, Room 2AN24H, MSC6200; Bethesda, MD 20892–6200; (301) 594–4499; *hagana@nigms.nih.gov.17* to *Contact Person:* Erica Brown, Ph.D., Acting Associate Director for Extramural Activities; NIGMS, NIH, DHHS; 45 Center Drive, Room 2AN24F; Bethesda, MD 20892; 301–594–4499; *ebrown1@mail.nih.gov*.

Dated: April 26, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–08888 Filed 5–1–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; CRO Support for Lead Optimization—TRND7.

Date: May 14, 2019.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: Bethesda Marriott Suites, The Independence I Conference Room, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Rahat (Rani) Khan, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences, 6701 Democracy Blvd., Rm. 1078, Bethesda, MD 20892, 301–594–7319, *khanr2@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: April 26, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–08882 Filed 5–1–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Application (P01).

Date: May 17, 2019.

Time: 3:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Julio C. Aliberti, Ph.D., Scientific Review Officer Immunology Review Branch DEA/SRP RM 3G53A, National Institutes of Health, NIAID 5601 Fishers Lane, MSC 9823, Rockville, MD 20892–9823, 301–761–7322, *julio.aliberti@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 26, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–08880 Filed 5–1–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Advisory Committee to the Director, National Institutes of Health, June 13, 2019, 09:00 a.m. to June 14, 2019, 01:00 p.m. National Institutes of Health, Building 45, 45 Center Drive, Conference Room D, Bethesda, MD 20892 which was published in the **Federal Register** on February 15, 2019, 84 FR 4492.

The meeting notice is amended to change the meeting location from NIH, Natcher Building, Conference Room D, 45 Center Drive, Bethesda, MD 20892 to NIH, Building 1, Wilson Hall, 1 Center Drive, Bethesda, MD 20892. The meeting is open to the public.

Dated: April 26, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–08878 Filed 5–1–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 on Drug Abuse Special Emphasis Panel; Development of Medications to Prevent and Treat Opioid Use Disorders and Overdose (UG3/UH3 (Clinical Trials Optional).

Date: May 22, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Ivan K. Navarro, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, Division of Extramural Research, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Boulevard, Room 4242, MSC 9550, Bethesda, MD 20892, 301–827–5833, *ivan.navarro@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: April 26, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–08924 Filed 5–1–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research: Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; RFA–DE–19–006: National Dental Practice-Based Research Network UG3/UH3.

Date: June 25, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892.

Contact Person: Crina Frincu, Ph.D., Scientific Review Branch, Natl Institute of Dental and Craniofacial Research, National Institute of Health, 6701 Democracy Boulevard, Bethesda, MD 20817, 301–594–0652, *Crina.frincu@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: April 26, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–08879 Filed 5–1–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0022]

Technical Mapping Advisory Council

April 25, 2019.

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee Management; Request for Applicants for Appointment to the Federal Emergency Management Agency's Technical Mapping Advisory Council.

SUMMARY: The Federal Emergency Management Agency (FEMA) is requesting qualified individuals interested in serving on the Technical Mapping Advisory Council (TMAC) to apply for appointment. The TMAC makes recommendations to the FEMA Administrator on how to improve, in a cost-effective manner, the accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps (FIRMs) and risk data; and performance metrics and milestones required to effectively and efficiently map flood risk areas in the United States. Applicants will be considered for appointment for four vacancies on the TMAC.

DATES: Applications will be accepted until 11:59 p.m. EST on May 31st, 2019.

ADDRESSES: Applications for membership should be submitted by one of the following methods:

- *Email: FEMA-TMAC@fema.dhs.gov.*
- *Mail:* FEMA, Federal Insurance and Mitigation Administration, Risk Management Directorate, Attn: Michael Nakagaki, 400 C Street SW, Suite 6NW–1412, Washington, DC 20472–3020.

FOR FURTHER INFORMATION CONTACT: Michael Nakagaki (Designated Federal Officer for the TMAC); FEMA, Federal Insurance and Mitigation Administration, Risk Management Directorate, 400 C Street SW, Suite 6NW–1412, Washington, DC 20472–3020; telephone: (202) 646–3432; and email: *FEMA-TMAC@fema.dhs.gov.* The TMAC website is: *http://www.fema.gov/TMAC.*

SUPPLEMENTARY INFORMATION: The TMAC is an advisory committee established by the *Biggert-Waters Flood Insurance Reform Act of 2012,* 42 U.S.C. 4101a, and in accordance with the provisions of the Federal Advisory Committee Act (FACA) 5 U.S.C. App. (Pub. L. 92–463). The TMAC is required to make recommendations to FEMA on mapping-related issues and activities. This includes mapping standards and guidelines, performance metrics and milestones, map maintenance, interagency and intergovernmental coordination, map accuracy, funding strategies, and other mapping-related issues and activities. In addition, the TMAC is required to submit an annual report to the FEMA Administrator that contains: (1) A description of the activities of the Council; (2) an evaluation of the status and performance of Flood Insurance Rate Maps and mapping activities to revise and update Flood Insurance Rate Maps; and (3) a summary of recommendations made by the Council to the FEMA Administrator.

Members of the TMAC will be appointed based on their demonstrated knowledge and competence regarding surveying, cartography, remote sensing, geographic information systems, or the technical aspects of preparing and using FIRMs. To the maximum extent practicable, FEMA will ensure that membership of the TMAC has a balance of Federal, State, local, Tribal, and private members, and includes geographic diversity.

FEMA is requesting qualified individuals who are interested in serving on the TMAC to apply for appointment. Applicants will be considered for appointment for four vacancies on the TMAC, the terms of which are projected to start on October 1, 2019. Certain members of the TMAC, as described below, will be appointed to serve as a Special Government Employee (SGE) as defined in section 202(a) of title 18 United States Code. Candidates selected for appointment as SGEs are required to complete a new entrant Confidential Financial Disclosure Report (Office of Government Ethics (OGE) Form 450). This report can be obtained by visiting the website of the Office of Government Ethics (*http://www.oge.gov*). Please do not submit this form with your application. Qualified applicants will be considered for one or more of the following membership categories with vacancies:

(a) Serving as an SGE as a member of a recognized professional engineering association or organization;

(b) Serving as an SGE as a member of a recognized professional association or organization representing flood hazard determination firms;

(c) Serving as a representative of a State government agency that has entered into cooperating technical partnerships with the Administrator and has demonstrated the capability to produce flood insurance rate maps;

(d) Serving as a representative of a recognized professional association or organization representing State geographic information.

Members of the TMAC serve terms of office for up to three years. There is no application form. However, applications must include the following information:

- The applicant's full name,
- home and business phone numbers,
- preferred email address,
- home and business mailing addresses,
- current position title and organization,
- resume or curriculum vitae,
- and the membership category of interest (*e.g.,* member of a recognized professional association or organization representing flood hazard determination firms).

The TMAC shall meet as often as needed to fulfill its mission, but not less than twice a year. Members may be reimbursed for travel and per diem incurred in the performance of their duties as members of the TMAC. All travel for TMAC business must be approved in advance by the Designated Federal Officer.

The Department of Homeland Security (DHS) does not discriminate in employment on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or other non-merit factor. DHS strives to achieve a widely diverse candidate pool for all its recruitment actions. Current DHS and FEMA employees will not be considered for membership. Federally registered lobbyists will not be considered for SGE appointments.

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2019–08887 Filed 5–1–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2019–N012; FXES11120800000–190–FF08E00000]

Sierra Pacific Industries Proposed Draft Habitat Conservation Plan for Northern and California Spotted Owl and Draft Environmental Impact Statement; Klamath, Cascade, and Sierra Nevada Mountains, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: Sierra Pacific Industries of Anderson, California (applicant), has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit under the Endangered Species Act (ESA). We advise the public of the availability of a proposed habitat conservation plan (HCP), which covers the northern spotted owl and California spotted owl, and the draft environmental impact statement (DEIS), for public review and comment. The HCP covers forest management, species management, and monitoring activities on commercial timberland in Amador, Butte, Calaveras, El Dorado, Humboldt, Lassen, Modoc, Nevada, Placer, Plumas, Shasta, Sierra, Siskiyou, Tehama, Trinity, Tuolumne, and Yuba Counties, California.

DATES:

Public Comments: We will receive public comments on the HCP and DEIS until July 1, 2019. Comments received or postmarked after this date will be considered to the extent practicable.

Meetings: We will conduct two public meetings. The meetings will provide the public an opportunity to ask questions, discuss issues with the Service regarding the DEIS, and provide written comments.

- May 28, 2019—Hilltop Holiday Inn—Buckskin Room, 1900 Hilltop Drive, Redding, California, 5:30 to 7:30 p.m.
- May 29, 2019—Bonderson Building—Hearing Room, 901 P Street, Sacramento, California, 1:30 to 3:30 p.m.

We are committed to providing access to these meetings for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to Kim Turner, TTY 800–877–8339, by close of business on May 14, 2019. See **FOR FURTHER INFORMATION CONTACT**.

Online Webinar: In addition, the Service will host a webinar on May 29, 2019, from 5:30 to 6:30 p.m. Pacific Standard Time. For information on how to participate, go to *https://register.gotowebinar.com/register/8567916169912061185.*

ADDRESSES:

Obtaining Documents: You may obtain the documents by the following methods.

- *Internet: https://www.fws.gov/sacramento/.*
- *Public libraries:* Electronic copies of the documents will be available for viewing at Sacramento and Shasta County Libraries on their public access computer stations. In Sacramento County, the documents will be available at the Sacramento Central Library, 828 I St., Sacramento, CA. In Shasta County, the documents will be available at the Redding branch library, 1100 Parkview Ave., Redding, CA.

Submitting Comments: You may submit comments by one of the following methods. Please include your contact information.

- *Email: SierraPacificIndustriesEISHCP@fws.gov.*
- *U.S. mail or hand-delivery:* Kim S. Turner, Deputy Assistant Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Suite 2605, Sacramento, CA 95825.
- *Fax:* 916–414–6713.

FOR FURTHER INFORMATION CONTACT: Kim S. Turner, Deputy Assistant Field Supervisor, by phone at 916–414–6600; via the Federal Information Relay Service at 800–877–8339; or via U.S. mail to U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite 2605, Sacramento, CA 95825.

SUPPLEMENTARY INFORMATION: Sierra Pacific Industries of Anderson, California (applicant), has applied to the U.S. Fish and Wildlife Service (Service) for the issuance of an incidental take permit under section 10(a)(1)(B) of the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant is requesting a permit for incidental take of two animal subspecies that may result from covered activities during the proposed 50-year permit. As part of its application for incidental take, the applicant has prepared a habitat conservation plan (HCP), which outlines proposed conservation measures. The applicant's proposed HCP area encompasses 1,566,151 acres of commercial timberland in Amador, Butte, Calaveras, El Dorado, Humboldt, Lassen, Modoc, Nevada, Placer, Plumas, Shasta, Sierra, Siskiyou, Tehama, Trinity, Tuolumne, and Yuba Counties, California.

Pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), we advise the public of the availability of our draft environmental impact statement (DEIS), which analyzes several land management alternatives related to the Service's decision whether to issue an incidental take permit in response to the SPI application. Through this notice, we also inform the public of the availability of the proposed HCP.

Background

Section 9 of the ESA and Federal regulations prohibit the ''take'' of fish and wildlife species federally listed as endangered or threatened. Take of federally listed fish or wildlife is defined under the ESA as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or attempt to engage in such conduct (16 U.S.C. 1538). ''Harm'' includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3). Under limited circumstances, we may issue permits to authorize incidental take that is incidental to and not the purpose of, otherwise lawful activities.

The proposed incidental take permit would cover two bird subspecies, the northern spotted owl (*Strix occidentalis caurina*), which is federally listed as threatened, and the California spotted owl (*Strix occidentalis occidentalis*), which is not federally listed but is currently under a status review.

The HCP proposes conservation measures considered necessary to minimize and mitigate the impacts, to the maximum extent practicable, of the potential taking of federally listed species to be covered by the HCP. SPI is seeking incidental take coverage for the covered activities under the HCP associated with commercial forest management within the plan area.

Request for Public Comments

Because the conservation strategy outlined in the HCP includes proposed new approaches to spotted owl conservation and areas of uncertainty, we are particularly interested in receiving public comments on Conservation Measures 1, 2, and 3 (HCP 5.2.1, 5.2.2, and 5.2.3; DEIS HCP Alternative); potential impacts to NSO and CSO (HCP 5.4.5; DEIS HCP Alternative); and monitoring and adaptive management (HCP Chapter 6, DEIS HCP Alternative).

National Environmental Policy Act Compliance

The DEIS analyzes three land management alternatives. These include a ''no action'' alternative, under which the current management practices would be assumed to continue as guided by the 2018 California Forest Practice Rules. The proposed action consists of a two-subspecies HCP and associated permit with a 50-year term. One other ''action'' alternative is included. The Northwest Forest Plan (NWFP)/Sierra Nevada Forest Plan (SNFPA) Alternative (NWFP/SNFPA Alternative) proposes the development of a different two-subspecies HCP that would manage known and suspected nest stands according to the NWFP within the range of the NSO and the SNFPA within the range of the CSO.

Public Review

Any comments we receive will become part of the decision record associated with this action. 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 request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22), and NEPA (42 U.S.C. 4321 *et seq.*) and NEPA implementing regulations (40 CFR 1506.6).

Michael Fris,

Assistant Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2019–08933 Filed 5–1–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–WSFR–2019–N018; FVWF94100900000–XXX–FF09W23000; FVWF51100900000–XXX–FF09W23000; OMB Control Number 1018–0007]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Annual Certification of Hunting and Sport Fishing Licenses Issued

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments on or before June 3, 2019.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–0007 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

On August 22, 2018, we published a **Federal Register** notice soliciting comments on this collection of information for 60 days, ending on October 22, 2018 (83 FR 42524). We received the following comment in response to the **Federal Register** notice:

Comment 1: The respondent believed that the collection is necessary and the information is processed and used in a timely manner. The respondent's estimate of burden to complete the forms is 16 to 24 hours. The respondent suggested that the Service provide guidance and training to ensure accurate reporting of license sales data and that we accept submissions electronically by website or email.

Response to Comment 1: We are combining the information collection for certification and summary information into a single FWS Form 3–154. We understand that some States may have systems in place that allow them to respond more quickly than others. We do allow respondents to submit complete and signed forms by email. We also anticipate being able to allow States to submit annual license certifications online through the new Wildlife Tracking and Reporting Accomplishments for the Conservation of Species (TRACS) web interface beginning with the FY 2020 certifications. We do not change the burden from the prior collection, but anticipate that increased efficiency will be realized as data collection systems improve and electronic methods are used.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the Service; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Service enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Service minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. 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 publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 *et seq.*) and the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777 *et seq.,* except 777e–1 and g–1) provide authority for Federal assistance to the States for management and restoration of fish and wildlife. These Acts and our regulations in the Code of Federal Regulations (CFR) at 50 CFR part 80, subpart D, require that States, territories, and the District of Columbia annually certify their hunting and fishing license sales. States, territories, and the District of Columbia that receive grants under these Acts use FWS Form 3–154, ''State Fish and Wildlife Agency Hunting and Sport Fishing License Certification'' to certify the number of hunting and fishing licenses sold. We use the information collected to apportion and distribute funds according to the formula specified in each Act. The Act is supported by regulations at 50 CFR 80.31 that require States to respond to the Service's request for hunting and fishing license information by certifying the information in the format that the Director specifies and providing documentation to support the accuracy of this information. The Service requests the total number of unique hunting and fishing license holders as well as the number of resident and non-resident hunting and fishing licenses sold and associated costs. The methodology under the rule published at 76 FR 46150 (August 1, 2011) requires that States calculate net revenue to determine if an individual can be counted as a license holder.

With this renewal request, we are eliminating using two separate forms for this collection and combining all information to be collected into a single FWS Form 3–154. We made minor updates to Form 3–154 to improve functionality and reported data clarity. These changes do not increase the reporting burden and are expected to improve efficiency. The changes made in combining the forms and improving reporting by giving electronic alternatives will potentially, over time, reduce the public reporting burden for this collection.

Title of Collection: Annual Certification of Hunting and Sport Fishing Licenses Issued, 50 CFR 80, Subpart D.

OMB Control Number: 1018–0007.

Form Number: Form 3–154.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: States, territories (Commonwealth of Puerto Rico, Commonwealth of the Northern Mariana Islands, Guam, U.S. Virgin Islands, and American Samoa), and District of Columbia.

Total Estimated Number of Annual Respondents: 56.

Total Estimated Number of Annual Responses: 56.

Estimated Completion Time per Response: 32 hours.

Total Estimated Number of Annual Burden Hours: 1,792.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: Annually.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: April 29, 2019.

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2019–08934 Filed 5–1–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-27759; PPWOCRADI0, 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 April 20, 2019, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by May 17, 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 April 20, 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:

ARKANSAS

Conway County

Museum of Automobiles, 8 Jones Ln., Winrock vicinity, SG100003990

Craighead County

Jonesboro U.S. Post Office and Courthouse, 524 S. Church St., Jonesboro, SG100003987

Crawford County

Our Lady of the Ozarks Shrine, 22741 US 71, Winslow vicinity, SG100003993

Desha County

Pickens, R.A., II, House, 1 Pickens Pl., Pickens, SG100003992

Lonoke County

Morris House, 16284 AR 89, Lonoke, SG100004000

Phillips County

Temple Beth El Cemetery, NW of intersection of Mable St. & Holly St./Sterling Rd., Helena, SG100003984

Pope County

Norwood, William H., House, 1602 W. Main St., Russellville, SG100003988

Pulaski County

National Old Line Insurance Company Building, 501 Woodlane St., Little Rock, SG100003985

Arkansas Territorial Restoration Historic District, W. side of Cumberland between 2nd & 3rd Sts., Little Rock, SG100003998

Empire Life Insurance Company of America Building, 2801 W. Roosevelt Rd., Little Rock, SG100004002

Randolph County

Yadkin Church, W. side of Upper James Creek Rd. approx. 1 mi. N. of jct. with Lower James Creek Rd., Ravenden Springs vicinity, SG100004003

Washington County

Ellis Building, 208 N. Block Ave., Fayetteville, SG100003982

Muxen Building, 22733 N. US 71, Winslow vicinity, SG100003986

Johnson, Benjamin Franklin, II, Homestead District, 3150 W. Pear Ln., Fayetteville, SG100003989

White County

Mount Olive-Bedford Chapel Cemetery, SW of the intersection of Nix & Manning Rds., Mt. Vernon vicinity, SG100003997

IOWA

Des Moines County

Prairie Grove School, 13598 Beaverdale Rd., W. Burlington vicinity, SG100003973

KENTUCKY

Woodford County

Heartland, 1470 Clifton Rd., Versailles vicinity, SG100004004

MISSOURI

St. Louis Independent City

Columbia Oil Company, 3419 Papin St., St. Louis, SG100004006

TEXAS

Comal County

Comal Springs, (El Camino Real de los Tejas National Historic Trail MPS), Address Restricted, New Braunfels, MP100003970

Houston County

Swale at Mission Tejas State Park, (El Camino Real de los Tejas National Historic Trail MPS), Address Restricted, Grapeland vicinity, MP100003971

Travis County

Onion Creek Crossing at McKinney Falls, (El Camino Real de los Tejas National Historic Trail MPS), McKinney Falls State Park, 5808 McKinney Falls Pkwy, Austin, MP100003972

VIRGINIA

Alexandria Independent City

Swann—Daingerfield House, 712 Prince St., Alexandria, SG100003979

Mecklenburg County

Whittle's Mill Dam, 1793 Bridge Rd., South Hill, SG100003980

Portsmouth Independent City

Abigarlos, 3321 Carney Farm Ln., Portsmouth, SG100003975

Richmond Independent City

Deep Run Hunt Club Rosedale Lodge, 1900 Avondale Ave., Richmond, SG100003977

Rockingham County

Silver Lake Historic District, Silver Lake Rd. (VA 701), Linhoss Rd. (VA 735), Dayton, SG100003978

A request to move has been received for the following resources:

ARKANSAS

Columbia County

Old Alexander House, NE of Magnolia, Magnolia vicinity, MV79000435

Jackson County

Jackson Guards Memorial, (Civil War Commemorative Sculpture MPS), Jacksonport State Park, jct. of Washington and Avenue Sts., Jacksonport, MV96000465

Additional documentation has been received for the following resources:

ARKANSAS

Benton County

Rogers Commercial Historic District (Boundary Increase), (Benton County MRA), Roughly bounded by Walnut, First, Poplar and Second Sts., Rogers, AD93001028

Garland County

Hot Springs Central Avenue Historic District, Central Ave., from Prospect to Park Sts., Hot Springs, AD85001370

Pulaski County

Porter, Lamar, Athletic Field, Jct. of Johnson and 7th Sts., Little Rock, AD90001827

Sebastian County

West Garrison Avenue Historic District, 100—525 Garrison Ave., Fort Smith, AD79000464

KANSAS

Doniphan County

Kinkead, George, Barn, (Byre and Bluff Barns of Doniphan County TR), Off US 36, Troy, AD86003542

WISCONSIN

Richland County

A. D. German Wholesale Company and Warehouse, Additional Documentation, 177 E Haseltine St., 316 S Church St., Richland Center, AD74000122

Authority: Section 60.13 of 36 CFR part 60.

Dated: April 23, 2019.

Kathryn G. Smith,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2019–08923 Filed 5–1–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NCR–WHHO–WHHOA1–27768; PPNCWHHOA1; PPMPSPD1Z.YM0000]

Committee for the Preservation of the White House Notice of Public Meeting

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972, the National Park Service (NPS) is hereby giving notice that the Committee for the Preservation of the White House will meet as indicated below.

DATES: The meeting will take place on Monday, May 20, 2019. The meeting will begin at 10:00 a.m. and end at 11:30 a.m. (Eastern).

ADDRESSES: The meeting will be held at the White House, 1600 Pennsylvania Avenue NW, Washington, DC 20500.

FOR FURTHER INFORMATION CONTACT: Comments may be provided to: Executive Secretary, Committee for the Preservation of the White House, 1849 C Street NW, Room #1426, Washington, DC 20240, by telephone (202) 219–0322, or by email *ncr_whho_superintendent@nps.gov*.

SUPPLEMENTARY INFORMATION: The Committee for the Preservation of the White House (Committee) has been established in accordance with Executive Order No. 11145, 3 CFR 184 (1964–1965), as amended. The Committee reports to the President of the United States and advises the Director of the NPS with respect to the discharge of responsibilities for the preservation and interpretation of the museum aspects of the White House pursuant to the Act of September 22, 1961 (Pub. L. 87–286, 75 Stat. 586).

Purpose of the Meeting: Agenda will include policies, goals, and long-range plans. If you plan to attend this meeting, you must register by close of business on May 16, 2019. Please contact the Executive Secretary via email *ncr_whho_superintendent@nps.gov* or phone (202) 219–0322 to register. Space is limited and requests will be accommodated in the order they are received. The meeting will be open, but subject to security clearance requirements. The Executive Secretary will contact you directly with the security clearance requirements. Inquiries may be made by calling the Executive Secretary between 9:00 a.m. and 4:00 p.m. weekdays at (202) 219–0322. Written comments may be sent to the Executive Secretary, Committee for the Preservation of the White House, 1849 C Street NW, Room #1426, Washington, DC 20240. All written comments received will be provided to the Committee.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personal identifying information in your written 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.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2019–08987 Filed 5–1–19; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received an amended complaint entitled *Certain Female Fashion Dresses, Jumpsuits, Maxi Skirts & Accoutrements, DN 3375;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be 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, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received an amended complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Style Pantry LLC on April 24, 2019. The original complaint was filed on March 20, 2019 and a notice of receipt of complaint; solicitation of comments relating to the public interest was published in the **Federal Register** on March 26, 2019. The amended complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain female fashion dresses, jumpsuits, maxi skirts & accoutrements. The complaint names as respondents: Amazon.com Inc of Seattle, WA; Xunyun of China; and Jianzhang Liao of China. The amended complaint alleges unfair acts in the importation of counterfeit items sold using the complainant's trademarks and copyrighted images, intentionally confusing consumers by creating the false illusion that the seller is the complainant or a licensee of the complainant. The copyrights at issue are Copyright Nos. VA 2–108–901; VA–2–109–060; VA 2–109–057; VA 2–109–056; VA 2–109–050; VA 2–109–048; VA 1–321–380; VA 2–108–569; and VA 2–122–184. The trademarks at issue are FKSP FOLAKE STYLE PANTRY Reg. No. 5,608,468 and STYLE PANTRY Reg. No. 5,650,591. The complainant requests that the Commission issue a general exclusion order, issue cease and desist orders and impose a bond during the 60-day review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) Identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) Explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues should be filed no later than by close of business nine calendar days after the date of publication of this notice in the **Federal Register**. Complainant may file a reply to any written submission no later than the date on which complainant's reply would be due under § 210.8(c)(2) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(c)(2)).

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3375'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: April 26, 2019.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2019–08927 Filed 5–1–19; 8:45 am]

BILLING CODE 7020–02–P

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Digital Video Receivers, Broadband Gateways, and Related Hardware and Software Components, DN 3382;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be 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, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Rovi Corporation and Rovi Guides, Inc. on April 26, 2019. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain digital video receivers, broadband gateways, and related hardware and software components. The complaint names as respondents: Comcast Corporation of Philadelphia, PA; Comcast Cable Communications, LLC of Philadelphia, PA; Comcast Cable Communications Management, LLC of Philadelphia, PA; and Comcast Holdings Corporation of Philadelphia, PA. The complainant requests that the Commission issue a general exclusion order, or in the alternative, a limited exclusion order, cease and desist orders, and a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues should be filed no later than by close of business nine calendar days after the date of publication of this notice in the **Federal Register**. Complainant may file a reply to any written submission no later than the date on which complainant's reply would be due under § 210.8(c)(2) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(c)(2)).

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3382'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: April 26, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–08896 Filed 5–1–19; 8:45 am]

BILLING CODE 7020–02–P

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–609 and 731–TA–1421 (Final)]

Steel Trailer Wheels From China; Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–609 and 731–TA–1421 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of steel trailer wheels from China, provided for in subheading 8716.90.50 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (''Commerce'') to be subsidized and sold at less-than-fair-value.

DATES: April 15, 2019.

FOR FURTHER INFORMATION CONTACT: Jordan Harriman ((202) 205–2610), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Scope.—For purposes of these investigations, Commerce has defined the subject merchandise as ''certain on-the-road steel wheels, discs, and rims for tubeless tires with a nominal wheel diameter of 12 inches to 16.5 inches, regardless of width. Certain on-the-road steel wheels with a nominal wheel diameter of 12 inches to 16.5 inches within the scope are generally for road and highway trailers and other towable equipment, including, inter alia, utility trailers, cargo trailers, horse trailers, boat trailers, recreational trailers, and towable mobile homes. The standard widths of certain on-the-road steel wheels are 4 inches, 4.5 inches, 5 inches, 5.5 inches, 6 inches, and 6.5 inches, but all certain on-the-road steel wheels, regardless of width, are covered by the scope.

The scope includes rims and discs for certain on-the-road steel wheels, whether imported as an assembly, unassembled, or separately. The scope includes certain on-the-road steel wheels regardless of steel composition, whether cladded or not cladded, whether finished or not finished, and whether coated or uncoated. The scope also includes certain on-the-road steel wheels with discs in either a ''hub-piloted'' or ''stud-piloted'' mounting configuration, though the stud-piloted configuration is most common in the size range covered.

All on-the-road wheels sold in the United States must meet Standard 110 or 120 of the National Highway Traffic Safety Administration's (NHTSA) Federal Motor Vehicle Safety Standards, which requires a rim marking, such as the ''DOT'' symbol, indicating compliance with applicable motor vehicle standards. See 49 CFR 571.110 and 571.120. The scope includes certain on-the-road steel wheels imported with or without NHTSA's required markings.

Certain on-the-road steel wheels imported as an assembly with a tire mounted on the wheel and/or with a valve stem or rims imported as an assembly with a tire mounted on the rim and/or with a valve stem are included in the scope of this investigation. However, if the steel wheels or rims are imported as an assembly with a tire mounted on the wheel or rim and/or with a valve stem attached, the tire and/or valve stem is not covered by the scope.

The scope includes rims, discs, and wheels that have been further processed in a third country, including, but not limited to, the painting of wheels from China and the welding and painting of rims and discs from China to form a steel wheel, or any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in China. Excluded from this scope are the following:

(1) Steel wheels for use with tube-type tires; such tires use multi piece rims, which are two-piece and three-piece assemblies and require the use of an inner tube;

(2) aluminum wheels;

(3) certain on-the-road steel wheels that are coated entirely with chrome;

(4) steel wheels that do not meet Standard 110 or 120 of the NHTSA's requirements other than the rim marking requirements found in 49 CFR 571.110S4.4.2 and 571.120S5.2;

(5) steel wheels that meet the following specifications: Steel wheels with a nominal wheel diameter ranging from 15 inches to 16. 5 inches, with a rim width of 8 inches or greater, and a wheel backspacing ranging from 3. 75 inches to 5.5 inches; and

(6) steel wheels with wire spokes.

Certain on-the-road steel wheels subject to this investigation are properly classifiable under the following category of the Harmonized Tariff Schedule of the United States (HTSUS): 8716.90.5035 which covers the exact product covered by the scope whether entered as an assembled wheel or in

components. Certain on-the-road steel wheels entered with a tire mounted on them may be entered under HTSUS 8716.90.5059 (Trailers and semi-trailers; other vehicles, not mechanically propelled, parts, wheels, other, wheels with other tires) (a category that will be broader than what is covered by the scope). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.''

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of steel trailer wheels, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on August 8, 2018, by Dexstar Wheel, Elkhart, Indiana.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on June 21, 2019, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Tuesday, July 9, 2019, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 27, 2019. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on July 2, 2019, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is June 28, 2019. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 15, 2019. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before July 10, 2019. On July 25, 2019, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before July 29, 2019, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: April 26, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–08899 Filed 5–1–19; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Shipbuilding Research Program

Notice is hereby given that, on March 19, 2019, pursuant to Section 6(a) of the

National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Shipbuilding Research Program (''NSRP'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Vigor Marine LLC, Seattle, WA, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NSRP intends to file additional written notifications disclosing all changes in membership.

On March 13, 1998, NSRP filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 29, 1999 (64 FR 4708).

The last notification was filed with the Department on January 16, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 12, 2019 (84 FR 3492).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019–08995 Filed 5–1–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Medical Technology Enterprise Consortium

Notice is hereby given that, on April 8, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Medical Technology Enterprise Consortium (''MTEC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Securisyn Medical, LLC, Highlands Ranch, CO; Polaris Alpha Advanced Systems, Inc., Aberdeen Proving Ground, MD; Arrevus, Inc., Raleigh, NC; Initiate Government Solutions, LLC, North Palm Beach, FL; 7–SIGMA Incorporated, Minneapolis, MN; MAE Group, Deerfield, NH; Radical Concepts LLC, Brooklyn, NY; Next Generation Stretcher Ltd, Raman gan, Israel; Pop Test Oncology LLC aka Palisades Therapeutics, Cliffside Park, NJ; George Mason University, Manassas, VA; Phagelux (Canada) Inc., Montréal, CANADA; MY01 Inc., Montreal, CANADA; MilanaPharm, LLC, Tallassee, AL; Leidos, Inc., Reston, VA; InfraScan, Inc., Philadelphia, PA; NuShores Biosciences LLC, Little Rock, AR; Seran Bioscience, Bend, OR; Celularity, Warren, NJ; Droper Med America, LLC, Elgin, SC; tesa Labtec GmbH, Langenfeld, GERMANY; Bio Med Sciences, Inc., Allentown, PA; Uluru Inc., Addison, TX; Trailhead Biosystems Inc., Cleveland, OH; 410 Medical, Inc., Durham, NC; Knowledge Driven LLC, Alexandria, VA; Arsenal Medical, Inc., Watertown, MA; University of North Carolina, Institute for Trauma Recovery, Chapel Hill, NC; Prep Tech, LLC, Westlake, LA; 21 MedTech, LLC, Burlington, NC; Integrum Scientific, LLC, Greensboro, NC; HYPR Life Sciences, Inc., Pilot Mountain, NC; X-Therma Inc., Richmond, CA; VoluMetrix LLC, Nashville, TN; Howmedica Osteonics Corp. dba Stryker Orthopaedics, Mahwah, NJ; NeuEsse Inc., Dunbar, PA; The Geneva Foundation, Tacoma, WA; Scinus Cell Expansion B.V., Bilthoven, THE NETHERLANDS; Akron Biotechnology, LLC, Boca Raton, FL; RoosterBio Inc., Frederick, MD; Aptitude Medical Systems, Santa Barbara, CA; Rho Federal Systems Division, Inc. (RhoFED), Chapel Hill, NC; HeadsafelP Pty Ltd Bronte, AUSTRALIA; Truecath Inc., Camarillo, CA; Solutions Through Innovative Technologies, Inc., Fairborn, OH; Sempulse, LLC, San Marcos, TX; The Curators of the University of Missouri on behalf of the University of Missouri-Kansas City, Kansas City, MO; Cognitive Medical Systems, Inc., San Diego, CA; Hemoclear B.V., Zwolle, NETHERLANDS; Immunexpress Inc., Seattle, WA; Klox Technologies, Inc., Laval, CANADA; Opticyte, Inc., Seattle, WA; Physcient, Inc., Durham, NC; ActiBioMotion, LLC, Coralville, IA; Detact Diagnostics BV, Gronigen, THE NETHERLANDS; SurgiBox Inc., Brookline, MA; Cincinnati Automation & Mechatronics, LLC, Beavercreek, OH; and Molecular Biologicals, Pasadena, TX; have been added as parties to this venture.

Also, Tallinn University of Technology, Tallin, Estonia; National Trauma Institute dba Coalition for National Trauma Research, Marietta, TX; East Carolina University, Greenville, NC; EyeSonix LLC, Long Beach, CA; ElMindA Ltd., Herzliya, ISRAEL; Propagenix Inc., Rockville, MD; Studio Kinection, Inc. dba Kinection, Napa, CA; The Ohio State University, Columbus, OH; Elemance, LLC, Clemmons, NC; J. Craig Venter Institute (JCVI), Rockville, MD; LambdaVision Incorporated, Farmington, CT; Michigan State University, East Lansing, MI; Corvid Technologies, Mooresville, NC; Spire, San Francisco, CA; United Solutions, LLC, Rockville, MD; Aleo BME, Inc., State College, PA; Cell Guidance Systems Ltd, Cambridge, UK; Cole Engineering Services, Inc., Orlando, FL; FlexDex, Inc., Brighton, MI; Fortuna Fix, London, UK; Hypatia Project, Reston, VA; and MiMedx Group Inc., Marietta, GA; have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MTEC intends to file additional written notifications disclosing all changes in membership.

On May 9, 2014 MTEC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 9, 2014 (79 FR 32999).

The last notification was filed with the Department on January 28, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 28, 2019 (84 FR 6824).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019–08997 Filed 5–1–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Pistoia Alliance, Inc.

Notice is hereby given that, on April 8, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Pistoia Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were

filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Konrad Krawczyk (individual member), Hamburg, GERMANY; Waters Technologies Company, Milford, MA; Genomics England, London, UNITED KINGDOM; Brian Frenzel (individual member), Mountain View, CA; Kirk Brote (individual member), Durham, NH; Numerate Inc., San Francisco, CA; Valery Tkachenko (individual member), Rockville, MD; The Broad Institute Inc., Cambridge, MA; WuXi AppTec, Cambridge, MA; BioSistemika d.o.o., Ljubljana, SLOVENIA; Optibrium Limited, Cambridge, UNITED KINGDOM; Elixir, Cambridge, UNITED KINGDOM; L7 Informatics Inc., Dallas, TX; Alzheimer's Research UK, Cambridge, UNITED KINGDOM; and Yvonne Linney (individual member), Saratoga, CA, have been added as parties to this venture.

Also, Novaseek Research, Cambridge, MA; PRYV SA, Lausanne, SWITZERLAND; and Cyclica, Toronto, CANADA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Pistoia Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 28, 2009, Pistoia Alliance, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 15, 2009 (74 FR 34364).

The last notification was filed with the Department on January 28, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 7, 2019 (84 FR 2569).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019–08994 Filed 5–1–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On April 26, 2019, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Montana in the lawsuit entitled *United States* v. *ExxonMobil Pipeline Company,* Civil Action No. 1:19–cv–00048–SPW–TJC.

The United States filed this lawsuit against ExxonMobil Pipeline Company (''ExxonMobil'') seeking civil penalties pursuant to Section 311(b)(7)(A) and (D) of the Clean Water Act (''CWA''), 33 U.S.C. 1321(b)(7)(A) and (D), and injunctive relief pursuant to Section 309(b) of the CWA, 33 U.S.C. 1319(b), as a result of the July 1, 2011 discharge of over 1,500 barrels of crude oil from the company's Silvertip Pipeline into the Yellowstone River near Laurel, Montana. The proposed Consent Decree requires ExxonMobil Pipeline Company to pay a civil penalty of $1,050,000 to resolve the claims. The settlement proceeds will be deposited in the Oil Spill Liability Trust Fund. The proposed Consent Decree also requires ExxonMobil to take action at certain Silvertip Pipeline water crossings.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *ExxonMobil Pipeline Company,* D.J. Ref. No. 90–5–1–1–10332/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $9.50 for the consent decree and appendices (25 cents per page reproduction cost) or $7.50 for the consent decree without appendix, payable to the United States Treasury.

Jeffrey Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2019–08940 Filed 5–1–19; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0100]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired: 2019 Census of Jails

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, 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 was previously published in the **Federal Register** Volume 84, Number 32, pages 4539–4541, on February 15, 2019, allowing a 60-day comment period. Following publication of the 60-day notice, the Bureau of Justice Statistics received seven comments. Responses to these comments will be included in the final clearance package submitted to OMB.

DATES: Comments are encouraged and will be accepted for 30 days until June 3, 2019.

FOR FURTHER INFORMATION CONTACT: If you have 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 Todd D. Minton, Bureau of Justice Statistics, 810 Seventh Street NW, Washington, DC 20531 (email: *Todd.Minton@usdoj.gov;* telephone: 202–305–9630).

SUPPLEMENTARY INFORMATION: 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 Bureau of Justice Statistics, 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;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; 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, with change, of a previously approved collection for which approval has expired.

2. *Title of the Form/Collection:* 2019 Census of Jails (COJ).

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* The form numbers are CJ–3: 2019 Census of Jails (COJ)—Single-Facility Jail Form; CJ–3A: 2019 Census of Jails (COJ)—Jurisdiction Form; and the CJ–3A Addendum: 2019 Census of Jails (COJ)—Facility Form. The COJ will collect data from approximately 2,947 reporting units (RU), representing 3,169 local jail facilities (city, county, regional, and private) and 12 federal detention centers. The combined jail/prison systems in Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont, are surveyed in BJS's Census of State and Federal Adult Correctional Facilities (OMB Control Number 1121–0147), and are not in the universe for the COJ. However, Alaska has 15 jails that are locally operated so these facilities are included in the COJ universe.

The jail RUs are central reporters with jurisdictional authority over one or more jails. BJS will contact these central reporters and request that they report data on each local and federal facilities (3,181) under their jurisdictional authority based on the following criteria:

- 2,652 RUs cover only one facility and will receive form CJ–3, which includes all 26 questions;
- 295 RUs cover multiple facilities will each receive one CJ–3A to report combined data for all of their facilities on 15 of the 26 questions; and
- The same 295 RUs that cover multiple facilities will receive a CJ–3A ADDENDUM form to be filled out for each facility (529 in total) under their jurisdictional authority. This questionnaire will include the remaining 11 of the 26 questions in CJ–3, most of which are needed for the sampling facilities for several BJS inmate surveys.

The applicable component within the Department of Justice is the Bureau of Justice Statistics (BJS), in the Office of Justice Programs.

The Bureau of Justice Statistics (BJS) requests clearance to conduct the 2019 Census of Jails (COJ) under OMB Control Number 1121–0100. The last COJ was fielded in 2014 and collected 2013 year-end data. It was approved under OMB Control Number 1121–0249 along with the Mortality in Correctional Institutions—Jails (MCI, formerly the Deaths in Custody Reporting Program) because of a timely need for the data. Unlike in 2013, when an abbreviated form of the COJ was conducted along with MCI—Jails data collection, the 2019 COJ will be a standalone collection. BJS requests clearance for the 2019 COJ under its previous unique OMB Control Number 1121–0100.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public that will be asked to respond to the COJ includes jail administrators from approximately 2,947 reporting units (RU), representing 3,169 local jails (city, county, regional, and private), and 12 Federal Bureau of Prisons (BOP) detention facilities that function as jails. The respondents will be asked to provide information for the following categories:

(a) The purposes for which the facility hold offenders (*e.g.,* detention facility with authority to hold persons facing criminal charges beyond 72 hours, correctional facility for persons convicted of offenses with sentences usually beyond 72 hours, etc.);

(b) As a matter of practice, does the facility hold males or females only;

(c) The functions of the facility (*e.g.,* general adult population confinement, medical treatment/hospitalization confinement, drug treatment confinement, boot camp, etc.);

(d) At midyear (last weekday in the month of June), the total rated and design capacity of the jail;

(e) At midyear (last weekday in the month of June), was the facility under a federal, state or local court order or consent decree to limit the number of inmates housed; maximum number of inmates the facility is allowed to house; and the year the order or decree take effect;

(f) At midyear, was the facility under a court order or consent decree for specific conditions of confinement (*e.g.,* crowing, staffing, food, medical facilities or services; grievance procedures or policies religious practices, etc.);

(g) At midyear (last weekday in the month of June), the number of inmates confined in jail facilities, including: Male and female adult and juvenile inmates; persons under age 18 held as adults; inmate race/Hispanic origin; probation and parole violators; convicted and unconvicted status; persons held for felonies and misdemeanors; inmate U.S. citizenship status by conviction status; and inmates held for federal authorities, state prison authorities, American Indian or Alaska Native tribal governments, and other local jails;

(h) At midyear (last weekday in the month of June), the number of persons under the supervision of the jail jurisdiction, but not confined;

(i) On the weekend prior to midyear (last weekday in the month of June), did the jail have a weekend program that allow offenders to serve their sentences of confinement only on weekends; and the number who participated;

(j) The date and count for the greatest number of confined inmates during the 30-day period in June;

(k) The average daily population during the 365-day period between July 1, 2018 and June 30, 2019;

(l) The number of new admissions into jail, and final discharges from jail, between July 1, 2018 and June 30, 2019;

(m) At midyear (last weekday in the month of June), the number of correctional staff employed by the facility and their occupations, broken out by male or female staff (*i.e.,* correctional officers and all other staff);

(n) Yes or no to facility practices on inmate opioid testing, screening and treatment that are conducted either on or off facility grounds;

(o) Based on the number of new admissions into jail during the 30-day period from June 1 to June 30, 2019, how many were screened with a questionnaire or interview for opioid use disorder; how many screened positive for opioid use disorder; how many of those who screened positive were unique individuals;

(p) Based on the number of new admissions into jail during the 30-day period from June 1 to June 30, 2019, how many did the facility treat for opioid withdrawal; how many treated for opioid withdraw were unique individuals; and

(q) At midyear (last weekday in the month of June), how many persons confined in the facility were receiving medication-assisted treatment for opioid disorders.

This collection is the only national effort devoted to enumerating all local jails and BOP detention facilities in the United States and the population they supervise at the facility level. The collection enables BJS, jail administrators, legislators, researchers, and jail planners to track growth in the number of jails and their capacities, as well as to track changes in the demographics and supervision status of the jail population and the prevalence of crowding.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

REPORTING MODE AND ESTIMATED BURDEN

Primary reporting mode	Purpose of contact	Number of data providers (RUs)	Number of responses	Average reporting time (min)	Estimated total burden hours
Web	Data collection:				
	Form CJ–3	2,652	2,652	150	6,631
	Form CJ–3A	295	295	130	639
	Form CJ–3A ADDENDUM	295	529	20	176
	Subtotal for 3 forms	*2,947*	*3,476*	*150*	*7,446*
Email and telephone	Data quality follow-up validation	1,620	1,749	10	291
Email and telephone	Verify facility operational status and point-of-contact.	300	300	5	25
Total					7,762

The questionnaires will be sent to approximately 2,947 reporting units (RU), representing 3,169 local jail facilities and 12 Federal Bureau of Prisons (BOP) detention centers that function as jails. BJS will contact these central reporters and request that they report data for all facilities (3,181) under their jurisdictional authority. Based on prior years' reporting and the cognitive test of the new items conducted in August–December 2018, BJS estimates a reporting time of 150 minutes for CJ–3, 130 minutes for CJ–3A, and 20 minutes for the CJ–3A ADDENDUM. If needed, jail respondents will be contacted by email or telephone to verify data quality issues. BJS estimates that data quality follow-up validation will run an average of 10 minutes across 1,620 RUs. Some RUs may receive follow-up validation for multiple facilities (resulting in a total of 1,749 facilities from the original 1,620 RUs) under their jurisdictional authority. In addition, we estimate that 300 RUs will be contacted during the jail frame update stage to verify facility operational status and point-of-contact, which takes 5 minutes each on average.

In total, the 2019 COJ will incur a burden estimate of 7,762 hours or about 2 hours and 30 minutes per RU for data collection and 10 minutes or less for select RUs contacted for data quality follow-up validation or facility operational status and point-of-contact validation.

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, 3E.405A, Washington, DC 20530.

Dated: April 29, 2019.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–08926 Filed 5–1–19; 8:45 a.m.]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On March 25, 2019, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Maine, in the lawsuit entitled *United States* v. *Global Partners, LP, Global Companies LLC, and Chelsea Sandwich LLP,* Civil Action No. 19–cv–00122.

The United States filed this lawsuit under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. 7413(a)(1), and the Maine state implementation plan. The United States' complaint seeks civil penalties and injunctive relief arising from alleged excess emissions of volatile organic compounds (VOC) at the defendants' petroleum storage facility in South Portland, Maine.

The consent decree requires the defendants to pay a civil penalty of $40,000, plus interest accruing from the date of lodging to the payment date; to perform a supplemental environmental project involving the replacement of old wood stoves with cleaner units, with a minimum expenditure of $150,000; and to perform certain measures at the facility to address past VOC emissions and to limit future VOC emissions.

On April 1, 2019, the Department of Justice published a notice in the **Federal Register** opening a period of public comment on the consent decree for a period of thirty (30) days, through May 1, 2019. By this notice, the Department of Justice is extending the public comment period through July 1, 2019. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Global Partners LP, et al.,* D.J. Ref. No. 90–5–2–1–11428. All comments must be submitted no later than July 1, 2019. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment

to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $6.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Maher,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2019–08873 Filed 5–1–19; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–NEW]

Agency Information Collection Activities; Proposed Collection Comments Requested; New Collection: 2019 Census of Tribal Law Enforcement Agencies (CTLEA)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics (BJS), 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.

DATES: Comments are encouraged and will be accepted for 30 days until June 3, 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 Steven W. Perry, Statistician, Institutional Research & Special Projects Unit, Bureau of Justice Statistics, 810 Seventh Street NW, Washington, DC 20531 (email: *Steven.W.Perry@usdoj.gov;* telephone: 202–307–0777).

SUPPLEMENTARY INFORMATION: 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 BJS, 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;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; 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:* New collection.

(2) *The Title of the Form/Collection:* 2019 Census of Tribal Law Enforcement Agencies (CTLEA).

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The applicable form number(s) for this collection is CTLEA and CTLEA–BIA. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* CTLEA respondents will be the chief law enforcement officer or their designee reporting on behalf of their respective agency. This information collection is a census of the 308 tribal law enforcement agencies operating in Indian country or serving tribal lands. The eligible respondent universe includes: (1) Tribal police departments, tribal conservation and wild life enforcement agencies, Bureau of Indian Affairs (BIA) police departments, tribal university and college police, and the Alaska State Police reporting on behalf of the village public safety officers (VPSO) program coordinated and funded through the state. The CTLEA will be conducted for a four month period from September through December 2019.

TABLE 1—CTLEA UNIVERSE OF KNOWN TRIBAL LAW ENFORCEMENT AGENCIES, 2018

Type of agency	Count	Percent of universe
Universe	308	100
Tribal Law Enforcement	229	74
Conservation/Wildlife enforcement agencies	45	15
Bureau of Indian Affairs Police	27	9
Tribal university/college campus police	6	1.9
Alaska State Police	1	0.3

Enacted in 2010, the Tribal Law and Order Act (TLOA) requires BJS to (1) establish and implement a tribal data collection system, (2) consult with Indian tribes to establish and implement this data collection system, and (3) annually report to Congress the data collected and analyzed in accordance with the act (Pub. L. 111–211, 124 Stat. 2258, § 251(b)). Indian country includes federally recognized reservations, tribal communities, and identified trust lands. Criminal jurisdiction in Indian country varies by type of crime committed, whether the offender or victim is a tribal member, and the state in which the offense occurred. This information collection helps BJS fulfill this mandate and meet the agency's mission.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 308 tribal law enforcement agencies—including tribal operated police departments (229), conservation/wildlife enforcement agencies (44), Bureau of Indian Affairs Police agencies (27), tribal university or college police (6) and the Alaska State Police (1)—that serve or work on tribal lands will be asked to take part in the CTLEA. Based on the survey development and cognitive testing activities, an average of 30 minutes per respondent is needed to complete the CTLEA and CTLEA–BIA forms per respondent. BJS anticipates that nearly all of the approximately 308 respondents will fully complete the questionnaire.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated public burden associated with this collection is 192.5 hours. It is estimated that respondents will take 30 minutes to complete a questionnaire ($308 \times 30 = 154$ hours) and additional verification or validation of responses for about 50% of the respondents will require 15 minutes (154×15 minutes = 38.5 hours). The total burden hours for CTLEA respondent data collection:

TABLE 2—2018 CTLEA ESTIMATED RESPONDENT BURDEN

Total number of respondents	Time to complete CTLEA–18		Time to complete nonresponse follow-up		Total CTLEA & CTLEA–BIA respondent burden
(a) N = 308 ..... (b) Non-response follow-up estimated at 50% of CTLEA universe, n = 154.	30 minutes × *N = 308*	+	15 minutes × *n = 154*	=	192.5 hours.
	154 hours		38.5 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, 3E.405A, Washington, DC 20530.

Dated: April 29, 2019.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–08925 Filed 5–1–19; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJJDP) Docket No. 1760]

Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

AGENCY: Coordinating Council on Juvenile Justice and Delinquency Prevention, Department of Justice.

ACTION: Notice of meeting.

SUMMARY: The Coordinating Council on Juvenile Justice and Delinquency Prevention announces its next meeting.

DATES: Thursday June 13th, 2019 at 10 a.m. EDT.

ADDRESSES: The meeting will take place in the third floor main conference room at the U.S. Department of Justice, Office of Justice Programs, 810 7th St. NW, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Visit the website for the Coordinating Council at *www.juvenilecouncil.gov* or contact Jeff Slowikowski, Senior Policy Advisor, OJJDP, by telephone at (202) 616–3646, email at *jeff.slowikowski@usdoj.gov,* or fax at (202) 353–9093; or Maegen Barnes, Senior Program Manager/Federal Contractor, by telephone (732) 948–8862, email at *maegen.barnes@bixal.com,* or fax at (866) 854–6619. Please note that the above phone/fax numbers are not toll free.

SUPPLEMENTARY INFORMATION: The Coordinating Council on Juvenile Justice and Delinquency Prevention (''Council''), established by statute in the Juvenile and Delinquency Prevention Act of 1974 section 206(a) (42 U.S.C. 5616(a)), will meet to carry out its advisory functions. Information regarding this meeting will be available on the Council's web page at *www.juvenilecouncil.gov*. The meeting is open to the public, and available via online video conference, but prior registration is required (see below). In addition, meeting documents will be viewable via this website including meeting announcements, agendas, minutes and reports.

Although designated agency representatives may attend in lieu of members, the Council's formal membership consists of the following secretaries and/or agency officials; Attorney General (Chair), Administrator of the Office of Juvenile Justice and Delinquency Prevention (Vice Chair), Secretary of Health and Human Services (HHS), Secretary of Labor (DOL), Secretary of Education (DOE), Secretary of Housing and Urban Development (HUD), Director of the Office of National Drug Control Policy, Chief Executive Officer of the Corporation for National and Community Service and the Assistant Secretary of Homeland Security for the U.S. Immigration and Customs Enforcement. Nine additional members are appointed by the Speaker of the U.S. House of Representatives, the U.S. Senate Majority Leader and the President of the United States. Further agencies that take part in Council activities include, the Departments of Agriculture, Defense, Interior and the Substance and Mental Health Services Administration of HHS.

Council meeting agendas are available on *www.juvenilecouncil.gov*. Agendas will generally include: (a) Opening remarks and introductions; (b) Presentations and discussion of agency work; and (c) Council member announcements.

For security purposes and because space is limited, members of the public who wish to attend must register in advance of the meeting online at *www.juvenilecouncil.gov,* no later than Friday June 7th, 2019. Should issues arise with online registration, or to register by fax or email, the public should contact Maegen Barnes, Senior Program Manager/Federal Contractor (see above for contact information). If submitting registrations via fax or email, attendees should include all of the following: Name, Title, Organization/Affiliation, Full Address, Phone Number, Fax and Email. The meeting will also be available to join online via Webex, a video conferencing platform. Registration for this is also found online at *www.juvenilecouncil.gov*.

Note: Photo identification will be required to attend the meeting at the OJP 810 7th Street Building.

Interested parties may submit written comments and questions in advance to Jeff Slowikowski (DFO) for the Council, at the contact information above. If faxing, please follow up with Maegen Barnes, Senior Program Manager/Federal Contractor (contact information above) in order to assure receipt of submissions. All comments and questions should be submitted no later than 5:00 p.m. EDT on Friday, June 7th, 2019.

The Council will limit public statements if they are found to be duplicative. Written questions submitted by the public while in attendance will also be considered by the Council.

Jeff Slowikowski,

Senior Policy Advisor, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 2019–08883 Filed 5–1–19; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Employee Retirement Income Security Act Summary Annual Report Requirement

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Employee Retirement Income Security Act Summary Annual Report Requirement,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before June 3, 2019.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201902-1210-008* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Employee Retirement Income Security Act (ERISA) Summary Annual Report Requirement information collection. ERISA section 104(b)(3), 29 U.S.C. 1024(b)(3), and regulations codified at 29 CFR 2520.104b–10 require an employee benefit plan to furnish a summary of the plan's annual report to participants and specified beneficiaries for purposes of disclosure of basic financial information. ERISA section 104(b)(3) authorizes this information collection. *See* 29 U.S.C. 1024(b)(3).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0040.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the DOL seeks to the authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 23, 2018 (83 FR 53500).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0040. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Employee Retirement Income Security Act Summary Annual Report Requirement.

OMB Control Number: 1210–0040.

Affected Public: Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 743,628.

Total Estimated Number of Responses: 170,628,651.

Total Estimated Annual Time Burden: 1,817,006 hours.

Total Estimated Annual Other Costs Burden: $49,223,676.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: April 25, 2019.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2019–08891 Filed 5–1–19; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Functional Affirmative Action Programs Agreement Approval Process

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Federal Contract Compliance Programs (OFCCP) sponsored information collection request (ICR) revision titled, ''Functional Affirmative Action Programs Agreement Approval Process'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited. The DOL notes an earlier version of this Notice appeared in the **Federal Register** on April 16, 2019 (84 FR 15638); this document replaces the earlier publication in its entirety.

DATES: The OMB will consider all written comments that agency receives on or before June 3, 2019.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201809-1250-004* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OFCCP, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Functional Affirmative Action Programs Agreement Approval Process information collection. The regulations implementing Executive Order 11246 permit Federal supply and service contractors to develop affirmative action programs (AAPs) that are based on business functions or business units rather than AAPs based on establishments. *See* 41 CFR 60–2.1(d)(4). Functional affirmative action programs (FAAPs) are designed to provide contractors with the option of creating AAPs that better fit their business needs. To develop and implement a FAAP, a Federal contractor must receive written approval from the Director of the OFCCP. This ICR addresses the collection of information associated with the process for obtaining, modifying, updating, and renewing an agreement that allows a contractor to develop and use a FAAP. This information collection has been classified as a revision because the OFCCP seeks to amend the directive that establishes policies and procedures that a contractor must follow to maintain a FAAP. In general, the proposed revisions reorganize the contents of the directive and provide some minor, clarifying edits. Among other revisions, the OFCCP proposes to change the current requirement that contractors certify every three years that there have been no changes made to the functional units, business structure, or other circumstances that affect their existing FAAP agreements. Under this ICR, if approved, certification would generally be required every five years. Executive Order 11246 (30 FR 12319, September 28, 1965) 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 the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1250–0006. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on September 11, 2018 (83 FR 45977).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1250–0006. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OFCCP.

Title of Collection: Functional Affirmative Action Programs Agreement Approval Process.

OMB Control Number: 1250–0006.

Affected Public: Private Sector—businesses or other for-profits, farms, and not-for-profit institutions.

Total Estimated Number of Respondents: 85.

Total Estimated Number of Responses: 85.

Total Estimated Annual Time Burden: 862 hours.

Total Estimated Annual Other Costs Burden: $21.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: April 25, 2019.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2019–08890 Filed 5–1–19; 8:45 am]

BILLING CODE 4510–CM–P

DEPARTMENT OF LABOR

Vacancy Posting for a Member of the Benefits Review Board

Summary of Duties: The incumbents exercise completely independent judgment in considering and deciding appeals and other matters which come before the Boards required by law and any applicable regulations. They sign decisions with which they agree or take such action as appropriate, including that of writing concurring and/or dissenting opinions. Also included there in are the following responsibilities, exercised jointly by the Chair and the Board Members: Establishing general policies for the Board's operations; participation at Board case conferences and at oral argument; and other responsibilities necessary for the orderly and efficient disposition of all matters properly before the Board.

Appointment Type: Excepted.

Qualifications: The applicant should be well versed in law and have the ability to interpret statutes and regulations and come to a determination

with other members of the Board or as appropriate, write separately in appellate cases involving a broad range of legal, medical, economic and technical issues which affect the entire maritime and coal mining industries. Applicants must possess a J.D. and are required to be active members of the Bar in any US State or US Territory Court under the U.S. Constitution.

To Be Considered: Applicants must provide a detailed resume containing a demonstrated ability to perform as a Member of the Board.

Closing Date: Resumes must be submitted (postmarked, if sending by mail; submitted electronically; or received, if hand-delivered) by 11:59 p.m. EDT on May 29, 2019. Resumes must be submitted to: *sylvia.john@dol.gov* or mail to: U.S. Department of Labor, 200 Constitution Avenue NW, ATTN: Office of Executive Resources, Room N2453, Washington, DC 20210, phone: 774–365–6851. This is not a toll-free number.

Dated: April 26, 2019.

Bryan Slater,

Assistant Secretary for Administration & Management.

[FR Doc. 2019–08900 Filed 5–1–19; 8:45 am]

BILLING CODE 4510–HT–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2017–0004]

Maritime Advisory Committee for Occupational Safety and Health (MACOSH): Notice of Membership and Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of MACOSH membership and meeting.

SUMMARY: On December 14, 2018, the Secretary of Labor (the Secretary) announced the renewal of the Maritime Advisory Committee for Occupational Safety and Health (MACOSH). The MACOSH charter will expire after two years on December 14, 2020. On April 11, 2019, the Secretary selected 15 members and a Special Agency Liaison to serve on the Committee. The Committee is a representative balance of the maritime industry representation (*e.g.,* shipyard employment, longshoring, marine terminal, and commercial fishing industries), geographic location, and in the views and interests represented by the members.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone (202) 693–1999; email *meilinger.francis2@dol.gov.*

For general information about MACOSH: Ms. Amy Wangdahl, Director, Office of Maritime and Agriculture, OSHA, U.S. Department of Labor; telephone (202) 693–2066; email: *wangdahl.amy@dol.gov.*

For copies of this ***Federal Register*** *Notice:* Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, are also available at OSHA's web page at *www.osha.gov.*

SUPPLEMENTARY INFORMATION: MACOSH is established and operates in accordance with Section 7(b) of the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 656); 29 CFR part 1912; Secretary of Labor's Order 1–2012 (77 FR 3912, Jan. 25, 2012); and Secretary of Labor's Order 4–2018 (83 FR 35680, July 27, 2018). In addition, MACOSH is established and operates in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App. 2.), implementing regulations (41 CFR parts 101–6 and 102–3), and chapter 1600 of Department of Labor Manual Series 3 (March 17, 2008).

The Committee will advise OSHA on matters relevant to the safety and health of employees in the maritime industry related to the priorities set by the agency, including: Worker training, education, and assistance; setting and enforcing of standards; and assurance of safe and healthful working conditions for America's working men and women in the maritime industry. The maritime industry includes shipyard employment, longshoring, marine terminal, and other related industries (*e.g.,* commercial fishing and shipbreaking). The Committee will function solely as an advisory body in compliance with the provisions of FACA and OSHA's regulations covering advisory committees (29 CFR part 1912).

I. Background

The maritime industry is a high-risk industry where activities vary from manufacturing-type work in shipyards, to transportation-type work in longshoring, as well as commercial fishing operations. Historically, the maritime industry has experienced a high incidence rate of work-related fatalities, injuries, and illnesses. The Committee provides a collective industry knowledge and expertise, not otherwise available to the Secretary, to assist in addressing the unique hazards found in shipyard and cargo-handling activities. MACOSH will advise and provide insight to the Secretary on a variety of subjects, as well as assist with the development of guidance and outreach materials, updating regulatory requirements, and with other efforts to help focus industry actions.

II. Appointment of Committee Members

OSHA received nominations of highly qualified individuals in response to the agency's request for nominations (83 FR 54147, October 26, 2018). The Secretary selected individuals to serve on the Committee who have broad experience relevant to the issues to be examined by the Committee. The MACOSH membership is as follows:

Government Interests

- Regina Farr, U.S Department of Transportation, Maritime Administration;
- Matthew Layman, United States Coast Guard;
- James Rone, Washington Department of Labor and Industries; and
- Alice Shumate, National Institute for Occupational Safety and Health (NIOSH).

Worker Interests

- Robert Fiore, International Longshoremen's Association;
- Robert Godinez, International Brotherhood of Boilermakers—Iron Shipbuilders;
- Michael Podue, International Longshore and Warehouse Union; and
- James Reid, International Association of Machinists and Aerospace Workers.

Employer Interests

- William Crow, Virginia Ship Repair Association;
- Donald V. Raffo, General Dynamics;
- Jeremy Riddle, BalTerm, LLC—South Locust Point Marine Terminal; and
- David Turner, APM Terminals/Maersk, Inc.

Professional Organization Interests

- Gunter Hoock, National Safety Council;
- Amy Sly Liu, Marine Chemist Association; and
- Lawrence Russell, National Fire Protection Association.

The Special Agency Liaison to MACOSH is: Julia K. Hearthway, Director, Office of Workers' Compensation Programs.

III. Meeting Information

Dates: MACOSH will meet on June 5 and 6, 2019, from 8:30 a.m. until approximately 4 p.m., ET.

Addresses: The Committee and workgroups will meet at the U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue NW, Washington, DC 20210. The Committee will meet on June 5, 2019, in Conference Rooms S–4215A–C, and the workgroups on June 6, 2019, in Conference Rooms N–3437A–D. Meeting attendees must use the visitor's entrance located at 3rd & C Streets NW.

Submission of comments and requests to speak: Submit comments and requests to speak at the MACOSH meeting, identified by the docket number for this **Federal Register** notice (Docket No. OSHA–2017–0004), by one of the following methods:

Electronically: You may submit comments, including attachments, electronically at: *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the online instructions for submitting nominations.

Facsimile: If your comments, including attachments, do not exceed 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Regular mail, express mail, hand delivery, and messenger or courier service: You may submit comments and attachments to the OSHA Docket Office, Docket No. OSHA–2017–0004, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (express mail, hand (courier) delivery, and messenger service) are accepted during the OSHA Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Requests for special accommodations: Submit requests for special accommodations for MACOSH and workgroup meetings by May 20, 2019, to Danielle Watson, Occupational Safety and Health Administration, Directorate of Standards and Guidance, Room N–3609, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210; telephone (202) 693–2222; email *Watson.danielle@dol.gov.*

Instructions: All submissions must include the agency name and the OSHA docket number for this **Federal Register** notice (Docket No. OSHA–2017–0004). Because of security-related procedures, submissions by regular mail may result in a significant delay in receipt. Please contact the OSHA Docket Office for information about security procedures for making submissions by express mail, hand (courier) delivery, and messenger service.

OSHA will place comments and requests to speak, including personal information, in the public docket, which may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security Numbers and birthdates.

Docket: To read or download documents in the public docket for this MACOSH meeting, go to *http://www.regulations.gov.* All documents in the public docket are listed in the index; however, some documents (*e.g.,* copyrighted material) are not publicly available to read or download through *http://www.regulations.gov.* All submissions are available for inspection and, when permitted, copying at the OSHA Docket Office at the above address. For information on using *http://www.regulations.gov* to make submissions or to access the docket, click on the ''Help'' tab at the top of the homepage. Contact the OSHA Docket Office for information about materials not available through that website and for assistance in using the internet to locate submissions and other documents in the docket.

Authority and Signature

Loren Sweatt, Acting Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice under the authority granted by 29 U.S.C. 655(b)(1) and 656(b), 5 U.S.C. App. 2, Secretary of Labor's Order No. 1–2012 (77 FR 3912), and 29 CFR part 1912.

Signed at Washington, DC, on April 24, 2019.

Loren Sweatt,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2019–08892 Filed 5–1–19; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

Meeting of the Advisory Committee on Reactor Safeguards (ACRS) Subcommittee on Future Plant Designs

The ACRS Subcommittee on Future Plant Designs will hold a meeting on May 1, 2019 at U.S. Nuclear Regulatory Commission, Two White Flint North, Conference Room T2D10, 11545 Rockville Pike, Rockville, MD 20852.

The entire meeting will be open to public attendance. The agenda for the subject meeting shall be as follows:

Wednesday, May 1, 2019—1:00 p.m. Until 5:00 p.m.

The Subcommittee will review and discuss the update on Advanced Reactor Computer Code Development Progress. The Subcommittee will hear presentations by and hold discussions with NRC staff, industry representatives, 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), Derek Widmayer (Telephone 301–221–1448 or Email: *Derek.Widmayer@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 29, 2019.

Kent Howard,

Acting Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2019–08988 Filed 5–1–19; 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 May 2, 2019, at the 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.

The agenda for the subject meeting shall be as follows:

Thursday, May 2, 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*) 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 29, 2019.

Kent Howard,

Acting Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2019–08990 Filed 5–1–19; 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 June 5, 2019, at the 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.

The agenda for the subject meeting shall be as follows:

Wednesday, June 5, 2019—12:15 a.m. Until 1:15 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*) 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 29, 2019.

Kent Howard,

Acting Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2019–08989 Filed 5–1–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0230]

Draft Approaches for Addressing Training and Experience Requirements for Radiopharmaceuticals Requiring a Written Directive

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft approaches for training and experience requirements; request for comment and notice of public meetings.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) would like input on draft approaches the staff has developed that would potentially revise the training and experience (T&E) requirements for radiopharmaceuticals requiring a written directive. The input will be used to determine whether regulatory changes to the NRC's T&E requirements for authorized users (AUs)

are warranted and potential advantages, disadvantages, and other considerations associated with each approach.

DATES: Submit comments by June 3, 2019. Comments received after this date will be considered if it is practical to do so, but the NRC is only able to ensure consideration for comments received on or before this date. Two public meetings to solicit comments will be held on May 14, 2019 and May 23, 2019.

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

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0230. Address questions about NRC dockets IDs in *regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

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

FOR FURTHER INFORMATION CONTACT: Sarah Lopas, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6360, email: *Sarah.Lopas@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0230 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0230.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2018–0230 in your comment submission. The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

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

II. Background

On August 17, 2017, the Commission issued a staff requirements memorandum (SRM), SRM–M170817 (ADAMS Accession No. ML17229B284) directing the staff to evaluate: (1) Whether it makes sense to establish tailored T&E requirements for different categories of radiopharmaceuticals, (2) how those categories should be determined (such as by risks posed by groups of radionuclides or by delivery method), (3) what the appropriate T&E requirements would be for each category, and (4) whether those requirements should be based on hours of T&E or focused more on competency. In response to the SRM, the NRC staff documented its initial results, status, and next steps related to this evaluation in SECY–18–0084, ''Staff Evaluation of Training and Experience Requirements for Administering Different Categories of Radiopharmaceuticals in Response to SRM–M170817'' (ADAMS Package Accession No. ML18135A276).

In SECY–18–0084, the staff concluded that it may be feasible to establish tailored T&E requirements however, additional outreach with the medical community was needed to determine whether and how to tailor those requirements. Revising the T&E requirements could provide additional pathways for physicians to become AUs for specific types of radiopharmaceuticals under 10 CFR 35.300, ''Use of unsealed byproduct material for which a written directive is required.''

As part of the needed additional outreach discussed in SECY–18–0084, the NRC published a notice in the **Federal Register** on October 29, 2018 (83 FR 54380) requesting comments on the staff's evaluation of the T&E requirements for radiopharmaceuticals under 10 CFR 35.300. The NRC held four public meetings on this topic and collected public comments through January 29, 2019. Public comments and meeting transcripts are available on the Federal Rulemaking website at *https://www.regulations.gov/* under Docket ID NRC–2018–0230. Following the conclusion of the initial public comment period, the staff developed several draft approaches to address the directions in SRM–M170817. The NRC is now interested in obtaining input on these draft approaches.

During the comment period between May 2, 2019, and June 3, 2019, the NRC will hold two public meetings to discuss the draft approaches in this document and accept oral comments on those draft approaches. Both public meetings will be available for remote participation by moderated bridge line and webinar and one meeting will also be open for in-person attendance at the NRC's headquarters in Rockville, Maryland. The public meetings are scheduled for May 14, 2019 (webinar and in-person attendance) and May 23, 2019 (webinar-only). The public meetings will be noticed on the NRC's public meeting website at least 10 calendar days before each meeting. Members of the public should monitor the NRC's public meeting website at *https://www.nrc.gov/pmns/mtg.* The NRC will also post the meeting notices on the Federal Rulemaking website at *https://www.regulations.gov/* under Docket ID NRC–2018–0230.

The NRC may post additional materials related to this document, including public comments, on the Federal Rulemaking website. The Federal Rulemaking website allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder NRC–2018–0230; (2) click the ''Sign up for Email Alerts'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

III. Draft Approaches for Comment

The NRC staff has developed the following draft approaches based on input received during the initial public comment period and the Advisory Committee on Medical Uses of Isotopes T&E subcommittee's report dated February 27, 2019 (ADAMS Accession No. ML19058A598). The NRC is requesting comments on the draft approaches, including potential advantages, disadvantages, and other considerations associated with each and whether some approaches could be revised, combined, or if more than one approach could be implemented. The NRC staff is also requesting input on specific questions associated with the approaches.

A. Status Quo

''Status Quo'' presents no changes to the current T&E requirements for radiopharmaceuticals requiring a written directive under 10 CFR 35.300.

- *Question 1:* If the ''Status Quo'' is maintained, how should the NRC ready itself for the expected increase in number and complexity of future radiopharmaceuticals?
- *Question 2:* Is there a challenge with the current T&E requirements—such as concerns regarding patient access to radiopharmaceuticals—that should be addressed through a rulemaking?

B. Tailored Training and Experience Requirements

The four approaches under this section would modify the existing T&E requirements under 10 CFR 35.390, ''Training for use of unsealed byproduct material for which a written directive is required.'' The approaches described under Sections B.1, B.2, and B.3 would require a set amount of T&E tailored to the specific radiopharmaceuticals, and the ''Emerging Radiopharmaceuticals'' approach described under Section B.4 would tailor T&E requirements for each new radiopharmaceutical as they were developed, similar to the approach for regulating new technologies under 10 CFR 35.1000, ''Other Medical Uses of Byproduct Material or Radiation from Byproduct Material.''

- *Question 3:* How should the complexity of the radiopharmaceutical administration protocol be considered in establishing the T&E requirements for the limited approaches described in Sections B.1 and B.2 below?

1. Limited AU for Alpha- or Beta-Emitting Radiopharmaceuticals

Under this approach, any physician could complete at least 400 hours of T&E to be authorized to administer any alpha- or beta-emitting radiopharmaceutical. The T&E would consist of 200 hours of classroom and laboratory training and a minimum of 200 hours of supervised work experience tailored to alpha- and beta-emitting radiopharmaceuticals. Preceptor attestation would be required.

- *Question 4:* How should the NRC categorize radiopharmaceuticals with mixed emissions?

2. Limited AU for Unit-Dose, Patient-Ready Radiopharmaceuticals

Under this approach, any physician could complete at least 400 hours of T&E to be authorized to administer any unit-dose, patient-ready radiopharmaceutical. The T&E would consist of 200 hours of classroom and laboratory training and a minimum of 200 hours of supervised work experience tailored to unit-dose, patient-ready radiopharmaceuticals. Preceptor attestation would be required.

- *Question 5:* Under what conditions should a radiopharmaceutical be considered ''patient ready'' such that the T&E requirements could be tailored?

3. Limited AU for Any One Parenteral Radiopharmaceutical

Under this approach any physician could complete at least 400 hours of T&E to be authorized to administer any one parenteral radiopharmaceutical. The T&E would consist of 200 hours of classroom and laboratory training and a minimum of 200 hours of supervised work experience tailored to the radiopharmaceutical they wish to administer. Preceptor attestation would be required. Limited AUs who have initially completed their at least 400 hours of T&E and then wish to administer a different radiopharmaceutical would be required to complete, minimally, an additional 80 hours of tailored, supervised work experience for each additional radiopharmaceutical.

4. Emerging Radiopharmaceuticals

Like the NRC's regulations at 10 CFR 35.1000, under this approach the NRC would conduct individual reviews of each new emerging radiopharmaceutical to determine T&E requirements specific to the new radiopharmaceutical. The T&E requirements could be tailored to consider potential users of the radiopharmaceutical (*e.g.,* non-nuclear medicine or non-radiation oncology physicians wishing to administer the radiopharmaceutical for their patients with indicated cancers), thus creating alternate T&E pathways for each new radiopharmaceutical.

C. Performance-Based

The approaches described in this section would remove prescriptive T&E requirements from the regulations and instead would focus oversight on the performance-based aspects of a licensee's medical program for the administration of radiopharmaceuticals.

1. Competency-Based Evaluation

Under this approach, proposed AUs would be required to demonstrate competency in radiation safety topics and radiation safety-related job duties through a formal competency evaluation (*e.g.,* an examination or preceptor attestation).

- *Question 6:* How could a competency-based evaluation ensure appropriate training and experience for AUs administering radiopharmaceuticals?

2. Credentialing of Authorized Users

Under this approach, the NRC would no longer review and approve T&E qualifications for all AUs under 10 CFR part 35. Instead, licensees would develop and use their own policies and procedures to make self-determinations of whether their credentialed physicians have the appropriate T&E to be an AU for one or more radiopharmaceuticals under 10 CFR 35.300. Licensees would be required to maintain a training program that ensures compliance with the requirements in 10 CFR 35.41, ''Procedures for administrations requiring a written directive,'' and 10 CFR part 20, ''Standards for Protection Against Radiation.''

- *Question 7:* How could physicians in small practices be credentialed (*e.g.,* physicians not associated with hospitals or other large institutions and their credentialing boards)?

D. Team-Based

Team-based approaches could remove prescriptive T&E requirements for AUs, focus training requirements on the competency of the entire team, or revise the current 700-hour T&E requirement for AUs based on pairing the AU with another individual with expertise in administering radiopharmaceuticals.

- *Question 8:* How should the AU's radiation safety responsibilities be clearly distinguished from other members of the team?

1. Radiopharmaceutical Team

Licensees would need a team to administer radiopharmaceuticals under 10 CFR 35.300. The team would minimally consist of an AU, a radiation safety officer, and a nuclear medicine technologist. Additional team members could include an authorized medical

physicist, a health physicist, an authorized nuclear pharmacist, and other physicians that manage patient care. The T&E for the radiopharmaceutical team approach would be performance-based: Licensees would develop policies and procedures to address how their teams would meet the requirements in 10 CFR 35.41 and 10 CFR part 20.

2. Team AUs With Authorized Administrators

Licensees would need both an AU and an authorized administrator (AA) to administer radiopharmaceuticals under 10 CFR 35.300. AAs would be individuals authorized by the licensee to administer radiopharmaceuticals in accordance with the written directive (*e.g.,* a nuclear medicine technologist or a nuclear medicine advanced associate). The T&E for AUs would be performance-based and focus on the licensee's policies and procedures for written directives, reporting medical events, and patient release criteria. Because AAs would be physically administering radiopharmaceuticals, AAs would be required to have training on radiation safety, written directives, preparation and administration protocols (or vendor training, if available), patient release criteria, and medical event reporting.

3. Partner Limited-Trained AUs With Authorized Nuclear Pharmacists

The T&E for AUs would be at least 400 hours, however, the AU would be required to physically partner with an authorized nuclear pharmacist (ANP) for all administrations of radiopharmaceuticals. Unlike the approaches in Sections D.1 and D.2 above, prescriptive T&E would be required for the AU in this approach due to the AU's more prominent role in the administration of radiopharmaceuticals. The minimum of 400 hours of T&E for the physician partnering with an ANP would be focused on supervised work experience and patient cases, and preceptor attestation would be required. The AU would be responsible for administration of radiopharmaceuticals in accordance with the written directive, and the ANP would be responsible for radiation safety-related duties.

- *Question 9:* How should the radiation safety responsibilities be divided between the AU and ANP?

IV. Additional Questions for Consideration

The NRC is requesting input on the following questions as they relate to the draft approaches discussed above.

- *Question 10:* What are the advantages and disadvantages of the draft approaches?
- *Question 11:* Are there significant costs or benefits associated with any of the approaches?
- *Question 12:* Would any of the draft approaches impact patient access to radiopharmaceuticals or address stakeholder concerns of overly burdensome (regulatory) requirements?
- *Question 13:* For the draft approaches that consider tailored hours of T&E, what are the appropriate numbers of hours and what radiation safety topics should comprise the limited T&E?
- *Question 14:* Should the NRC consider inclusion of a formal radiation safety competency assessment and periodic reassessments for any of the draft approaches above? If so, who should establish and administer these assessments?
- *Question 15:* How would the draft approaches impact the medical organizations that use the NRC's T&E requirements as a basis for establishing their training programs?
- *Question 16:* Are there concerns regarding implementation and/or viability for any of the approaches discussed above?
- *Question 17:* Are there any unintended consequences of the draft approaches?
- *Question 18:* Which of the draft approaches best positions the NRC to effectively regulate future radiopharmaceuticals?
- *Question 19:* Should the NRC continue to play a role in the review and approval of AUs?

Dated at Rockville, Maryland, this 29th day of April 2019.

For the Nuclear Regulatory Commission.

Andrea L. Kock,

Director, Division of Materials Safety, Security, State, and Tribal Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2019–08996 Filed 5–1–19; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2019–144]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 3, 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.[1]

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

[1] *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).

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).:* CP2019–144; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* April 25, 2019; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* May 3, 2019.

This Notice will be published in the **Federal Register**.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2019–08872 Filed 5–1–19; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2019–145]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 6, 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.

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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.[1]

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).:* CP2019–145; *Filing Title:* Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 1E Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* April 26, 2019; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* May 6, 2019.

This Notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2019–08981 Filed 5–1–19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85727; File No. SR–CBOE–2019–025]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Chapter 17 of the Cboe Options Rules

April 26, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 17, 2019, Cboe Exchange, Inc. (''Cboe Options'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend Chapter 17 of the Cboe Options Rules. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for

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[1] *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).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to update processes and related rules concerning investigative and disciplinary matters involving Exchange Trading Permit Holders (''TPHs'') [5] and persons associated with Trading Permit Holders (''associated persons'').[6] Specifically, the Exchange is updating its rules and processes related to (1) complaints and investigations; (2) expedited proceedings; (3) the issuance of charges (and answers thereto); (4) hearings (including decisions made pursuant to a hearing and the review of decisions); (5) summary proceedings; (6) settlements; (7) judgment and sanctions; (8) service of notice; (9) reporting to the Central Registration Depository; and (10) imposition of fines for minor rule violations. The Exchange is making these updates in an effort to adopt new roles for the Exchange's Business Conduct Committee (''BCC'') [7] and Chief Regulatory Officer (''CRO'') [8] and to increase efficiency and fairness in the Exchange's disciplinary process. The Exchange proposes updates to Chapter 17 to reflect the new roles of the CRO and the Hearing Panel in the disciplinary process, which are consistent with that of the Exchange's affiliate exchanges: Cboe BZX Exchange, Inc. (''Cboe BZX''); [9] Cboe BYX Exchange, Inc. (''Cboe BYX''); [10] Cboe EDGX Exchange, Inc. (''Cboe EDGX''); [11] and Cboe EDGA Exchange, Inc. (''Cboe EDGA'') [12] (collectively, and hereinafter, referred to as the ''Affiliated Exchanges'').[13] The Exchange also proposes additional changes to reflect certain other language and provisions of the Affiliated Exchanges, particularly regarding ex parte communications [14] and impartiality of Hearing Panel members.[15] In addition, the Exchange is making technical and conforming updates to its minor rule violation rules.[16] The updates reflecting the rules of the Affiliated Exchanges contain some nuance. The most notable difference that will remain at this time between Exchange rules and the rules of the Affiliated Exchanges is that BCC members will be selected by the Chairperson of the BCC to comprise Hearing Panels, whereas the Chief Executive Officer (''CEO'') appoints members of the Hearing Panels on the Affiliated Exchanges. Moreover, the Exchange proposes timing and tolling of certain periods in connection with various stages of the proceedings under Chapter 17 that are different from the timing in the Affiliated Exchanges' corresponding rules. The Exchange also proposes updates to certain aspects of the review process intended to streamline the overall disciplinary process. Finally, the Exchange is updating certain rules to correct minor errors or update obsolete/outdated language as needed.

Current Exchange Rules and Adjudicatory Process

The Exchange rules currently divided responsibility for the adjudication of its rules into two categories: (1) Rules for which the BCC and BCC Hearing Panels are responsible for adjudicating formal disciplinary proceedings; and (2) rules under which fines may be assessed in lieu of formal disciplinary action. With respect to violations that are adjudicated by the BCC and Hearing Panels, Rule 17.4(b) requires the BCC to direct Regulatory staff (''Staff'') [17] to prepare a statement of charges whenever it appears that there is probable cause for finding a violation within the disciplinary jurisdiction of the Exchange has occurred and formal disciplinary action is warranted. Alternatively, in lieu of conducting a formal disciplinary proceeding, Rule 17.50 (Imposition of Fines for Minor Rule Violations) provides for disposition of specific violations through assessment of fines.[18]

Current Rule 17.2 Complaint and Investigation

Staff investigates and examines possible violations within the disciplinary jurisdiction of the Exchange (''violations'') whenever Staff determines in its sole discretion that there is reasonable basis for it to do so.[19] TPHs and associated persons are required to cooperate with Staff inquiries and to furnish information

[5] Pursuant to the Tenth Amended and Restated Bylaws of the Exchange ''Trading Permit Holder'' means any individual, corporation, partnership, limited liability company or other entity authorized by the Rules that holds a Trading Permit. If a Trading Permit Holder is an individual, the Trading Permit Holder may also be referred to as an ''individual Trading Permit Holder.'' If a Trading Permit Holder is not an individual, the Trading Permit Holder may also be referred to as a ''TPH organization.'' A Trading Permit Holder is a ''member'' solely for purposes of the Securities and Exchange Act of 1934 (the ''Act''); however, one's status as a Trading Permit Holder does not confer on that Person any ownership interest in the Exchange.

Pursuant to Cboe Options Rule 1.1(hhh), the term ''Trading Permit'' means a license issued by the Exchange that grants the holder or the holder's nominee the right to access one or more of the facilities of the Exchange for the purpose of effecting transactions in securities traded on the Exchange without the services of another person acting as broker, and otherwise to access the facilities of the Exchange for purposes of trading or reporting transactions or transmitting orders or quotations in securities traded on the Exchange, or to engage in other activities that, under the Rules, may only be engaged in by Trading Permit Holders, provided that the holder or the holder's nominee, as applicable, satisfies any applicable qualification requirements to exercise those rights.

[6] Pursuant to Cboe Options Rule 1.1(qq), the ''associated person'' or ''person associated with a Trading Permit Holder'' means any partner, officer, director, or branch manager of a Trading Permit Holder (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with a Trading Permit Holder, or any employee of a Trading Permit Holder.

[7] The BCC has decision-making authority concerning possible violations within the disciplinary jurisdiction of the Exchange. The BCC is comprised of one or more TPHs or associated persons, one or more public representatives, and may also include other individuals affiliated with the securities, futures or derivatives industry, all as appointed by the Exchange's Nominating and Governance Committee with the approval of the Exchange's Board of Directors.

[8] The CRO has general supervisory authority over the Exchange's regulatory operations, including the responsibility for overseeing its surveillance, examination, and enforcement functions and for administering any regulatory services agreements with another self-regulatory organization to which the Exchange is a party.

[9] *See* Rules of Cboe BZX Exchange, Inc., specifically Rules 8.2, 8.3, 8.4, 8.6, 8.7, and 8.8.

[10] *See* Rules of Cboe BYX Exchange, Inc., specifically Rules 8.2, 8.3, 8.4, 8.6, 8.7, and 8.8.

[11] *See* Rules of Cboe EDGA Exchange, Inc., specifically Rules 8.2, 8.3, 8.4, 8.6, 8.7, and 8.8.

[12] *See* Rules of Cboe EDGX Exchange, Inc., specifically Rules 8.2, 8.3, 8.4, 8.6, 8.7, and 8.8.

[13] The rules under Chapter 8 of each of the Affiliated Exchanges are the same in number, form and substance. Therefore, the Exchange refers singularly to the corresponding rule of the ''Affiliated Exchanges'' throughout this proposed rule filing.

[14] *See* the Affiliated Exchanges' Rule 8.16.

[15] *See* the Affiliated Exchanges' Rule 8.6.

[16] *See* the Affiliated Exchanges' Rule 8.15.

[17] *See* Cboe Options Rule 17.2 Interpretation and Policy .05. References to ''Regulatory staff'' mean the Exchange's employees in the Regulatory Division, and, as applicable, may also mean employees of the Financial Industry Regulatory Authority, Inc. (''FINRA'') who are performing regulatory services to the Exchange in accordance with the regulatory services agreement entered into between the Exchange and FINRA.

[18] None of the fines assessed in lieu of formal disciplinary action exceed $5000. Under Rule 17.50(f), the Exchange may refer matters covered under Rule 17.50 for formal disciplinary action whenever it determines that any violation is intentional, egregious or otherwise not minor in nature.

[19] *See* Cboe Options Rule 17.2(a).

requested in connection with investigations and examinations.[20]

Staff have [sic] the sole discretion to determine whether to request the BCC authorize the issuance of a statement of charges.[21] When Staff finds that a violation has occurred and formal regulatory action is warranted, Staff submits a written report (''report'') of the investigation to the BCC.[22] When Staff finds that a violation has occurred but non-formal disciplinary action is warranted (*e.g.* cautionary letters) Staff may, in its sole discretion, impose non-formal disciplinary action without submitting a report to the BCC.[23] If Staff finds that there are not reasonable grounds to determine a violation has been committed Staff may, in its sole discretion, close the investigation without submitting a report to the BCC.[24]

Prior to submitting a report to the BCC, Staff must notify the subject of the report (''Subject'') of the nature of the alleged violations.[25] Unless the BCC decides expeditious action is required, the Subject has 15 days to submit a written statement to the BCC concerning why no disciplinary action should be taken.[26] The Subject may request access to documents in the investigative file, furnished by the Subject or the Subject's agents, to assist the Subject in preparing such a written statement.[27] The Subject may also submit a videotaped response in lieu of a written statement, the length and format of which is decided by the Exchange.[28]

Current Rule 17.3 Expedited Proceeding

When the Subject receives notice of the report, the Subject may seek to dispose of the matter through a letter of consent.[29] The Subject submits notice to Staff electing to proceed in an expedited manner.[30] The Subject and Staff may then negotiate a letter of consent outlining stipulations and findings regarding the violation(s) and the sanctions therefore.[31] Disposing of the matter via letter of consent occurs only if the Subject and Staff agree on the terms and it is signed by the Subject.[32] At any time, the Subject or Staff may terminate the negotiations.[33] Following termination of the negotiations, the Subject has 15 days to submit a written statement to the BCC, pursuant to Rule 17.2, concerning why no disciplinary action should be taken.[34] The BCC may accept or reject the letter of consent.[35] If the BCC accepts the letter, it may adopt the letter as its decision.[36] If the BCC rejects the letter, the matter proceeds as if the letter had not been submitted. The BCC's decision to accept or reject the letter is final.[37]

Current Rule 17.4 Charges

When it appears to the BCC from the Staff's report pursuant to Rule 17.2(c) that no probable cause exists for finding a violation occurred or if the BCC otherwise determines that no further action is warranted, the BCC issues a written statement setting out its reasons for that finding.[38] When the BCC determines probable cause exists for finding a violation occurred and further proceedings are warranted, the BCC directs Staff to prepare a statement of charges against the Subject (thereafter a ''Respondent'') specifying the acts for which the Respondent is charged and setting forth the specific violations.[39] A Respondent may request access to the investigative file within 60 calendar days of receiving notice of a statement of charges.[40] The Staff, however, may protect the identity of a Complainant in providing such documents. Additionally, ex parte communications are prohibited between a TPH or person associated with a TPH and members of the BCC or Board (and vice versa) concerning the merits of any matter pending under Chapter 17.[41]

Current Rule 17.5 Answer

The Respondent has 15 days after service of the statement of charges to file a written answer to the statement of charges (''Answer'').[42] The Answer specifically admits or denies any allegation contained in the statement of charges and may be accompanied by supporting documentation.[43]

Current Rule 17.6 Hearing

Subject to Rule 17.7 regarding summary proceedings (described below), hearings on charges are held before one or more members of the BCC.[44] The person or persons conducting the hearing exercise [sic] the authority of the BCC and are [sic] referred to as the ''Panel.''[45] The Exchange and the Respondent are parties to the hearing.[46] Where a TPH organization (as opposed to a TPH who is an individual or an associated person) is a party, it is represented by one of its TPHs (including nominees).[47] The parties are given at least 15 days' notice of the time and place of the hearing.[48] Not less than five days in advance of the hearing date, the parties must furnish copies of all documentary evidence they wish to present at the hearing and a list of witnesses they intend to present at the hearing.[49] If the time and nature of the proceedings permit, the parties meet in a pre-hearing conference in order to clarify and simplify issues, and otherwise expedite the proceeding, At the pre-hearing conference, the parties must attempt to reach agreement respecting authenticity of documents, facts not in dispute, and any other items in order to expedite the hearing. At the request of any party, the Panel or Panel Chairperson hears and decides the pre-hearing issues not resolved among the parties. Generally, interlocutory Board review of any decision made by the Panel prior to hearing completion is prohibited, and permitted only if the Panel agrees to such review after determining that the issue is a controlling issue of rule or policy and that immediate Board review would materially advance the ultimate resolution of the case. The Panel has the authority to regulate the conduct of the hearing and shall determine all questions concerning the admissibility of evidence.[50] Persons who are not parties to the hearing may intervene as a party, provided that person can demonstrate an interest in the subject of the hearing to the satisfaction of the Panel.[51]

Current Rule 17.7 Summary Proceedings

Notwithstanding Rule 17.6 regarding hearings (described above), the BCC may make a determination without a hearing and impose a penalty as to violations which the Respondent has admitted or failed to Answer or which otherwise do not appear to be in

[20] *See* Cboe Options Rule 17.2(b).
[21] *See* Cboe Options Rule 17.2(c).
[22] *Id.*
[23] *Id.*
[24] *Id.*
[25] *See* Cboe Options Rule 17.2(d).
[26] *Id.*
[27] *Id.*
[28] *See* Cboe Options Interpretation and Policy .02 to Rule 17.2.
[29] *See* Cboe Options Rule 17.3.
[30] *Id.*
[31] *Id.*
[32] *Id.*
[33] *Id.*
[34] *Id.*
[35] *Id.*
[36] *Id.*
[37] *Id.*
[38] *See* Cboe Options Rule 17.4(a).
[39] *See* Cboe Options Rule 17.4(b).
[40] *See* Cboe Options Rule 17.4(c).
[41] *See* Cboe Options Rule 17.4(d) and Interpretations and Policies .01–.03 to Rule 17.4.
[42] *See* Cboe Options Rule 17.5.
[43] *Id.*
[44] *See* Cboe Options Rule 17.6(a).
[45] *Id.*
[46] *Id.*
[47] *Id.*
[48] *See* Cboe Options Rule 17.6(b).
[49] *Id.*
[50] *See* Cboe Options Rule 17.6(c).
[51] *See* Cboe Options Interpretation and Policy .01 to Rule 17.6.

dispute.[52] The Respondent is served with notice of summary determination, after which the Respondent may notify the BCC that they [sic] would like a hearing on one or more of the charges.[53] A Respondent's failure to notify the BCC that they [sic] desire a hearing constitutes an admission of the violations and an acceptance of the penalty.[54]

Current Rule 17.8 Offers of Settlement

The Respondent may submit an offer of settlement (''offer'') to the BCC up to 120 days following service of the statement of charges.[55] If the BCC accepts the offer, it issues a decision consistent with the terms of the offer.[56] If the BCC rejects the offer, it notifies the Respondent and the matter proceeds as if the offer had not been made.[57] The Respondent may submit a written statement in support of an offer.[58] In addition, the Respondent is notified if Staff will not recommend acceptance of an offer, and the Respondent may then appear before the BCC to make an oral statement in support of the offer.[59] If the BCC rejects an offer that the Staff supports the Respondent may also appear before the BCC to make an oral statement concerning why the BCC should consider changing its decision.[60]

Subject to certain conditions, the Respondent is limited to two offers in connection with a statement of charges.[61] The BCC, in its discretion, may permit the Respondent to submit an additional offer during the applicable time period, provided the stipulation of facts and sanction contained in the offer are consistent with what is deemed acceptable by the BCC.[62]

Further, there are certain situations where the 120-day period during which the Respondent may submit an offer may be reduced and/or extended. If the Respondent elects to proceed in an expedited manner pursuant to Rule 17.3 and is unable to reach a consent agreement with Staff, then any period in excess of 30 days from when the Respondent elected to proceed in an expedited manner to the end of consent negotiations (by either Staff or the Respondent's declaration) is deducted from the 120-day period.[63] If the Respondent requests access to the investigative file pursuant to Rule 17.4, the 120-day period is tolled during the number of days in excess of 30 days that it takes Staff to provide access to the investigative file.[64]

Finally, at the end of the 120-day period, or after the BCC rejects the Respondent's second offer a hearing is scheduled and the hearing proceeds in accordance with the provisions of Rule 17.6.[65]

Current Rule 17.9 Decision

Following a hearing, the Panel issues a decision (the ''decision'') determining whether the Respondent has committed a violation.[66] The decision must also include sanctions in cases where sanctions have been imposed. In instances in which the Panel is not composed of at least a majority of the BCC, a majority of the BCC automatically reviews the decision. The majority may affirm, reverse, or modify the decision or remand the matter for additional findings or supplemental proceedings.[67]

Current Rule 17.10 Review

The Respondent and/or the Regulatory Division has 15 days after service of the decision to petition for review of the decision by filing a copy of the petition with the Secretary of the Exchange and with all other parties.[68] Parties other than the petitioner may submit written responses to the petition.[69] The Board or a committee of the Board, whose decisions must be ratified by the Board, conducts the review.[70] The Board may affirm, reverse or modify a decision of the BCC and the decision of the Board is final.[71] In addition, the Board may review a decision on its own motion.[72] Finally, the Exchange's Regulatory Oversight and Compliance Committee may apply to the Board to have the BCC's decision not to initiate charges that were recommended by Staff, reviewed by the Board.[73]

Current Rule 17.11 Judgment and Sanction

The BCC, in part, appropriately disciplines TPHs and associated persons for violations by expulsion, suspension, limitation of activities, fine, censure, suspension of Trading Permits, or any other fitting sanction.[74] Under this Rule, the BCC considers several factors when determining sanctions including, but not limited to, deterrence, remediation, precedent and the appropriateness of disgorgement and/or restitution.[75]

Current Rule 17.12 Service of Notice

Service of charges, notices and other documents upon the Respondent are made personally, by leaving the same at the Respondent's place of business or by deposit in the US post office via registered or certified mail addressed to the Respondent at the Respondent's address as it appears on the books and records of the Exchange.[76]

Current Rule 17.14 Reporting the Central Registration Depository

The Exchange reports the issuance of a statement of charges and significant changes to the status of disciplinary proceedings to the Central Registration Depository (''CRD'').[77]

Current Rule 17.50 Imposition of Fines for Minor Rule Violations

In lieu of commencing disciplinary proceedings, the Exchange may impose fines, not to exceed $5000, on TPHs and associated persons for specified Rule violations.[78] Any person against whom a fine is imposed pursuant to Rule 17.50 may contest the fine by filing an Answer, pursuant to Rule 17.5, at which point the matter is subject to review by the BCC.[79] The Answer may request a hearing if desired. Review and hearing related to violations outlined in Rule 17.50 are handled in the same fashion as any other matter for which a statement of charges has been issued.[80] However, subject to certain conditions, the BCC may impose certain forum fees for review and hearing if the BCC determines that the conduct serving as the basis of the action under review is in violation of Exchange Rules.[81] The Exchange lists the rules as to which the Exchange may impose fines within Rule 17.50 itself and in regulatory circulars

[52] *See* Cboe Options Rule 17.7.

[53] *Id.*

[54] *Id.*

[55] *See* Cboe Options Rule 17.8(a).

[56] *Id.*

[57] *Id.*

[58] *See* Cboe Options Rule 17.8(b).

[59] *Id.*

[60] *Id.*

[61] *See* Cboe Options Interpretation and Policy .01(a) to Rule 17.8.

[62] *See* Cboe Options Interpretation and Policy .01(c) to Rule 17.8.

[63] *See* Cboe Options Interpretation and Policy .01(b) to Rule 17.8.

[64] *See* Cboe Options Interpretation and Policy .01(d) to Rule 17.8.

[65] *See* Cboe Options Interpretation and Policy .02 to Rule 17.8.

[66] *See* Cboe Options Rule 17.9.

[67] *Id.*

[68] *See* Cboe Options Rule 17.10(a)(1).

[69] *See* Cboe Options Rule 17.10(a)(2).

[70] *See* Cboe Options Rule 17.10(b).

[71] *Id.*

[72] *See* Cboe Options Rule 17.10(c).

[73] *See* Cboe Options Rule 17.10(d).

[74] *See* Cboe Options Rule 17.11(a).

[75] *See* Cboe Options Interpretation and Policy .01 to Rule 17.11.

[76] *See* Cboe Options Rule 17.12.

[77] *See* Cboe Options Rule 17.14.

[78] *See* Cboe Options Rule 17.50(a).

[79] *See* Cboe Options Rule 17.50(c)(1).

[80] *Id.*

[81] *See* Cboe Options Rule 17.50(c)(2).

and notices.[82] Nothing in Rule 17.50 requires the Exchange to impose a fine pursuant to Rule 17.50 with respect to the violation of any rule listed.[83] For a violation that the Exchange determines is minor in nature and falls within the scope of the minor rule plan, it may proceed under Rule 17.50.[84] A number of listed rules within Rule 17.50 indicate that violations above a specified threshold or a specified number of repeat violations will result in referral to the BCC.[85]

Proposed Updates to Exchange Rules

As mentioned above, the current application of the rules provides for the BCC to determine whether to initiate charges in a regulatory matter and to determine appropriate sanctions for rule violations. Under the proposed change to Rule 17.4, the CRO will replace the BCC and accordingly, the CRO will have the authority to initiate charges. Under the proposed changes to Rule 17.11, the CRO or a Hearing Panel, as applicable, may impose disciplinary sanctions. The Exchange proposes corresponding changes elsewhere in Chapter 17 to reflect the CRO's authority to initiate charges and impose disciplinary sanctions. These changes harmonize the CRO's authority under Chapter 17 with the CRO's authority under corresponding Chapter 8 of the Affiliated Exchanges. The Exchange believes that this transfer of authority to the CRO maintains the independence of the regulatory functions of the Exchange as the CRO supervises the regulatory functions of the Exchange, separate from that of its business interest, reporting directly to the Regulatory Oversight Committee of the Board of Directors (''ROC'').

The Exchange recommends additional changes, including amendments to:

(1) Increase the amount of time the Subject of a regulatory report has to submit a written statement (from 15 days to 25).

(2) Increase the amount of time a Respondent has to file an Answer (from 15 days to 25). This changed is based on the Rules of the New York Stock Exchange (''NYSE''),[86] the Financial Industry Regulatory Authority (''FINRA''),[87] and NASDAQ PHLX, LLC (''PHLX'').[88]

(3) Update Interpretation and Policy .02 to Rule 17.2 by specifying standards for videotaped responses.

(4) Relocate provisions related to ex parte communications currently contained in Rule 17.4 (Charges) to Rule 17.15 (Ex Parte Communications). This change is consistent with the ex parte provisions under the Affiliated Exchanges' Rule 8.16.

(5) Update Rule 17.6 (Hearing) to:

a. Specify that hearings on charges shall be held before a Hearing Panel comprised of three or five members of the BCC;

b. Specify impartiality requirements for members of the Hearing Panel and procedures for removal of members of the Hearing Panel on the grounds of bias or conflict of interest. This is based on the Affiliated Exchanges' Rule 8.6(b) as well as FINRA Rule 9233(a);

c. Increase the amount of time prior to a hearing date the parties to a hearing must furnish documentary evidence (from 5 days to 10); and

d. Specify that the CRO has the authority to direct that a hearing be scheduled at any time after the period to submit an answer to Charges pursuant to Rule 17.5 has elapsed.

(6) Update Rule 17.8 (Settlement) to:

a. Eliminate the 120-day period during which a Respondent may submit an offer of settlement (and make corresponding changes reflecting the removal of this time period). This removal comports with the Affiliated Exchanges' Rule 8.8;

b. Specify that offers of settlement will be considered by the CRO for acceptance or rejection (as opposed to the BCC).This is a harmonizing change reflecting that of the Affiliated Exchanges' Rule 8.8(b);

c. Specify that the CRO has the discretion to grant a Respondent more than two written offers of settlement. This is a harmonizing change reflecting that of the Affiliated Exchanges' Rule 8.8(c); and

d. Specify that a Hearing Panel will grant the parties leave to present an offer of settlement to the CRO.

(7) Remove the requirement that a majority of the BCC automatically review decisions of a Hearing Panel. This is a harmonizing change reflecting that of the Affiliated Exchanges' Rule 8.9.

(8) Remove the provision that the Board may review the decision not to initiate charges upon application by the Regulatory Oversight and Compliance Committee.

(9) Specify that if service of notice pursuant to Chapter 17 is made by registered or certified mail, three days shall be added to the prescribed period for response.

(10) Add Rule 17.15 for ex parte communications.

(11) Update the rules related to Minor Rule Violations to reflect changes elsewhere in Chapter 17 and to remove any required referral to the BCC for repeat violations.

(12) Update certain other outdated language within Chapter 17.

Detailed descriptions of the changes to specific Rules within Chapter 17 are outlined below.

Updates to Rule 17.2 Complaint and Investigation

The Exchange replaces references to the BCC with references to the CRO within Rule 17.2, which conforms to the Affiliated Exchanges' Rule 8.2. Under updated Rule 17.2(c), Staff will request the CRO to authorize the issuance of a statement of charges when Staff finds there are reasonable grounds to believe a violation has been committed and formal regulatory action is required. Additionally, the proposed change requires the Staff to submit a written report to the CRO of each investigation instituted as a result of a complaint, along with the current requirement that Staff submit reports where Staff finds reasonable grounds that a violation has occurred and formal regulatory action is warranted. The Exchange notes that under the Affiliated Exchange's current rules, Staff are to submit written reports to the CRO when an investigation has been initiated as a result of a complaint, as well as when an investigation results in a finding that there are reasonable grounds to believe that a violation has been committed. The Exchange notes that, unlike the Affiliated Exchanges, Staff maintains the authority to impose non-formal disciplinary action or determine to close an investigation without the submission of a report to the CRO.[89] The Exchange also notes that, as it does today, Staff will retain information and/or summaries regarding an action or an investigation closed in this manner. Such information and/or summaries are [sic] available to the CRO upon request and included in regulatory updates to the CRO when necessary.

Under updated Rule 17.2(d), except when the CRO determines that expeditious action is required, the Subject may submit a written statement to the CRO concerning why no

[82] *See* Cboe Options Rule 17.50(f).

[83] *Id.*

[84] *Id.*

[85] *See* Cboe Options Rule 17.50(g)(2)–(5), (7), (9)–(19).

[86] *See* NYSE Rule 9215.

[87] *See* FINRA Rule 9215.

[88] *See* PHLX Rule 9215.

[89] *See* Securities Exchange Act Release No. 71371 (January 23, 2014), 79 FR 4779 (January 29, 2014) (Notice of Filing and Immediate Effectiveness of Proposed Rule To Amend CBOE's Rules To Enhance the Independence and Integrity of the Regulatory Functions of the Exchange) (SR–CBOE–2014–001).

disciplinary action should be taken. In addition, the Exchange proposes to extend the time period the Subject has to submit a written statement from 15 days, the period currently provided for in the Affiliated Exchanges' Rule 8.2(d), from the date of the notice to 25 days. The Exchange further proposes to specify that this 25-day period to submit a written statement to the CRO will toll while a request for access to the investigative file pursuant to Rule 17.2(d) is pending. The Exchange also proposes to update Rule 17.2(d) to eliminate any gender-specific pronouns (*i.e.* ''he'', ''him'', or ''his).[90] Finally, the Exchange makes corresponding updates to Interpretation and Policy .02 to Rule 17.2 to reflect the aforementioned changes to Rule 17.2(d) and to set forth standards for videotaped responses. Such responses are consistent with current Securities and Exchange Commission (''Commission'') enforcement guidelines, specifically the requirements that videotaped responses are limited to 12 minutes or less.[91] The Exchange additionally proposes that a written transcript accompany a videotaped response. The submission of videotaped responses falls within the proposed 25-day submission period and, when applicable, proposed tolling period.

Purpose of Updates to Rule 17.2

The Exchange believes the CRO is best suited to review reports from Staff and responses to alleged violations from Subjects. The CRO has general supervisory authority over the Exchange's regulatory operations, including the responsibility for overseeing surveillance, examination, and enforcement functions and for administering any regulatory services agreements with another self-regulatory organization to which the Exchange is a party. The Exchange notes that the CRO functions to serve the regulatory functions of the Exchange, separate from that of its business interest, reporting directly to the ROC. Therefore, the Exchange believes that allowing the CRO to authorize the issuance of charges maintains the autonomy and independence of the Exchange's regulatory functions, as well as helps to ensure that decisions regarding the resolution of investigations are made without regard to the actual or perceived business interests of the Exchange or any of TPHs. As a result, the submission of written reports to the CRO will help expedite the disciplinary process while still providing TPH and associated persons with a fair and efficient process. The Exchange also notes that the added submission of written reports where an investigation has been instituted as a result of a complaint serves to make the Exchange's complaint process consistent with that of the Affiliated Exchanges. The Exchange believes that keeping the Staff's authority in place to find reasonable grounds that formal regulatory action is or is not warranted and to impose the appropriate non-formal or closing actions where warranted without providing a formal report to the CRO will continue to support the independence and integrity of the regulatory functions of the Exchange, as Staff, like the CRO, functions independently from the business interests of the Exchange.[92]

Additionally, the Exchange believes that due to the increased complexity of Exchange trading activity (and the resulting regulatory investigations and examinations) that increasing the time period from 15 days to 25 days is reasonable. The additional time will enhance the regulatory process by allowing subjects to prepare more comprehensive and effective written statements.[93] The Exchange notes that the Subject's access to ''other materials'' includes any non-privileged exculpatory documents that the Exchange may have in the investigative file. Finally, tolling that same period while Staff prepares an investigative file when requested by the Subject is necessary in the interest of fairness. The Exchange notes that Staff is often able to provide an investigative file in one week or less and that the Exchange makes every effort to provide such files promptly upon request. However, to the extent an investigative file is voluminous or otherwise complicated to provide, were that period not tolled, the Subject could be left with insufficient time to prepare an effective written statement following receipt of the investigative file. Though the rules of the Affiliated Exchanges do not provide for tolling of this time period, the Exchange notes that its current Interpretation and Policy .01(d) to Rule 17.8 (discussed below) already allows for tolling to extent it takes Staff more than 30 calendar days (in the context of a total 120-day time period) to produce documents to a Respondent. Therefore, as proposed, tolling is not novel within the Exchange's disciplinary process. The Exchange believes that the proposed 25 day time period should be completely tolled while Regulatory staff prepares an investigative file for review in order to provide sufficient time for a Subject to compose a response. The Exchange also notes that this will limit the need for the Exchange to provide extensions when the Subject requests more time to respond. Finally, the Exchange notes that the addition of a time limit of videotaped responses, consistent with current Commission enforcement guidelines, [94] and the accompaniment by a written transcript serves the interest of expediency.

Updates to Rule 17.3 Expedited Proceeding

The Exchange proposes to replace references to the BCC with references to the CRO within Rule 17.3, thus making the CRO's role consistent with that of corresponding Rule 8.3 of the Affiliated Exchanges. The Exchange also proposes to update certain verbiage as needed resulting from those replacements. The Exchange makes corresponding updates to reflect changes to the 17.2(d) processes referenced in Rule 17.3. Under updated Rule 17.3, if Staff and the Subject are able to agree on the terms of a letter of consent, Staff will submit the letter to the CRO for consideration. If the CRO accepts the letter of consent, the Exchange shall adopt the letter of consent as its decision and no further action shall be taken against the Subject respecting the matters that are the subject of the letter of consent, which is consistent with the practices set forth in the Affiliated Exchanges' Rule 8.3. If the CRO rejects the letter of consent, the matter shall proceed as though the letter of consent had not been submitted. The CRO's decisions regarding letters of consent are final. The Exchange also makes non-substantive, clarifying additions qualifying the letter as the ''letter of consent'' throughout this rule.

Purpose of Updates to Rule 17.3

The CRO replaces the BCC as the deciding body related to expedited proceedings. The Exchange believes the CRO is best suited to review letters of consent and determine whether to reject

[90] The Exchange is also updating Rules 17.5, 17.6, 17.7, 17.8, 17.12, and 17.50 to eliminate gender-specific pronouns. Additionally, in instances in which the Exchange harmonizes its rule language with that of the Affiliated Exchanges, the Exchange eliminates gender-specific pronouns.

[91] *See* Securities and Exchange Commission Division of Enforcement, Enforcement Manual (Nov. 28, 2017), *available at: https://www.sec.gov/divisions/enforce/enforcementmanual.pdf.*

[92] *See supra* note 88 [sic].

[93] The Exchange notes that under current Rule 17.13 time limits imposed under Chapter 17 may be extended. Where the exchange is extending certain time limits within this filing, it also does so to reduce the number of extension requests processed by Staff and thereby enhance the efficiency of the regulatory process.

[94] *See supra* note 91.

or accept such letters. The CRO is better suited to resolve procedural matters like expedited proceedings and the approval or disapproval of letters of consent because the CRO has greater subject matter and procedural expertise based on his role in directly overseeing the regulatory programs and processes on a day to day basis. Additionally, the Exchange notes that the CRO is required to report periodically to the ROC on all regulatory matters and issues, thus, keeping the ROC apprised of, and allowing for its review of expedited proceedings. As a result, the Exchange believes that this proposed rule change further supports and provides for the autonomy and independence of the Exchanges' regulatory functions.

Updates to Rule 17.4 Charges

The Exchange proposes to replace references to the BCC with references to the CRO within Rule 17.4(a) and 17.4(b), which conforms to the Affiliated Exchanges' references within their corresponding Rule 8.4. The Exchange also proposes to add clarification that a determination not to initiate charges pursuant to Rule 17.4(a) only occurs in those cases where a Subject has been provided notice of violations pursuant to Rule 17.2(d). Under updated Rule 17.4(a), in those cases where notice has been provide pursuant to Rule 17.2(d) and when it appears to the CRO from the report of Regulatory staff that no probable cause exists for finding that a violation occurred or if the CRO otherwise determines that no further action is warranted, the CRO shall direct Staff to prepare and issue a statement to the Subject (and Complainant if any) outlining the reasons for such finding. The proposed language stating that the CRO shall direct Staff to prepare and issue the written statement related to such a determination is a clarifying addition to Rule 17.4(a) that is intended to add detail regarding the process through which such a statement is issued.

Similarly, under updated Rule 17.4(b), whenever it shall appear to the CRO that there is probable cause for finding a violation occurred and further proceedings are warranted, the CRO shall direct Staff to prepare and issue a statement of charges against the Respondent. The proposed addition of the term ''and issue'' clarifies Staff's responsibilities under the Rule, serves to mirror the Staff's responsibilities for an issuance pursuant to 17.4(a), and modifies the Rule to be substantially similar to the Affiliated Exchanges' Rule 8.4(b).

The Exchange also modifies the requirement in Rule 17.4(c) that a Respondent request access to documents within 60 calendar days after receiving service of charges, to 25 days after receiving such notice. This change serves to harmonize a Respondent's time to request documents with their [sic] time to file a written answer under proposed Rule 17.5 (described below), and the tolling of such period while access to the investigative file is pending. Lastly, the Exchange proposes to relocate Rule 17.4(d) and its Interpretations and Policies .01–.03 (along with the amendments proposed, as described below), which concern ex parte communications, to proposed additional Rule 17.15. This change is in line with the Affiliated Exchanges' Rule 8.16 that specifically covers ex parte communications for disciplinary procedures.

Purpose of Updates to Rule 17.4

The Exchange believes the CRO is best suited to determine whether to initiate charges after reviewing a Staff report. Allowing the CRO to initiate charges (or elect not to initiate charges) will significantly expedite the disciplinary process, as well as serve to conform this rule to the Affiliated Exchanges' Rule 8.4. Specifically, Staff and Subjects will not have to wait until the BCC meets to learn whether a regulatory matter will result in charges and the matter can move on to answer, hearing, settlement, and/or summary disposition. In the CRO's capacity as supervisor of the Exchange's regulatory operations, the CRO maintains the subject matter and procedural expertise that is necessary to review and consider regulatory issues and the accompanying facts and circumstances in consideration of issuing charges. For example, the CRO is best suited to determine when a pattern or practice of violative conduct exists, where certain conduct might have been willful in nature or whether other aggravating (or mitigating) circumstances exist (considerations that may be important in considering charges). As stated, the Exchange believes that under the current practice of Rule 17.4(a) and (b), by having the CRO direct Staff to prepare and issue subsequent statements after the CRO's review is clarifying and in line with such current practices with the BCC. Additionally, the Exchange believes that allowing a Respondent 25 days from receiving service of charges to request access to documents serves to harmonize this process with the proposed time for which a Respondent may file an answer under Rule 17.5, and the proposed tolling requirements thereunder.

Updates to Rule 17.5 Answer

Under updated Rule 17.5, the Exchange extends the time period the Respondent has to submit an Answer from 15 days after the service of charges, which is currently provided for under the Affiliated Exchanges' corresponding Rule 8.5, to 25 days.[95] The Exchange proposes to specify that this 25-day period to submit an Answer will toll, like that of proposed 17.2(d), while a request for access to the investigative file pursuant to Rule 17.4(c) is pending.

Purpose of Updates to Rule 17.5

The Exchange believes that due to the increased complexity of Exchange trading activity (and the resulting regulatory investigations and examinations) that increasing the time period from 15 to 25 days is reasonable. The additional time will allow Respondents to prepare more comprehensive and effective Answers. Finally, similar to the proposal to toll the time period in the context of a written response to a notification of pending allegations from Staff, the Exchange believes that tolling the time period for an Answer pursuant to Rule 17.5 while Staff prepares investigative file for the Respondent's review is necessary in the interest of fairness. For the same reasons described above, were that period not tolled, the Respondent could be left with insufficient time to prepare an effective Answer following receipt of the investigative file and limits the Exchange having to grant an extension. The Exchange again notes that Staff can often provide an investigative file in one week or less and that the Exchange makes every effort to provide such files promptly upon request.

Updates to Rule 17.6 Hearing

Under updated Rule 17.6(a), the Exchange proposes that hearings on the charges be held by a panel of either three or five members of the BCC selected by the Chairperson of the BCC. In addition, the Exchange updates Rule 17.6(a) to clarify that where a TPH organization is a party to the hearing, it shall be represented by one of its nominees, who is properly authorized by a TPH organization pursuant to Rule 3.8 (Nominees).[96] The Exchange also proposes language within 17.6(a) that states BCC Counsel may assist the Hearing Panel in preparing its written

[95] This change is based on the rules of NYSE, FINRA and PHLX. *See supra* notes 86–88.

[96] *See* Cboe Options Rule 1.1(pp). The term ''nominee'' means an individual who is authorized by a TPH organization, in accordance with Rule 3.8, to represent such TPH organization in all matters relating to the Exchange.

recommendations or judgments, a practice already in place within the hearing process.

Importantly, the Exchange proposes to add subparagraphs (a)(1) through (a)(3) to Rule 17.6 which requires that Hearing Panel members must function impartially and independently of the involved Exchange staff members, provides a recusal process for Hearing Panel members, as well as a process in which a Respondent may motion for removal of Hearing Panel members who may have bias or a conflict of interest. Proposed subparagraph (a)(1) provides that Hearing Members are expected to function impartially and independently of the staff members who prepared and prosecuted the charges. This language is based on language in the Affiliated Exchange's Rule 8.6. Proposed subparagraph (a)(1) then states that if a Hearing Panel member determines they [sic] have a conflict of interest or bias or other circumstances exists where their [sic] fairness might be reasonably questioned, then such Hearing Panel member should withdraw from the matter and the Chairperson of the BCC may then appoint a replacement. This provision is based on FINRA Rule 9233(a).[97] Proposed subparagraphs (a)(2) and (a)(3), like that of the Affiliated Exchanges, provide for the process in which a Respondent may motion for disqualification of a Hearing Panel member on the grounds of bias or conflict of interest, along with the procedure for ruling upon such motions for disqualification. The Exchange incorporates additional language that the Hearing Panel member subject to a Respondent's motion for removal is excluded from rulings on such motion. Subparagraphs (a)(2) and (a)(3) are consistent with that of the Affiliated Exchanges' Rule 8.6(b), and differ only where necessary to conform to the Exchange's existing Rule 17.6 text or to account for details or descriptions included in the Exchange's rules but not in the applicable rules of the Affiliated Exchanges.

Under updated prehearing procedures in Rule 17.6(b), parties to a hearing must furnish copies of all documentary evidence to be presented at the hearing and a list of witnesses ten business days (as opposed to five business days under current Rule 17.6(b)) in advance of the scheduled hearing date. The Exchange also proposes to modify the notice of the time and place of the hearing given to the Parties to 15 *business* days from 15 calendar days to conform to the Affiliated Exchanges' corresponding rule.

The Exchange proposed to add Interpretation and Policy .03 to Rule 17.6 that states, ''Subject to Rule 17.7, the CRO shall have the authority to direct that a hearing be scheduled at any time, after the period to answer pursuant to Rule 17.5 has elapsed.''

The Exchange also updates Rule 17.6 throughout to reference the panel selected for the Hearing as the ''Hearing Panel'', which comports with the terminology in the Affiliated Exchanges' corresponding Rule 8.6.[98]

Purpose of Updates to Rule 17.6

The Exchange believes the updates to Rule 17.6 will expedite and provide greater clarity around the Exchange's hearing process. Under the updated Rule 17.6, the BCC still serves as the pool from which hearing panelists are selected, however, the Hearing Panel is limited to either three or five members selected by the BCC Chairperson. This update will clarify the selection process and prevent interlocutory issues that may arise in having an even number of members on a Hearing Panel. Furthermore, limiting the size of the Hearing Panel helps to streamline the hearing process while still providing a sufficient number of panelists to adjudicate the hearing effectively. The Exchange notes that it expects that most Hearing Panels will be comprised of three members, but that five members may be necessary at times to hear particularly complex matters. Clarifying that where a TPH organization is a party to the hearing it shall be represented by one of its nominees ensures that an authorized person consistent with existing Rule 3.8 represents a TPH organization.

The Exchange believes that proposed Rule 17.6(a)(1) through (a)(3) providing for Hearing Panel member impartiality and recusal and removal processes serve in the interest of fairness to the Respondent. Allowing a Respondent to move for disqualification of any member of the Hearing Panel selected by the BCC Chairperson based upon bias or conflict of interest and providing for a ruling process on motions for disqualification conforms to the Affiliated Exchanges' Rule 8.6. As stated, the Exchange proposes to maintain language necessary to account for different text and procedures between the Exchange's rules and those of the Affiliated Exchanges. Notably, the proposed language incorporates that a motion shall be filed with the BCC Chairperson. This is a logistical difference that accounts for the BCC's role in the Exchange's process, which is not present within the Affiliated Exchanges' processes. Like that of the Affiliated Exchanges, the Hearing Panel will hear such motions. The Exchange explicitly adds that a Hearing Panel member subject to a Respondent's motion for disqualification is excluded from ruling on such motions, a best-practice currently in place. The Exchange also proposes moving the provision stating that counsel may assist the Hearing Panel in preparing its written recommendations, currently found within the Affiliated Exchange's corresponding impartiality provision, to Rule 17.6(a). The Exchange believes that this serves to codify a practice already in place; specifying that BCC Counsel assists the Hearing Panel throughout the hearing, not only during impartiality rulings. The Exchange also believes that adding substantially similar language to that of FINRA Rule 9233(a), which provides that a Hearing Panel member shall recuse themselves [sic] when they determine they have a conflict of interest, bias, or other circumstance which might call into question their fairness, is an additional safeguard to protect the integrity of the hearing process and the interests of the Respondent.

Requiring that the parties provide documentary evidence and witness lists ten business days in advance of a scheduled hearing will give all parties more time to review materials that will be presented at hearing. This extended time period is necessary given the increased complexity of modern trading activity on the Exchange and the resulting complexity of disciplinary matters. Additionally, incorporating that the parties receive 15 business days' notice (as opposed to the current 15 days' notice) harmonizes the business day timing requirements throughout paragraph (b) and ensures that the parties have ample time from the notice of the scheduled hearing to furnish copies of documentary evidence.

Furthermore, vesting authority in the CRO to direct the scheduling of hearings is a necessary update given that the Exchange proposes to remove the time limit under which Respondents must submit offers of settlement under updated Rule 17.8. Under current rules, the end of the settlement period functions as the primary trigger for the

[97] The Exchange notes that its Rule language differs from that of FINRA's where necessary to maintain terminology particular to its Rules and disciplinary procedures. The Exchange also notes that in this subparagraph it incorporates language specifying that members of the Hearing Panel are expected to function impartially, which is unlike the FINRA rule, but rather mirrors the Affiliated Exchanges' rule language.

[98] The Exchange also updates references to the Hearing Panel within Rules 17.9, 17.10, 17.11 and 17.50.

scheduling of a hearing (hearings are scheduled when the settlement period ends and the parties have not reached settlement). Under updated Rule 17.6, the CRO can direct the scheduling of a hearing when the CRO believes the nature of matter at hand requires a hearing, when the Respondent has exhausted his offers of settlement, or when the CRO believes that good faith settlement negotiations have ended. As stated above, the CRO is required to meet regularly with the ROC to report on regulatory performance and status of regulatory matters, including caseloads and aging. The Exchange thus believes the CRO's requirement to report to the ROC will ensure continued timeliness in the processing of a regulatory matter. Interpretation and Policy .03 to Rule 17.6 will also greatly expedite the hearing process where the prospective parties agree a hearing is required.

Updated Rule 17.7 Summary Proceedings

The Exchange proposes to replace references to the BCC with references to the CRO within Rule 17.7. Under updated Rule 17.7, analogous with the Affiliated Exchanges' Rule 8.7, the CRO may make a determination without a hearing and may impose a penalty as to violations which the Respondent has admitted or has failed to answer or which otherwise do not appear to be in dispute. Under updated Rule 17.7, the Respondent may notify the CRO if they desire a hearing on any of the charges not previously admitted or upon the penalty, and that the Respondent's failure to notify the CRO constitutes an admission of the violations and acceptance of the penalty determined by the CRO. The Exchange also amends the 10 day period in which the Respondent may notify the CRO that the Respondent desires a hearing to 10 *business* days, which is consistent with the Affiliated Exchanges' corresponding rule.

Purpose of Updates to Rule 17.7

The Exchange proposes to replace the BCC with the CRO as the body that will make determinations related to summary proceedings, thus harmonizing the determining body with that of corresponding Rule 8.7 of the Affiliated Exchanges. The Exchange believes the CRO is best suited to address uncontested charges against Respondents and impose penalties related to those charges. The CRO is better suited to resolve matters like summary proceedings because the CRO has greater familiarity with Exchange rules and subject matter/procedural expertise. The Exchange notes that the principal considerations in determining sanctions outlined in Rule 17.11 Interpretation and Policy .01 are not changing and accordingly the considerations weighed by the CRO will be the same as those currently weighed by the BCC. Additionally, the Exchange notes that the Board may on its own initiative order review of a determination of summary proceedings pursuant to 17.10(c). The proposed change from 10 days to 10 *business* days from the date of service for a Respondent to notify the CRO that the Respondent desires a hearing is consistent with the corresponding time period in Rule 8.7 of the Affiliated Exchanges.

Updates to Rule 17.8 Offers of Settlement

The Exchange replaces references to the BCC with references to the CRO within Rule 17.8, consistent with the proposed replacements throughout Chapter 17. Under updated Rule 17.8(a), the Respondent submits an offer of settlement to the CRO and the CRO determines whether to accept or reject an offer. The CRO issues a decision accepting an offer and imposes sanctions consistent with the offer. Under updated Rule 17.8(b), where Staff will not recommend acceptance of an offer to the CRO, the Respondent may appear before the CRO to make an oral statement concerning why the offer should be accepted. If the CRO rejects an offer Staff supports, the Respondent can appear before the CRO to make an oral statement concerning why the CRO should reconsider acceptance of the offer.

The Exchange also removes the 120-day period following service of a statement of charges during which a Respondent may submit an offer under updated Rule 17.8(a) and specifies that offers can be made at any time following the date of service of a statement of charges upon the Respondent in accordance with 17.12 (Service of Notice). Removal of the 120-day time period is consistent with current Rule 8.8 of the Affiliated Exchanges. The Exchange also specifies within updated Interpretation and Policy .01 to Rule 17.8 that the Respondent may submit a maximum of two offers to the CRO unless the CRO orders otherwise. As a result of these changes, the Exchange proposes to remove Interpretations and Policies .01 (b)–(d) and .02 to Rule 17.8 in their entirety as they relate specifically to the 120-period and/or the number of offers that may be submitted to the BCC.

The Exchange adds new Interpretation and Policy .02 to Rule 17.8 to specify that if an offer is submitted subsequent to a hearing being scheduled, the Hearing Panel shall grant the parties leave from the hearing so the offer can be presented to the CRO for consideration.

Purpose of Updates to Rule 17.8

The Exchange believes the CRO is best suited to determine whether to accept an offer of settlement from a Respondent, even after the hearing procedures have commenced. The Exchange believes the CRO has greater familiarity with the Securities Exchange Act of 1934 (the ''Act'') and Exchange rules, and what constitutes a fair and reasonable offer related to violations of such. The Exchange also notes that allowing the CRO to determine offers of settlement mirrors the Affiliated Exchanges' corresponding rules. Further, allowing the CRO to accept or reject offers of settlement will significantly expedite the settlement process while ensuring that the independence and integrity of the regulatory process is maintained, as the CRO's regulatory decision-making responsibilities are entirely separate from those responsible for the Exchange's business interests. Specifically, the CRO can facilitate more expedient and independent review of offers. A Respondent will not have to wait until a regularly scheduled BCC meeting to determine whether their [sic] offer has been accepted or rejected nor will they have to wait until the BCC meets to make oral statements in support of their offers.

The Exchange also believes that removing the 120-day period during which a Respondent may submit an offer and allowing offers to be submitted at any time following the date of service of a statement of charges upon the Respondent pursuant to Rule 17.12 will improve the settlement process and allow matters to be more efficiently resolved when all parties agree that a matter can be settled without further disciplinary proceedings. The Exchange believes there is no need to prevent settlement negotiations during any period where they are proceeding in good faith. As mentioned above, this will align the Exchange's Rule with that of the Affiliated Exchanges' Rule 8.8, which does not prohibit settlement offers at a particular point in time after a statement of charges. Further, under updated Rule 17.6, the CRO has authority to schedule a hearing in the event settlement negotiations have broken down.

Moreover, the Exchange believes it is appropriate for the CRO to exercise discretion to allow a Respondent to submit more than two offers of

settlement. The Exchange notes that a Respondent will be allowed to submit at least two offers (assuming that the offers are made in the course of good-faith negotiations). This change conforms to the same discretion given to the CRO under the Affiliated Exchanges' corresponding Rule 8.8. The maximum allowance of two offers remains in place, like that of the Affiliated Exchanges' rule, in order to prevent abuses, such as delay tactics, of the disciplinary procedures. However, the Exchange believes the CRO may consider additional offers of settlement if the CRO feels good faith negotiations continue with a Respondent and accordingly additional offers are appropriate. Additionally, the Exchange notes that the CRO is best suited to accept or reject offers of settlement. The CRO's capacity as supervisor of investigative matters provides the CRO case-by-case subject matter expertise. The Exchange also notes that the CRO may take into account the principle considerations under Rule 17.11 in weighing whether or not acceptance or rejection of an offer is appropriate. As a result, the Exchange believes that the CRO is the most appropriate determining body for reviewing settlement offers and that review of offers of settlement by the BCC or other determinative body is not necessary (the Exchange notes that, unlike the Affiliated Exchanges, its current Rule 17.10(c) (Review on Motion of the Board) does not provide that the Board may review on its own initiative order an offer of settlement). Maintaining acceptance and rejection of such offers with the CRO provides for consistent practice throughout the proceedings, as well as regulatory independence and integrity.

Updates to Rule 17.9 Decision

The Exchange removes the requirement that decisions of a Hearing Panel be subject to automatic review when the Hearing Panel is not comprised of a majority of the BCC. The Exchange also adds a cross reference to Rule 17.11 (Judgment and Sanction) and incorporates the requirement that the contents of a decision where sanctions are imposed include language that is substantially similar to the requirements under the Act.

Purpose of Updates to Rule 17.9

Updated Rule 17.9 corresponds to the update in Rule 17.6 limiting the size of a hearing panel to either three or five members of the BCC. Due to the size limitation in updated Rule 17.6, most Hearing Panels following the operative date of this filing would not be comprised of a majority of the BCC.[99] Removing this stage of review will further streamline the hearing process by putting the ultimate decision making power squarely on the shoulders of the Hearing Panel. The Exchange believes this is appropriate as the Hearing Panel members are the individuals that participate in the hearing, hear all of the evidence firsthand, and are able to consummate a verdict based on that firsthand knowledge. The Exchange also notes that removing this review process will not unfairly prejudice any party to a hearing as the parties may petition for removal of a Hearing Panel member for impartiality under proposed Rule 17.8 and for a review of the decision by the Board or a Board Committee, whose decision is ratified by the Board, under Rule 17.10. As such, updated Rule 17.9 eliminates an unnecessary redundancy in the Exchange's disciplinary process. Finally, the Exchange believes the cross-reference to its existing sanctions rule, Rule 17.11, and the additional instruction regarding the contents of a decision where a sanction is imposed is appropriate in order to provide clarity regarding statements of sanctions within a decision.

Updates to Rule 17.10 Review

The Exchange proposes to replace references to the BCC with references to the Hearing Panel where applicable within Rule 17.10. Additionally, the Exchange proposes to make a clarifying change to harmonize the language referring to the decision with Rule 17.9 and proposes to remove Rule 17.10(d), which currently provides that the ROC may apply for the Board to review a decision not to initiate charges.

Purpose of Updates to Rule 17.10

Updates to reference the Hearing Panel in lieu of the BCC in Rule 17.10 reflect updates elsewhere in Chapter 17. The Exchange also proposes to delete Rule 17.10(d). Specifically the Exchange updates 17.10(b) to reflect that decisions under review will be decisions of a Hearing Panel. Furthermore, a Hearing Panel (and not the full BCC) will have heard a matter under review. The Exchange changes the qualification of ''any'' decision to ''the'' decision, which is in line with language referring to ''the'' decision throughout Rule 17.9. The Exchange removes Rule 17.10(d) as there is no longer the need for a special provision for review of BCC determinations not to initiate charges pursuant to Rule 17.4(a). As stated, the Exchange believes the CRO is best suited to determine whether to initiate charges under Rule 17.4, rather than the BCC, as the CRO directly oversees all regulatory activities, including general reports on the status of regulatory matters. Unlike the BCC, the CRO reports and responds directly to the ROC, keeping the ROC apprised of the status of regulatory matters, including reports regarding open investigations and disciplinary matters, and decisions regarding such matters. Because there is a direct line of reporting between the CRO and the ROC, and the ROC may direct the CRO to take certain regulatory actions where they [sic] see fit, the Exchange believes that the ROC's application to the Board to review the CRO's decision not to initiate charges is not essential to the disciplinary process. As a result, the Exchange believes removing the ROC's application of review to the Board of such decisions provides for a more efficient, streamlined disciplinary process. Furthermore, the Exchange believes that this change is in line with maintaining enhanced autonomy and independence of the Exchange's regulatory functions.

Updates to Rule 17.11 Judgment and Sanction

Under updated Rule 17.11, the Exchange replaces references to the BCC with references to the ''Hearing Panel or the CRO, as applicable''.

Purpose of Updates to Rule 17.11

Updated Rule 17.11 reflects the new roles of the CRO and Hearing Panels. Specifically, the CRO will issue sanctions that result from summary proceedings outlined in Rule 17.7. The Hearing Panel will issue sanctions that result from decisions outlined in Rule 17.9. As mentioned above, the principal considerations for determining sanctions outlined in Interpretation and Policy .01 to Rule 17.11 have not changed. The Hearing Panel or the CRO, as applicable, weigh [sic] the same considerations in determining sanctions under updated Rule 17.11 as the BCC weighs under current Rule 17.11.[100] The Exchange notes that the CRO would also weigh the principal considerations under 17.11 in determining whether to accept or reject a letter of consent under Rule 17.3 or offer under Rule 17.8. Additionally, the Exchange believes that in the CRO's capacity as supervisor of the Exchange's regulatory operations, the CRO possesses the subject matter expertise, as well as the accompanying

[99] The BCC is typically composed of 10–12 members.

[100] The Exchange notes that the Board also weighs these considerations when determining sanctions, and that Staff considers similar factors in determining whether formal, non-formal, or no further regulatory action in warranted.

facts and circumstances, including knowledge of a TPHs' or associated persons' disciplinary history, to consider and determine appropriate sanctions. The CRO's capacity as supervisor of the Exchange's regulatory operations also ensures that regulatory independence is provided for during the judgment and sanction process under Rule 17.11.

Updates to Rule 17.12 Service of Notice

Updated Rule 17.12 specifies that service of charges, notices or other documents, may continue to be made upon a Respondent by registered or certified mail but if this method of service is used, that three days shall be added to the prescribed period for response.

Purpose of Updates to Rule 17.12

The Exchange updates Rule 17.12 to provide clarity in the Rule and in the interest of fairness to Respondents. Many of the time periods outlined in Chapter 17 begin upon service of notice, charges or other documentation (*i.e.* the proposed 25 days to submit an Answer to charges under Rule 17.5 or the 15 days to petition for review of a decision under rule 17.10). Updated Rule 17.12 provides three additional days when calculating the time for response to the extent service is made by registered or certified mail. Updated Rule 17.12 ensures that a Respondent is not penalized any time to respond to notices, charges or other documentation while such documentation is in transit. The Exchange notes that this update is not based on corresponding rules of the Affiliated Exchanges, but is rather based on FINRA Rule 9138(c).

Updates to Rule 17.14 Reporting to the Central Registration Depository

The Exchange removes a reference to the National Association of Securities Dealers, Inc. (''NASD'') within Rule 17.14. The Exchange also updates references to the BCC with references to the Hearing Panel or the CRO where applicable.

Purpose of Updates to Rule 17.14

On July 30, 2007, The National Association of Security [sic] Dealers, Inc., The New York Stock Exchange, LLC (''NYSE'') and NYSE Regulation, Inc. consolidated their member firm regulation operations into a combined organization FINRA. After the consolidation, FINRA became operator of the CRD. Rather than update the reference to FINRA, however, the Exchange proposes to simply remove the reference to NASD as the CRD system is widely known as such in the industry and the description of its operator is no longer necessary.

Proposed Rule 17.15 Ex Parte Communications

The Exchange proposes to relocate 17.4(d) and its Interpretations and Policies .01 through .03, which concern ex parte communications, to proposed additional Rule 17.15. This conforms to the Affiliates Exchanges' Rule 8.16, which prohibits ex parte communications on the merits of a proceeding. The Exchange has made changes to its current ex parte rule language to be substantially similar to that of the Affiliated Exchanges' ex parte rule. Where possible, the Exchange has mirrored its Affiliated Exchanges' Rule 8.16 in substance and form. This includes: The addition of Exchange staff among those persons prohibited in making ex parte communications; the definition of members of the Hearing Panel, BCC, Board or committee of the Board who participate in a decision with respect to that proceeding as ''Adjudicators''; the addition of a procedure for which an Adjudicator must place any prohibited ex parte communications into the record; the authority for the Board or committee of the Board to take necessary action if an ex parte communication arises; and, importantly, the application of the prohibition of ex parte communications beginning with the initiation of an investigation under Rule 17.2(a) or when a person has knowledge that an investigation will be initiated. The proposed change to the Exchange's ex parte communication rule is based on the Affiliated Exchanges' existing Rule 8.16. The Exchange notes that the language of the proposed rule and the Affiliated Exchanges' rule may differ to extent necessary to conform to the Exchanges' existing ex parte rule text or to account for details or descriptions included in the Exchange's rules but not in the applicable rules of the Affiliated Exchanges. The Exchange proposes to maintain its provision applicable to the definition of ex parte communications, as well as its provisions for actions that will not be considered violations of the ex parte rules.

Purpose of Proposed Rule 17.15

Where possible, the Exchange has substantively mirrored its proposed Rule 17.15 to the Affiliated Exchange's Rule 8.16. The Exchange believes that this proposed change provides consistency in the disciplinary procedures across the multiple exchanges. Specifically, the Exchange believes that proposed Rule 17.15(d), which comports with the Affiliated Exchanges' Rule 8.16(d) and provides that prohibition on ex parte communications begins upon the initiation of an investigation, serves to protect the interests of fairness for all Subjects and Respondents, as well as for the Exchange. The Exchange also believes this same purpose is served by expanding the prohibition of ex parte communications to Exchange staff during matters pending.

As stated, the Exchanges' [sic] proposed Rule 17.15 differs from the Affiliated Exchanges' Rule 8.16 to the extent necessary to conform to the existing ex parte rule text or to account for details or descriptions included in the Exchange's rules but not in the Affiliated Exchanges rules. For example, the Exchange has kept it existing provisions that define ex parte communications and actions that constitute non-violations of the rule. While the Affiliated Exchanges use the term ''Respondent'', the Exchange uses ''Trading Permit Holder'' and ''person associated with a Trading Permit Holder'' because such terminology encompasses Respondents as well as Subjects of investigations or examinations who would be subject to ex parte communication restrictions. The Exchange notes that it has proposed to add reference to a member of a Hearing Panel as a party with whom ex parte communications are prohibited even though this appears duplicative because a Hearing Panel is comprised of members of the BCC. The Exchange believes that inclusion of the Hearing Panel and the BCC ensures that BCC members who may ultimately serve on a Hearing Panel for a matter are subject to the ex parte rules from the initiation of an investigation of that matter. Additionally, the Exchange notes that it proposes to maintain its provision for the definition of ex parte communication (proposed subparagraph (e)) and provisions stating in what circumstances a violation of ex parte communications is not deemed to have occurred (proposed subparagraphs (f) and (g)). The Exchange believes that maintaining these portions of its ex parte rules will continue to provide clarity for all parties regarding what constitutes an ex parte communication, what circumstances are not deemed a violation of the ex parte rules, and what steps a party must take in order to avoid violation of such rules.

Updates to Rule 17.50 Imposition of Fines for Minor Rule Violations

The Exchange proposes to replace references to the BCC with references to a Hearing Panel within Rule 17.50. Within the list of violations outlined in

Rule 17.50(g), the Exchange removes references to matters referred to the BCC at specified thresholds after a specified number of repeat violations (*i.e.,* ''subsequent offenses''). References of referrals to the BCC have been removed from Rules 17.50(g)(2)–(5), (7), (9)–(19). Given the proposed removal of referrals to the BCC, the Exchange accordingly proposes to incorporate ''subsequent'' offenses under the fine schedules that that [sic] correspond to the last monetary range listed. The Exchange also proposes to change language within Rule 17.50(c)(2) to reflect findings of a person's rule violations. The Exchange amends Interpretation and Policy .01 to Rule 17.50 to incorporate the CRO in lieu of the BCC, where applicable. It also deletes the term ''together'' from the phrase ''aggregated together'' in paragraphs 1 and 2, as this term is superfluous within this context, and changes ''than'' to ''that'' in paragraph 1 to correct an existing grammatical error. The Exchange also updates the heading to the fine schedule under Rule 17.50(g)(7) and (g)(9) to reflect the term ''violations'', as opposed to ''infractions'', as this is more consistent with the terminology used throughout Rule 17.50.

Purpose of Updates to Rule 17.50

In the interest of increasing efficiency surrounding the Exchange's disciplinary process, a Hearing Panel, as opposed to the full BCC, reviews contested fines levied under updated Rule 17.50 and determines the manner of the review. As stated above, the Exchange believes a Hearing Panel is most appropriately situated to review fines due to a Hearing Panel's direct and in-depth involvement in the hearing process. Further, the changes reflect updates to Rule 17.6 in that when a person against whom a fine is imposed pursuant to Rule 17.50(g) requests a hearing, a Hearing Panel will hear and decide such matter. The Exchange also modifies language to reflect that the Exchange makes findings that a person has committed acts in violation of its rules, rather than findings of guilt.

The Exchange believes that removing any of the referenced referrals to the BCC outlined in Rule 17.50(g) is consistent with CRO's authority to initiate charges under updated Rule 17.4. The Exchange also notes that removal of referenced referrals to the BCC comports with the Affiliated Exchanges' corresponding rules imposing fines for minor violations, including Rule 8.15 and Rule 25.3, which do not reference referrals to their Hearing Panels. Specifically, the Exchange believes that a Respondent will continue to receive appropriate discipline for repetitive or aggregate offenses because, pursuant to Rule 17.50(a) and (f), the Exchange has the discretion to impose a fine in lieu of commencing a disciplinary proceeding for a violation that is minor in nature. These provisions will continue to limit any risk that a repeat offender of minor violations continue [sic] to pay fines under Rule 17.50, and rather, is disciplined via sanctions that are more appropriate. Under current Chapter 17 rules, addressing 17.50(g) rule violation through formal disciplinary proceedings requires Staff to investigate the matter and then, if necessary, refer the matter to the BCC with a recommendation to initiate charges. This recommendation includes a report indicating why formal disciplinary action is necessary (repeat violations, not minor, egregious, etc.). Under updated Rule 17.4, however, the CRO directs the initiation of charges thus eliminating the need for this referral process. As the CRO receives reports from Staff pursuant to Rule 17.2(c), as well as general reports regarding the status of regulatory matters, the CRO has on-going knowledge of non-formal regulatory actions and minor rule violations. The CRO works directly with Staff to address those violations covered under Rule 17.50(g). Accordingly, the CRO is in the best possible position to determine whether to impose a fine or initiate formal disciplinary proceedings.

Transition Process

The Exchange intends to announce the operative date of the updates to Chapter 17 at least 30 days in advance via a regulatory notice. To facilitate an orderly transition from the current rules to the new rules, the Exchange proposes to apply the current rules to all matters where a subject has received notice of a statement of charges pursuant to Rule 17.2(d) prior to the operative date. In terms of Rule 17.50, any fine that [sic] imposed prior to the operative date that is contested will continue under the existing rules. As a consequence of this transition process, the Exchange will retain the existing processes during the transition period until such time that there are no longer any matters proceeding under the current rules.

To facilitate this transition process, the Exchange will retain a transitional Chapter 17 that will contain the Exchange's rules, as they are at the time this proposal is filed with the Commission. This transitional Chapter 17 will apply only to matters initiated prior to the operational date of the changes proposed herein and it will be posted to the Exchange's public rules website. When the transition is complete and there are no longer any TPHs or associated persons subject to current Chapter 17, the Exchange will remove the transitional Chapter 17 from its public rules website.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[101] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[102] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[103] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange also believes that the proposed rule is consistent with Section 6(b)(6) of the Act,[104] which requires the rules of an exchange provide that its members be appropriately disciplined for violations of the Act as well as the rules and regulations thereunder, or the rules of the Exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction.

In addition, the Exchange believes that the proposed rule change furthers the objectives of Section 6(b)(7) of the Act,[105] in that it provides fair procedures for the disciplining of Trading Permit Holders and persons associated with Trading Permit Holders, the denial of Trading Permit Holder status to any person seeking a Trading Permit therein, the barring of any person from becoming associated with a Trading Permit Holder thereof, and the prohibition or limitation by the Exchange of any person with respect to

[101] 15 U.S.C. 78f(b).

[102] 15 U.S.C. 78f(b)(5).

[103] *Id.*

[104] 15 U.S.C. 78f(b)(6).

[105] 15 U.S.C. 78f(b)(7).

access to services offered by the Exchange or a Trading Permit Holder thereof.

Updates to the Role of the CRO, Hearing Panel and BCC

Specifically, the Exchange believes that updating and reducing the BCC's role in disciplinary matters to reflect that of the Affiliated Exchanges' rules is consistent with Sections 6(b)(5) and 6(b)(6) of the Act.[106] The Exchange believes that replacing the BCC with groups and processes like those of the Affiliated Exchanges will continue to provide TPHs and associated persons with a fair investigative and adjudicatory process. As stated, the functions currently handled collectively by the BCC will be split between the Exchange's CRO and a Hearing Panel, comprised of BCC members and selected by the BCC Chairperson, creating greater autonomy between the charging and adjudicatory aspects of the regulatory process. The Exchange believes that the CRO is best suited to manage certain responsibilities related to complaint and investigation, expedited proceedings, charges, summary proceedings and judgment and sanctions. The Exchange notes that the CRO has general supervisory responsibility over the Exchange's regulatory operations, including the responsibility for overseeing its surveillance, examination, and enforcement functions and for administering any regulatory services agreements with another self-regulatory organization to which the Exchange is a party. Further, as stated above, the CRO regularly meets with the ROC. As such, the Board will remain apprised of any regulatory decisions made by the CRO. The BCC via a Hearing Panel (selected from BCC members) will continue to manage the hearing process, as well as decisions and sanctions arising out of the hearing process, independently from the CRO and the Exchange's regulatory program. The Exchange also believes the proposed changes will collectively enhance the independence and impartiality of the overall regulatory process, which serves to protect investors and the public interest, protect customers, issuers, brokers, or dealers from unfair discrimination, and ensure that TPHs and associated persons are appropriately disciplined. First, the Exchange notes that the CRO reports directly to the ROC, remaining independent from business-side interests of the Exchange. Second, the Exchange notes its incorporation of Rule 17.6(a)(1) which, as proposed, requires that Hearing Panel members function impartially and allow [sic] for their removal if a conflict of interest arises. As a result, the Exchange believes these changes enhance the independence and impartiality of the overall regulatory process.

As stated above, where a proposed change to the rules regarding the BCC's role is based on an existing rule of the Affiliated Exchanges, the language of the Exchange's rules may differ from the Affiliated Exchanges' rules to the extent necessary to conform with existing Exchange rule text or to account for details or descriptions included in the Exchange's rules but not in the applicable rules of the Affiliated Exchanges. For example, the Exchange proposes to maintain a process where the BCC Chairperson selects Hearing Panel members from a pool of BCC members, whereas the CEO selects Hearing Panel members on the Affiliated Exchanges. The Exchange has thus maintained differences in its rules that account for or relate to this process. Where possible, the Exchange has substantively mirrored the CRO's role and the Hearing Panel's role within Affiliated Exchange rules, because consistency across the rules will increase the understanding of the Exchange's disciplinary process for TPHs that are also participants on the Affiliated Exchanges, as well as result in greater uniformity, less burdensome and more efficient regulatory processes, and appropriate, non-discriminatory discipline. As such, the proposed rule changes will foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange also believes that the proposed amendments will contribute to the protection of investors and the public interest, as well as provide appropriate discipline and fair procedures for such discipline, by streamlining the disciplinary process through the CRO, who is best suited to address regulatory matters without any conflicting business interests given the nature of the CRO's position.

Other Updates Based on the Affiliated Exchanges' Rules

The proposed amendments to update the Exchange as the adopting body for letters of consent as its decision under Rule 17.3, the ten business days from the receipt of summary determination that a Respondent may notify the CRO that the Respondent desires a hearing under Rule 17.7, the 15 business days' notice of the time and place of a hearing under Rule 17.6, the CRO's discretion to allow for more than two offers of settlement under Rule 17.8, and the removal of the referral to the hearing body under the fine schedule for minor rule violations in Rule 17.50 are substantially identical to the relevant language and/or provisions within the corresponding rules of the Affiliated Exchanges. The Exchange believes that these updates provide consistency between its rules and that of the Affiliated Exchanges, aligns certain aspects of the disciplinary processes, which protects investors and the public interest by making it easier for participants across the Exchange and its Affiliated Exchanges to understand the disciplinary processes. Particularly regarding the removal of referrals to the BCC under Rule 17.50, the Exchange believes this change is not only consistent with the Affiliated Exchanges' minor rule violation schedules but maintains fairness and protection of investors. As stated, Rule 17.50 states that the Exchange *may* impose a fine when a rule is minor in nature but is never required to do so, regardless of the number of offenses by a participant. This discretion, paired with the fact that the CRO has in-depth understanding of regulatory issues and takes deference to the principle considerations under Rule 17.11 when determining if fines are the appropriate disciplinary mechanism, will serve to ensure that the Exchange provides appropriate discipline and fair procedures to do so.

The Exchange notes that in some instances the rule change does not completely mirror its rules with that of the Affiliated Exchanges or proposes additional language/provisions to that of the Affiliated Exchange's existing rule language/provisions. The Exchange notes that although in these instances it has chosen to maintain its existing provisions or modify language of the Affiliated Exchanges' rules, it still provides for fair disciplinary procedures or the most appropriate discipline for violations to continue to protect investors and the public interest. For instance, the Exchange incorporates the Affiliated Exchange's formal reports regarding complaints into Rule 17.2(c), but maintains that Staff submit a written report when it finds that formal regulatory action is warranted, as well as the Staff's authority to find that non-formal regulatory action is warranted and to impose non-formal regulatory action, or to close a matter, without submission of a report. The Exchange believes that maintaining Staff's discretion in this manner continues to

[106] 15 U.S.C. 78f(b)(5) and (6).

provide for the autonomy and independence of the Exchanges' regulatory functions, which enhances the fairness of its disciplinary procedures and appropriate discipline and thereby enhancing protection of investors and the public interest.[107] The Exchange copies the description of counsel's role (and refers specifically to BCC Counsel as a clarification), not into its impartiality provisions like that of the Affiliated Exchanges, but into its general provision for parties to a hearing. The Exchange believes this is a clarifying change as the BCC Counsel assists the Hearing Panel throughout the hearing process. The Exchange also adds language to make explicit that the Hearing Panel member who is the subject of the motion is excluded from the ruling on such motion, and adds a provision for recusal of a Hearing Panel member when they determine that they have a conflict or bias. The Exchange believes that such additional language enhances the procedural fairness of the current impartiality rules copied from the Affiliated Exchanges, thereby protecting investors and the public interest. Additionally, the Exchange incorporates the Affiliated Exchange's ex parte rules, while maintaining its provisions defining ex parte communications and ''no violations'' of the ex parte rules. The Exchange believes these provisions will continue to provide better understanding for all parties regarding ex parte communications, thereby protecting investors and the public interest and ensuring fair disciplinary proceedings throughout.

Additional Proposed Changes

The Exchange believes that extending the time periods associated with submitting a written response to allegations of rule violations, submitting an Answer in response to formal charges, and extending the time period prior to a hearing parties are required to submit documentary evidence is consistent with the protection of investors. The proposed time extensions are also consistent in providing fair procedures for disciplining TPHs and persons associated with TPHs, as well as ensuring that the Exchange administers appropriate discipline. The Exchange believes that due to the increased complexity of Exchange trading activity and the regulatory investigations and examinations surrounding such activity, extending the time period from 15 days to 25 days for a Subject's response to a notification of alleged violations and for a Respondent's answer to charges, as well as extending time for parties to furnish evidence prior to a hearing from five to 10 business days, serves to protect investors by allowing more time for these parties to respond during various phases of the proceedings. The additional time will also serve to ensure fair procedures, that the Exchange administers appropriate discipline by allowing subjects to prepare more comprehensive and effective written statements in their defense, and better Subject and/or Respondent cooperation with the Exchange. As stated, this changed is based on the Rules of NYSE,[108] FINRA,[109] and PHLX.[110]

Further, the Exchange believes tolling the applicable periods while a Subject or a Respondent's request for access to the investigative file similarly serves to protect investors and ensure fair disciplinary procedures and the administration of appropriate discipline. As with the extension of time periods, the Exchange believes tolling those same periods while access to relevant information in the investigative file is pending will provide TPHs and associated persons with adequate time to craft reasoned and complete responses to regulatory inquires. As a result, this serves to foster cooperation and coordination with persons engaged in regulating securities, protect investors by serving in the interest of fairness to Subjects and Respondents, and provide for appropriate discipline for violations of the Act and Exchange rules. Any delay to the regulatory process caused by extending the applicable time periods is mitigated by the increased efficiency resulting from the other rule updates and the fact that Staff no longer needs to process extensive extension requests under Rule 17.13.

The Exchange believes that the proposed removal of automatic review of a Hearing Panel's decision by the majority of the BCC and of the Board's review of a decision not to initiate charges will streamline the various stages of the proceedings under Chapter 17, while ensuring that the decision as a result of a hearing and the decision not to initiate charges is determined by the persons best suited to make such decisions. The Exchange believes the Hearing Panel members are best suited to make a final hearing decision as those individuals participate directly in the hearing, hear all of the evidence firsthand, and are able to consummate a verdict based on that firsthand knowledge. The Exchange also believes that proposed Rule 17.6(a)(1)–(a)(3) guarantees impartiality of Hearing Panel members. As a result, the decision by the Hearing Panel of either three or five members will be the best-informed and most impartial decision, thus eliminating need for review by a majority of the BCC while providing adequate procedural protections. Likewise, the Exchange believes the CRO is best suited to determine whether to initiate charges when recommended by Staff, as the CRO directly oversees all regulatory activities and receives periodic updates regarding investigative matters. Unlike the current role of the BCC, the CRO reports and responds directly to the ROC. The Exchange believes that because the CRO provides regular reports as to the status of regulatory matters and decisions pertaining to such matters to the ROC and, in turn, because the ROC may direct the CRO to take certain regulatory action if they deem necessary, the ROC's application to the Board for review of the CRO's decision not to initiate charges is not essential to the disciplinary process. Rather, the Exchange believes that removing the ROC's application for Board review of such decisions will provide for a more efficient, streamlined disciplinary process, while ensuring a fair process through the CRO and the direct reporting line between the CRO and the ROC. As a result, the Exchange believes that removing these review processes will not unfairly prejudice any party during these proceedings, which will protect investors throughout the disciplinary process and allow the Exchange to determine the most appropriate sanctions. Removing these processes will eliminate unnecessary redundancies in the disciplinary process, which will also protect investors and foster cooperation and coordination with persons engaged in regulating securities.

The Exchange also believes that certain changes and updates to its disciplinary rules serve specifically in the interest of fairness and expediency. For example, the proposed videotaped responses protect investors by allowing Subjects to respond more easily to notice of an initiated investigation, especially in such a globalized, technology-centric industry. Similarly, changes such as allowing the Hearing Panel the discretion to grant leave to the parties to a hearing in order to present an offer of settlement also protects investors and public interest, while

[107] Additionally, the CRO directly oversees and manages Staff, therefore, the CRO will maintain general supervision over this process.

[108] *See supra* note 86.

[109] *See supra* note 87.

[110] *See supra* note 88.

reducing the burden that once a hearing is scheduled the parties may no longer present offers of settlement to the CRO.

The Exchange believes that the proposed change providing that a Hearing Panel be comprised of three or five BCC members protects investors and ensures procedural fairness because it will safeguard against interlocutory decisions and also allow for more (five) Hearing Panel members when necessary to hear complex matters. The Exchange also believes that the proposed changes to the service of notice provision that adds three days when calculating the time for response to the extent service is made by registered or certified mail protects investors and provides adequate procedural protections by ensuring that a Respondent is not penalized in responding to notices, charges or other documentation while such documentation is in transit. Additionally, the Exchange updates language throughout Chapter 17 and makes other clarifying changes. For example, incorporating that the CRO direct Staff to prepare and issue statements of charges or decisions not to initiate charges [sic]; a practice currently in place between the Staff and the BCC. Also, for example, incorporating that a decision containing sanctions shall include a statement of the sanctions imposed and the reasons therefor will enable better understanding for all parties of sanctions and why such sanctions are imposed. Such updates and clarifications will serve to reduce confusion and provide a better understanding to TPHs, associated persons, and the Exchange staff of the regulatory processes.

Finally, the Exchange believes that its proposed transition plan would allow for a more orderly and less burdensome transition for the Exchange's TPHs. The proposed application of current rules to all matters where a subject has received notice of a statement of charges pursuant to Rule 17.2(d) prior to the operative date provides a clear demarcation between matters that would proceed under the new rules and those that would be completed under the current rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The proposed rule changes are not intended to address competitive issues, but rather, are concerned with facilitating less burdensome regulatory compliance and processes and enhancing the quality of the regulatory processes. The Exchange believes the proposed rule changes reduce the burdens within the disciplinary process equally on all market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [111] and Rule 19b–4(f)(6) [112] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2019–025 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–CBOE–2019–025. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2019–025, and should be submitted on or before May 23, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[113]

Jill M. Peterson,

Assistant Secretary.

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[111] 15 U.S.C. 78s(b)(3)(A).

[112] 17 CFR 240.19b–4(f)(6).

[113] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85728; File No. SR–ISE–2019–12]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete the Exchange's Current Registration, Qualification and Continuing Education Rules

April 26, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 18, 2019, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delete the Exchange's current Registration, Qualification and Continuing Education rules (''Exchange Registration Rules'' and, generally, ''Registration Rules'') under the 1200 Series (Rules 1210 through 1250), and incorporate by reference The Nasdaq Stock Market LLC's (''Nasdaq'') rules at General 4 (''Nasdaq Registration Rules''), into General 4 of the Exchange's rulebook's (''Rulebook'') shell structure.[3]

The text of the proposed rule change is available on the Exchange's website at *http://ise.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently amended, reorganized, and enhanced certain of its membership, registration, and qualification requirement rules partly in response to rule changes by the Financial Industry Regulatory Authority (''FINRA''), and also in order to conform the Exchange's rules more closely to those of its Affiliated Exchanges in the interest of uniformity and to facilitate compliance with membership, registration and qualification regulatory requirements by members of multiple Affiliated Exchanges including the Exchange.[4] To that end, the Exchange adopted a new 1200 Series of rules, captioned ''Registration, Qualification and Continuing Education,'' generally conforming the Exchange Registration Rules to FINRA's new 1200 Series, except for a number of Exchange-specific variations.[5]

The Exchange now proposes to delete the Exchange Registration Rules, currently under the 1200 Series (Rules 1210 through 1250), and incorporate by reference the Nasdaq Registration Rules at General 4 of Nasdaq's rulebook into General 4 of the Exchange's Rulebook. Relatedly, the Exchange will make necessary cross-reference updates throughout the Rulebook. Specifically, the Exchange will amend the cross-reference in Exchange Rule 100.

The incorporation by reference of Nasdaq Registration Rules at General 4 into the Exchange's General 4 title and any necessary cross-reference updates are regulatory in nature.[6] The Exchange notes that as a condition of an exemption, which the Exchange will request and will need to be approved by the Commission pursuant to Section 36 of the Act,[7] the Exchange agrees to provide written notice to its members whenever Nasdaq proposes a change to its General 4 title.[8] Such notice will alert Exchange members to the proposed Nasdaq rule change and give them an opportunity to comment on the proposal. The Exchange will similarly inform its members in writing when the SEC approves any such proposed change.

Implementation

The Exchange proposes that this rule change becomes operative at such time as it receives approval for an exemption from the Securities and Exchange Commission, pursuant to its authority under Section 36 of the Act and Rule 0–12[9] thereunder, from the Section 19(b) rule filing requirements to separately file a proposed rule change to amend the Exchange's General 4 title.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by consolidating its rules into a single rule set. The Exchange intends to also file similar proposed rule changes for the Nasdaq BX, Inc.; Nasdaq PHLX LLC; Nasdaq GEMX, LLC; and Nasdaq MRX, LLC markets so that the General 4 rules which govern Registration Rules are conformed.

Incorporating by reference the Nasdaq Registration Rules at General 4 into the Exchange's General 4 title will provide an easy reference for Exchange members seeking to comply with registration and qualification requirements on multiple markets. As noted, the Exchange intends to file similar proposed rule changes for other Affiliated Exchanges so that Nasdaq General 4 is the source document for all Registration Rules. The Exchange notes that the current rule is not changing and that Exchange members will be required to continue to comply with the Nasdaq Registration Rules as though such rules are fully set forth in Exchange's Rulebook. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In 2017, the Exchange added a shell structure to its Rulebook with the purpose of improving efficiency and readability and to align its rules closer to those of its five sister exchanges, The Nasdaq Stock Market LLC; Nasdaq BX, Inc.; Nasdaq PHLX LLC; Nasdaq GEMX, LLC; and Nasdaq MRX, LLC (''Affiliated Exchanges''). The shell structure currently contains eight (8) General sections which, once complete, will apply a common set of rules to the Affiliated Exchanges. *See* Securities Exchange Act Release No. 82173 (November 29, 2017), 82 FR 57505 (December 5, 2017) (SR–ISE–2017–102).

[4] *See* Securities Exchange Act Release No. 84384 (October 9, 2018), 83 FR 52006 (October 15, 2018) (SR–ISE–2018–82).

[5] *Id.*

[6] The General 4 rules are categories of rules that are not trading rules. *See* 17 CFR 200.30–3(a)(76) (contemplating such requests). In addition, several other Self-Regulatory Organizations (''SROs'') incorporate by reference certain regulatory rules of other SROs and have received from the Commission similar exemptions from Section 19(b) of the Exchange Act. *See e.g.,* Securities Exchange Act Release Nos. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008), 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006); 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004).

[7] 15 U.S.C. 78mm.

[8] The Exchange will provide such notice via a posting on the same website location where the Exchange posts its own rule filings pursuant to Rule 19b–4 within the timeframe required by such rule. The website posting will include a link to the location on the Nasdaq website where the applicable proposed rule change is posted.

[9] *See* 17 CFR 240.0–12; Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

Exchange desires to conform its rules and locate those rules within the same location in each Rulebook to provide Exchange members the ability to quickly locate rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that this rule change does not impose an undue burden on competition because the Exchange is merely incorporating by reference the Nasdaq Registration Rules at General 4 into its own Rulebook. The Exchange Registration Rules are not being amended and therefore no member is impacted.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2019–12 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–ISE–2019–12. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2019–12 and should be submitted on or before May 23, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–08913 Filed 5–1–19; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission Small Business Capital Formation Advisory Committee on Small and Emerging Companies will hold a public meeting on Monday May 6, 2019 at 1:00 p.m.

PLACE: The meeting will be held in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE, Washington, DC.

STATUS: The meeting will begin at 1:00 p.m. and will be open to the public. Seating will be on a first-come, first-served basis. Doors will open at 12:30 p.m. Visitors will be subject to security checks. The meeting will be webcast on the Commission's website at *www.sec.gov.*

MATTERS TO BE CONSIDERED: On April 25, 2019, the Commission published notice of the Committee meeting (Release No. 33–10634), indicating that the meeting is open to the public and inviting the public to submit written comments to the Committee. This Sunshine Act notice is being issued because a majority of the Commission may attend the meeting.

The agenda for the meeting includes matters relating to rules and regulations affecting small and emerging companies under the federal securities laws.

CONTACT PERSON FOR MORE INFORMATION: For further information, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: April 29, 2019.

Vanessa A. Countryman,

Acting Secretary.

[FR Doc. 2019–09040 Filed 4–30–19; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85738; File No. SR–NYSECHX–2019–06]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Relating to Fingerprint-Based Background Checks of Directors, Officers, Employees and Others

April 26, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19B–4 thereunder,[3] notice is hereby given that, on April 17, 2019, the NYSE Chicago, Inc. (''NYSE Chicago'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes a rule relating to fingerprint-based background checks of directors, officers, employees and others. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes a new Rule 3.11 codifying the current practice of conducting fingerprint-based background checks of prospective and current employees, temporary personnel, independent contractors, service providers and others. The proposed rule is substantially similar to Rule 3.11 of the Exchange's affiliate NYSE Arca, Inc.[4] A number of other securities markets have also adopted a similar rule, permitting them to obtain fingerprints from certain enumerated parties.[5] The proposed rule is also consistent with those rules.

Background and Proposed Rule Change

Section 17(f)(2) of the Securities Exchange Act of 1934 (the ''Act''), as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act''),[6] provides that every member of a national securities exchange, broker, dealer, registered transfer agent, registered clearing agency, registered securities information processors, national securities exchanges and national securities associations shall require each of its partners, directors, officers and employees of to be fingerprinted and submit those fingerprints (or cause the fingerprints to be submitted) to the Attorney General of the United States (''Attorney General'') for identification. Section 17(f)(2) explicitly directs the Attorney General to provide self-regulatory organizations (''SROs'') designated by the Commission with access to criminal history record information. Further, SEC Rule 17f–2 authorizes SROs to store criminal record information received from the Federal Bureau of Investigation (''FBI''), which maintains on behalf of the Attorney General a database of fingerprint-based criminal history records.

Consistent with these requirements, proposed Rule 3.11 would require the Exchange to obtain fingerprints of prospective and current employees, temporary personnel, independent contractors and service providers of the Exchange and its principal subsidiaries; submit those fingerprints to the Attorney General or his or her designee for identification and processing; and receive criminal history record information from the Attorney General for evaluation and use, in accordance with applicable law, in enhancing the security of the facilities, systems, data, and/or records of the Exchange and its principal subsidiaries.

The Exchange would utilize a Live-Scan [7] electronic system to capture and transmit fingerprints directly to the FBI. The capture and transmittal function, and corresponding receipt of criminal history information from the FBI, would be handled directly by Exchange personnel and/or an FBI-approved ''Channel Partner'' [8] who would maintain and operate, on behalf of the Exchange, a Live-Scan and/or other electronic system(s) for the submission of fingerprints to the FBI; receive and maintain criminal history record information from the FBI; and disseminate such information, through secure systems, to a limited set of approved reviewing officials within the Exchange and its affiliates.

Fingerprint-based background checks would enhance the ability to screen adequately employees and non-employees [9] to determine better, in accordance with applicable law, whether there are unacceptable risks associated with granting such persons access to facilities and records. Through

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19B–4.

[4] *See* NYSE Arca Rule 3.11. There are no substantive differences between the proposed rule and NYSE Arca Rule 3.11. The one non-substantive difference between the proposed rule and the NYSE Arca rule relates to punctuation in proposed Rule 3.11(a), which has a comma following ''or restricted access to facilities and records'' and not a semi-colon as in NYSE Arca Rule 3.11(a). The Exchange's other affiliates New York Stock Exchange LLC (''NYSE'') and NYSE American LLC (''NYSE American'') have a substantially similar rule. *See* NYSE Rule 28; NYSE American Rule 3.11E. The Exchange notes that it proposes to retain references to ''principal subsidiaries'' in proposed Rule 3.11 in order to maintain consistency with its affiliates' rules.

[5] *See, e.g.,* International Securities Exchange (''ISE'') Rule 1408; Nasdaq Stock Market (''Nasdaq'') Rule 0140; Chicago Board Options Exchange (''CBOE'') Rule 15.10.

[6] *See* 15 U.S.C. 78q(f)(2); Dodd-Frank Act Sect. 929S.

[7] Live-Scan refers to the process of capturing fingerprints directly into a digitized format as opposed to traditional ink and paper methods. Live-Scan technology captures and transfers images to a central location and/or interface for identification processing.

[8] FBI-approved Channel Partners receive the fingerprint submission and relevant data, collect the associated fee(s), electronically forward the fingerprint submission with the necessary information to the FBI Criminal Justice Information Services Division (''CJIS'') for a national Criminal History Summary check, and receive the electronic summary check result for dissemination to the authorized employer entity. *See* Securities Exchange Act Release No. 71066 (December 12, 2013), 78 FR 76667 (December 18, 2013) (SR–ISE–2013–66) (''Release No. 71066''). The Exchange would retain ultimate legal responsibility for the fulfillment of its statutory and self-regulatory obligations under the Act, including compliance with Section 17(f)(2) of the Act as amended by the Dodd-Frank Act.

[9] Under the proposed rule, the Exchange would also obtain fingerprints from service providers, including employees of affiliates of the Exchange. *See* CBOE Rule 15.10; Securities Exchange Act Release No. 69496 (May 2, 2013), 78 FR 26671, 26671 (May 7, 2013) (SR–CBOE–2013–044) (CBOE conducts fingerprint-based criminal record checks of directors, officers and employees as well as, without limitation, ''temporary personnel, independent contractors, consultants, vendors and service providers . . . who have or are anticipated to have access to facilities and records.'').

access to state-of-the-art information systems administered and maintained by the FBI, the Exchange would receive centrally-maintained ''criminal history record information,'' which includes arrest-based data and derivative information, and may include personal descriptive data; FBI number; conviction status; sentencing, probation and parole information; and such other information as the FBI may make available. This information is supplied to the FBI by various local, state, federal and/or international criminal justice agencies. The information obtained through fingerprint-based background checks would thus provide a more exhaustive and reliable profile of a candidate's criminal record, and thereby better facilitate risk assessment, than a physical review of court records based on information provided by the candidate.

The proposed access to criminal history information is consistent with federal law. As noted, Section 17(f)(2) was amended by the Dodd-Frank Act to also require partners, directors, officers and employees of registered securities information processors, national securities exchanges and national securities associations to be fingerprinted. Although Section 17(f)(2) does not require the fingerprinting of contractors, the statute specifically permits SROs designated by the SEC to have access to ''all criminal history record information.''

The Exchange accordingly believes that fingerprint-based background checks of employees and non-employees would promote the objectives of investor protection, business continuity and workplace safety by providing the Exchange with an effective tool for identifying and excluding persons with felony or misdemeanor conviction records that may pose a threat to the safety of Exchange personnel or the security of facilities and records.

The Exchange will comply with all applicable laws relating to the use and dissemination of criminal history record information obtained from the FBI.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. In particular, the Exchange believes fingerprint-based background checks of directors, officers, employees and contractors is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest in that they would help identify and exclude persons with felony or misdemeanor conviction records that may pose a threat to the safety of Exchange personnel or the security of facilities and records, thereby enhancing business continuity, workplace safety and the security of the Exchange's operations and helping to protect investors and the public interest. The proposed rule is substantially similar to the rules of the Exchange's affiliates NYSE Arca, NYSE and NYSE American and the fingerprinting rules of other SROs.[12] The proposed amendment would also conform the Exchange's fingerprinting practices with Section 17(f)(2) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues but rather to enhance the security and continuity of the Exchange's facilities and records by adopting a fingerprinting rule that codifies the Exchange's current practice in compliance with Section 17(f)(2) of the Act as amended by the Dodd-Frank Act.[13] As discussed below, the Exchange notes that the proposed rule change is based on the fingerprinting rules of other SROs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [14] and Rule 19b–4(f)(6) thereunder.[15]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule–comments@sec.gov*. Please include File Number SR–NYSECHX–2019–06 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSECHX–2019–06. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/*

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *See, e.g.,* International Securities Exchange Rule 1408. *See generally* Release No. 71066, 78 FR at 76668, n. 12 (noting that ''[a]n FBI-approved Channel Partner simply helps expedite the delivery of Criminal History Summary information on behalf of the FBI'', and that the ''process for making a request through an FBI-approved Channel Partner is consistent with FBI submission procedures'').

[13] *See* Section 929S of the Dodd-Frank Act.

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

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–NYSECHX–2019–06 and should be submitted on or before May 23, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–08922 Filed 5–1–19; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85737; File No. SR–GEMX–2019–05]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete the Exchange Registration Rules and Incorporate by Reference The Nasdaq Stock Market Rules at General 4

April 26, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 18, 2019, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delete the Exchange's current Registration, Qualification and Continuing Education rules (''Exchange Registration Rules'' and, generally, ''Registration Rules'') under the 1200 Series (Rules 1210 through 1250), and incorporate by reference The Nasdaq Stock Market LLC's (''Nasdaq'') rules at General 4 (''Nasdaq Registration Rules''), into General 4 of the Exchange's rulebook's (''Rulebook'') shell structure.[3]

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqgemx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently amended, reorganized, and enhanced certain of its membership, registration, and qualification requirement rules partly in response to rule changes by the Financial Industry Regulatory Authority (''FINRA''), and also in order to conform the Exchange's rules more closely to those of its Affiliated Exchanges in the interest of uniformity and to facilitate compliance with membership, registration and qualification regulatory requirements by members of multiple Affiliated Exchanges including the Exchange.[4] To that end, the Exchange adopted a new 1200 Series of rules, captioned ''Registration, Qualification and Continuing Education,'' generally conforming the Exchange Registration Rules to FINRA's new 1200 Series, except for a number of Exchange-specific variations.[5]

The Exchange now proposes to delete the Exchange Registration Rules, currently under the 1200 Series (Rules 1210 through 1250), and incorporate by reference the Nasdaq Registration Rules at General 4 of Nasdaq's rulebook into General 4 of the Exchange's Rulebook. Relatedly, the Exchange will make necessary cross-reference updates throughout the Rulebook. Specifically, the Exchange will amend the cross-reference in Exchange Rule 100.

The incorporation by reference of Nasdaq Registration Rules at General 4 into the Exchange's General 4 title and any necessary cross-reference updates are regulatory in nature.[6] The Exchange notes that as a condition of an exemption, which the Exchange will request and will need to be approved by the Commission pursuant to Section 36 of the Act,[7] the Exchange agrees to provide written notice to its members whenever Nasdaq proposes a change to its General 4 title.[8] Such notice will alert Exchange members to the proposed Nasdaq rule change and give them an opportunity to comment on the proposal. The Exchange will similarly inform its members in writing when the SEC approves any such proposed change.

[3] In 2017, the Exchange added a shell structure to its Rulebook with the purpose of improving efficiency and readability and to align its rules closer to those of its five sister exchanges, The Nasdaq Stock Market LLC; Nasdaq BX, Inc.; Nasdaq PHLX LLC; Nasdaq ISE, LLC; and Nasdaq MRX, LLC (''Affiliated Exchanges''). The shell structure currently contains eight (8) General sections which, once complete, will apply a common set of rules to the Affiliated Exchanges. *See* Securities Exchange Act Release No. 82171 (November 29, 2017), 82 FR 57516 (December 5, 2017) (SR–GEMX–2017–54).

[4] *See* Securities Exchange Act Release No. 84448 (October 18, 2018), 83 FR 53669 (October 24, 2018) (SR–GEMX–2018–33).

[5] *Id.*

[6] The General 4 rules are categories of rules that are not trading rules. *See* 17 CFR 200.30–3(a)(76) (contemplating such requests). In addition, several other Self-Regulatory Organizations (''SROs'') incorporate by reference certain regulatory rules of other SROs and have received from the Commission similar exemptions from Section 19(b) of the Exchange Act. *See e.g.,* Securities Exchange Act Release Nos. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008), 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006); 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004).

[7] 15 U.S.C. 78mm.

[8] The Exchange will provide such notice via a posting on the same website location where the Exchange posts its own rule filings pursuant to Rule 19b–4 within the timeframe required by such rule. The website posting will include a link to the location on the Nasdaq website where the applicable proposed rule change is posted.

Implementation

The Exchange proposes that this rule change becomes operative at such time as it receives approval for an exemption from the Securities and Exchange Commission, pursuant to its authority under Section 36 of the Act and Rule 0–12 [9] thereunder, from the Section 19(b) rule filing requirements to separately file a proposed rule change to amend the Exchange's General 4 title.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by consolidating its rules into a single rule set. The Exchange intends to also file similar proposed rule changes for the Nasdaq BX, Inc.; Nasdaq PHLX LLC; Nasdaq ISE, LLC; and Nasdaq MRX, LLC markets so that the General 4 rules which govern Registration Rules are conformed.

Incorporating by reference the Nasdaq Registration Rules at General 4 into the Exchange's General 4 title will provide an easy reference for Exchange members seeking to comply with registration and qualification requirements on multiple markets. As noted, the Exchange intends to file similar proposed rule changes for other Affiliated Exchanges so that Nasdaq General 4 is the source document for all Registration Rules. The Exchange notes that the current rule is not changing and that Exchange members will be required to continue to comply with the Nasdaq Registration Rules as though such rules are fully set forth in Exchange's Rulebook. The Exchange desires to conform its rules and locate those rules within the same location in each Rulebook to provide Exchange members the ability to quickly locate rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that this rule change does not impose an undue burden on competition because the Exchange is merely incorporating by reference the Nasdaq Registration Rules at General 4 into its own Rulebook. The Exchange Registration Rules are not being amended and therefore no member is impacted.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [12] and subparagraph (f)(6) of Rule 19b-4 thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–GEMX–2019–05 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–GEMX–2019–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the 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–GEMX–2019–05 and should be submitted on or before May 23, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–08921 Filed 5–1–19; 8:45 am]

BILLING CODE 8011–01–P

[9] *See* 17 CFR 240.0–12; Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85729; File No. SR–CboeBZX–2019–030]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Replace Obsolete Terminology

April 26, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 17, 2019, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to replace obsolete terminology. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rules to replace certain obsolete terms and correct an inaccurate reference within its rules. Specifically, on November 29, 2018, the Exchange filed rule filing SR–CboeBZX–2018–086 which, among other things, adopted the definition of ''EFID'' in Rule 21.1(k). More specifically, ''EFID'' is an executing firm ID and refers to what the automated trading system used by BZX Options for the trading of options contracts (''System'') uses to identify the Member and the clearing number for the execution of orders and quotes submitted to the System on its options platform.[5] At the time, the Exchange noted that BZX's rules had referred only to the term ''MPID'', which is a Member's market participant identifier and generally equivalent to an EFID. The Exchange also noted however, that MPIDs are only used for equities trading and that the Exchange does not utilize MPIDs on its options platform, but rather uses EFIDs. As such, the Exchange now proposes to update all references to ''market participant ID'' and ''MPID'' to ''executing Firm ID'' and ''EFID'', respectively under Chapter XXI, which chapter relates to the trading of options listed on BZX Options (*i.e.,* update terms in Rule 21.1(c)(1), Rule 21.1(g), and Rule 21.10(a)). In addition to this, the Exchange proposed to update an inaccurate reference within Rule 21.1(g) to restrictions with respect to bulk messaging in paragraph (j) to paragraph (l), in which bulk messaging restrictions are currently set forth.

The Exchange also proposes to further clarify Rule 21.1(c)(1), which rule defines ''Attributable Orders''. Particularly, an Attributable Order is currently defined as orders that are designated for display (price and size) including the User's market participant identifier (''MPID''). As discussed above, the Exchange proposes to replace the reference to ''market participant identifier (''MPID'')'' to ''executing Firm ID (''EFID'')''. The Exchange proposes to also make clear that User's may use other unique identifiers on Attributable Orders in addition to, or in lieu of, EFIDs. More specifically, unique identifiers are other identifiers chosen by a User and currently comprised of a combination of four alpha characters appended to an Attributable Order. These identifiers allow users to apply a more granular, user-defined identifier on an Attributable Order to better track their orders. The Exchange notes that Attributable Orders are optional order designations and Users are currently able to allocate a user-defined unique identifier for internal, order tracking purposes. Additionally, the Exchange notes regardless of whether a User uses an Attributable Order and regardless of whether a User determines to display its EFID and/or another unique identifier on such Attributable Order, there is no impact on the Exchange's audit trail, its ability to surveil, its ability to match or clear trades, its ability to disseminate real-time or near real time trade information or any risk control functionality. Indeed, such identifiers on Attributable Orders are for display purposes only. Even where a User determines to append a unique identifier and not an EFID on an Attributable Order, the User's EFID will still be associated with such order and the Exchange's system will continue to be able to identify the Member and the clearing number for the execution of the order. The Exchange further notes that the proposed definition under Rule 21.1(c)(1) is consistent with the definition of Attributable Orders on its affiliate, Cboe C2 Exchange, Inc. (''C2'').[6] The proposed rule change to Rule 21.1(c)(1) provides Members flexibility in what identifiers it may use on Attributable Orders and also makes clear that User's may use unique identifiers other than EFIDs. The Exchange notes no substantive change is being made by this rule change. The Exchange is merely updating its options rules to reflect the accurate terminology relating to market participant identifiers and clarifying the current ways in which a User may designate an optional display feature.

Lastly, the Exchange notes that although rule filing SR–CboeBZX–086 proposed to replace references to ''User'' with ''Member'', it inadvertently failed to update this reference in Rule 21.1(k)(3). The Exchange therefore seeks to correct this oversight and update the reference to ''Users'' in Rule 21.1(k)(3) to ''Members''. No substantive changes are being made by the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 84777 (December 10, 2018), 83 FR 64397 (December 14, 2018) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend Its Provision Related to Its Risk Monitor Mechanism) (SR–CboeBZX–2018–086).

[6] *See* C2 Rule 6.10.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes its proposed rule change to update inaccurately defined terms or references under Rule 21.1(c)(1), Rule 21.1(g), Rule 21.1(k)(3), and Rule 21.10(a) will provide consistency and transparency in the rules and alleviate potential confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system and protecting investors and the public interest. Additionally, the Exchange believes that the proposed change to the definition of Attributable Orders provides consistency across the corresponding C2 Rule 6.10 and makes clear that User's may use other unique identifiers, which, as discussed above, are defined by the User and are currently comprised of a combination of four alpha characters. As a result, the proposed change to this definition provides further consistency and transparency in the Exchange's rules and with that of its affiliate's rules and alleviates potential confusion surrounding the designation of Attributable Orders, which protects investors and the public interest. The Exchange also believes that providing Users the option of using identifiers other than EFIDs provides Users more flexibility and ability to better track their orders. As noted above, the proposed filing does not substantively change any Member abilities under the rules, nor does it impact the Exchange's audit trail, its ability to surveil, its ability to match or clear trades, its ability to disseminate real-time or near real time trade information or any risk control functionality. The proposed change merely corrects inadvertent oversights with respect to terminology and makes explicit that a User may designate Attributable Orders by using EFIDs and/or other unique identifiers, which is an optional feature for display purposes only and that is currently available to all Users.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change does not address competitive issues, but rather, as discussed above, is merely intended to correct inadvertent uses of inaccurate or obsolete terms, which will alleviate potential confusion.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)[11] thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to immediately update its rulebook to reflect current terminology and reflect how Users can designate Attributable Orders. The Exchange has represented that no substantive changes are being made to its rules and further, that the proposed rule change will have no impact on (i) its ability to surveil, match or clear trades, and disseminate trade information; (ii) risk control functionality; or (iii) the Exchange's audit trail. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2019–030 on the subject line.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Paper Comments

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

All submissions should refer to File Number SR–CboeBZX–2019–030. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2019–030 and should be submitted on or before May 23, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–08914 Filed 5–1–19; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission staff will hold a public roundtable on Monday May 6, 2019 at 9:30 a.m.

PLACE: The roundtable will be held in the Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: The meeting will begin at 9:30 a.m. (ET) and will be open to the public. Seating will be on a first-come, first-served basis. Doors will open at 9:00 a.m. Visitors will be subject to security checks. The meeting will be webcast on the Commission's website at *www.sec.gov.*

MATTERS TO BE CONSIDERED: The Commission staff will host a roundtable on small business capital formation, with a focus on the experiences of investors and companies raising capital between the U.S. coasts. The roundtable is open to the public. This Sunshine Act notice is being issued because a majority of the Commission may attend the meeting.

The agenda for the roundtable will focus on successes and challenges faced by small businesses and their investors as they seek to raise capital, including the impact of rules and regulations under the federal securities laws.

CONTACT PERSON FOR MORE INFORMATION: For further information, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: April 29, 2019.

Vanessa A. Countryman,

Acting Secretary.

[FR Doc. 2019–09039 Filed 4–30–19; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85732; File No. SR–CBOE–2019–024]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 6.49A To Eliminate the Exchange's On-Floor Position Transfer Procedure

April 26, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 16, 2019, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend Rule 6.49A to eliminate the Exchange's on-floor position transfer procedure. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 6.49A to delete the provisions related to on-floor position transfers and amend the provision regarding presidential exemptions. Rule 6.49A specifies the circumstances under which Trading Permit Holders may effect transfers of positions, both on and off the trading floor, notwithstanding the prohibition in Rule 6.49(a).[5] Rule 6.49A(a)(2) permits certain position transfers to occur on the floor of the exchange or on another options exchange. The procedures for such on-

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] Rule 6.49 generally requires transactions of option contracts listed on the Exchange for a premium in excess of $1.00 to be effected on the floor of the Exchange or on another exchange.

floor position transfers are set forth in Rule 6.49A(b) and (c), as well as Interpretations and Policies .01 through .03. The Exchange no longer wants to make available on-floor transfers of positions, so the proposed rule change deletes paragraphs (a)(2), (b), and (c), and Interpretations and Policies .01 through .03[6] from Rule 6.49A.[7] The on-floor position transfer procedure is administratively burdensome on the Exchange, and is currently used by Trading Permit Holders on a limited basis. As the Exchange noted when the rule was adopted, the Exchange's ''on-floor'' procedure was intended to help ensure that Trading Permit Holders with a need to transfer positions in bulk as part of a sale or disposition of all or substantially all of a Trading Permit Holder's assets or options positions were able to get the best possible price for the positions while also ensuring that other Trading Permit Holders have an adequate opportunity to make bids and offers on the positions that are being transferred.[8] In addition, the Exchange noted the ''on-floor'' position transfer procedure could be used by Market-Makers that, for reasons other than a forced liquidation, such as an extended vacation, wished to liquidate their entire, or nearly their entire, open positions in a single set of transactions, subject to certain restrictions.[9]

For example, the Exchange's on-floor transfer of positions rule was also intended to address the common situation in which a Designated Primary Market-Maker (''DPM'') sold its business or in which a Market-Maker, for reasons other than a forced liquidation, such as an extended vacation, wished to liquidate its entire, or nearly entire, position in a single set of transactions.[10] Currently, because DPMs have been largely consolidated in the hands of firms rather than individuals, such transfers are, for the most part unnecessary; if an individual takes an extended vacation, another member of the firm handles the firm's book. Accordingly, the Exchange believes that the on-floor transfer of positions procedure no longer serves the uses for which is was originally adopted. The Exchange also notes that at least one other options exchange with a trading floor and a transfer of positions rule does not offer an on-floor transfer procedure.[11]

Current paragraph (d) (proposed paragraph (b)) contains exemptions to Rule 6.49A(a) that are approved by the Exchange's president.[12] The proposed rule change permits the President or a designee to grant an exemption to the Rule 6.49(a) prohibition if, in his or her judgment, allowing the off-floor transfer is necessary or appropriate for the maintenance of a fair and orderly market and the protection of investors and is in the public interest, including due to unusual or extraordinary circumstances such as the market value of the Person's positions will be comprised by having to comply with the requirement to trade on the Exchange pursuant to the normal auction process or, when in the judgment of President or his or her designee, market conditions make trading on the Exchange impractical. The proposed rule change updates language consistent with the change to only permit off-floor transfers. Additionally, the additional circumstances in which the President or a designee may grant an exemption are similar to those that the President or a designee may consider when taking action under emergency conditions pursuant to Rule 6.17.

The proposed rule change makes no changes to permissible off-floor position transfers.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[13] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[14] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[15] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change to eliminate the on-floor position transfer procedure promotes just and equitable principles of trade, helps remove impediments to and perfect the mechanism of a free and open market and a national market system, and promotes efficient administration of the Exchange, as it eliminates a complex procedure that is of limited use to Trading Permit Holders today but still imposes an administrative burden on the Exchange. The proposed rule change removes impediments to and perfects the mechanism of a free and open market, because it is similar to rules of other options exchanges. The Exchange also notes that at least one other options exchange with a trading floor and a transfer of positions rule does not offer an on-floor transfer procedure,[16] and at least one other options exchange lets a designee of the Exchange president grant an exemption.[17] Additionally, the additional circumstances in which the President or a designee may grant an exemption are similar to those that the President or a designee may consider when taking action under emergency conditions pursuant to Rule 6.17, and thus the proposed rule change does not significantly expand the Exchange's President's authority to take action when necessary or appropriate for the maintenance of a fair and orderly market and to protect investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The

[6] The Exchange proposes to move the provision in Interpretation and Policy .03 that states the on-floor transfer procedure is not to be used repeatedly or routinely in circumvention of the normal auction market process to proposed paragraph (g), as that provision applies to both the current on-floor and off-floor position transfer procedures.

[7] The proposed rule change makes conforming changes to the paragraph lettering and numbering in current subparagraph (a)(1) (proposed subparagraph (a)). Because, as proposed, Rule 6.49A will only relate to off-floor transfers, the proposed rule change renames Rule 6.49A and adds a heading to proposed paragraph (a).

[8] *See* Exchange Act Release No. 36647 (December 28, 1995), 61 FR 566 (January 8, 1996) (Order Approving and Notice of Filing and Order Granting Accelerated Approval of Amendments No. 1 and 2 to a Proposed Rule Change Relating to the Transfer of Positions on the Floor of the Exchange in Cases of Dissolution and other Situations) (SR–CBOE–95–36).

[9] *Id.* Among other restrictions, repeated and frequent use of the on-floor procedure in Rule 6.49A by a TPH is not permitted.

[10] *Id.*

[11] *See, e.g.,* Nasdaq OMX PHLX LLC (''Phlx'') 1058.

[12] Similar to the rules of other exchanges, the proposed rule change also lets a designee of the Exchange president grant an exemption. *See, e.g.,* Arca Rule 6.78–O(f).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] *Id.*

[16] *See, e.g.,* Nasdaq OMX PHLX LLC (''Phlx'') 1058.

[17] *See, e.g.,* NYSE Arca, Inc. (''Arca'') Rule 6.78–O(f).

Exchange does not believe the proposed rule change will impose any burden on intramarket competition, as the current on-floor position transfer procedure is of limited use to Trading Permit Holders today but still imposes an administrative burden on the Exchange. The proposed elimination of the on-floor position transfer promotes efficient administration of the Exchange, as it eliminates this complex procedure that is limited in application. Market participants will still be able to effect transactions on the Exchange pursuant to the normal auction process if an off-floor transfer is not permissible.

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition. As discussed above, at least one other options exchange with a trading floor and a transfer of positions rule does not offer an on-floor transfer procedure,[18] and at least one other options exchange lets a designee of the Exchange president grant an exemption.[19] Additionally, the additional circumstances in which the President or a designee may grant an exemption are similar to those that the President or a designee may consider when taking action under emergency conditions pursuant to Rule 6.17, and thus the proposed rule change does not significantly expand the Exchange's President's authority to take action when necessary or appropriate for the maintenance of a fair and orderly market and to protect investors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[20] and Rule 19b–4(f)(6) thereunder.[21] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[22]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[23] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2019–024 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–CBOE–2019–024. 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–CBOE–2019–024 and should be submitted on or before May 23, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–08919 Filed 5–1–19; 8:45 am]

BILLING CODE 8011–01–P

[18] *See, e.g.,* Nasdaq OMX PHLX LLC (''Phlx'') 1058.

[19] *See, e.g.,* NYSE Arca, Inc. (''Arca'') Rule 6.78–O(f).

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6).

[22] In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[23] 15 U.S.C. 78s(b)(2)(B).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85730; File No. SR–MRX–2019–09]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete the Exchange's Current Registration, Qualification and Continuing Education Rules

April 26, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 18, 2019, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delete the Exchange's current Registration, Qualification and Continuing Education rules (''Exchange Registration Rules'' and, generally, ''Registration Rules'') under the 1200 Series (Rules 1210 through 1250), and incorporate by reference The Nasdaq Stock Market LLC's (''Nasdaq'') rules at General 4 (''Nasdaq Registration Rules''), into General 4 of the Exchange's rulebook's (''Rulebook'') shell structure.[3]

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqmrx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently amended, reorganized, and enhanced certain of its membership, registration, and qualification requirement rules partly in response to rule changes by the Financial Industry Regulatory Authority (''FINRA''), and also in order to conform the Exchange's rules more closely to those of its Affiliated Exchanges in the interest of uniformity and to facilitate compliance with membership, registration and qualification regulatory requirements by members of multiple Affiliated Exchanges including the Exchange.[4] To that end, the Exchange adopted a new 1200 Series of rules, captioned ''Registration, Qualification and Continuing Education,'' generally conforming the Exchange Registration Rules to FINRA's new 1200 Series, except for a number of Exchange-specific variations.[5]

The Exchange now proposes to delete the Exchange Registration Rules, currently under the 1200 Series (Rules 1210 through 1250), and incorporate by reference the Nasdaq Registration Rules at General 4 of Nasdaq's rulebook into General 4 of the Exchange's Rulebook. Relatedly, the Exchange will make necessary cross-reference updates throughout the Rulebook. Specifically, the Exchange will amend the cross-reference in Exchange Rule 100.

The incorporation by reference of Nasdaq Registration Rules at General 4 into the Exchange's General 4 title and any necessary cross-reference updates are regulatory in nature.[6] The Exchange notes that as a condition of an exemption, which the Exchange will request and will need to be approved by the Commission pursuant to Section 36 of the Act,[7] the Exchange agrees to provide written notice to its members whenever Nasdaq proposes a change to its General 4 title.[8] Such notice will alert Exchange members to the proposed Nasdaq rule change and give them an opportunity to comment on the proposal. The Exchange will similarly inform its members in writing when the SEC approves any such proposed change.

Implementation

The Exchange proposes that this rule change becomes operative at such time as it receives approval for an exemption from the Securities and Exchange Commission, pursuant to its authority under Section 36 of the Act and Rule 0–12[9] thereunder, from the Section 19(b) rule filing requirements to separately file a proposed rule change to amend the Exchange's General 4 title.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by consolidating its rules into a single rule set. The Exchange intends to also file similar proposed rule changes for the Nasdaq BX, Inc.; Nasdaq PHLX LLC; Nasdaq GEMX, LLC; and Nasdaq ISE, LLC markets so that the General 4 rules which govern Registration Rules are conformed.

Incorporating by reference the Nasdaq Registration Rules at General 4 into the Exchange's General 4 title will provide an easy reference for Exchange members seeking to comply with registration and qualification requirements on multiple markets. As noted, the Exchange intends to file similar proposed rule changes for other Affiliated Exchanges so that Nasdaq General 4 is the source document for all Registration Rules. The Exchange notes that the current rule is not changing and that Exchange members will be required to continue to comply with the Nasdaq Registration Rules as though such rules are fully set forth in Exchange's Rulebook. The Exchange desires to conform its rules and locate those rules within the same location in each Rulebook to provide Exchange members the ability to quickly locate rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that this rule change does not impose an undue burden on competition because the Exchange is merely incorporating by reference the Nasdaq Registration Rules at General 4 into its own Rulebook. The Exchange Registration Rules are not being

[3] In 2017, the Exchange added a shell structure to its Rulebook with the purpose of improving efficiency and readability and to align its rules closer to those of its five sister exchanges, The Nasdaq Stock Market LLC; Nasdaq BX, Inc.; Nasdaq PHLX LLC; Nasdaq GEMX, LLC; and Nasdaq ISE, LLC (''Affiliated Exchanges''). The shell structure currently contains eight (8) General sections which, once complete, will apply a common set of rules to the Affiliated Exchanges. *See* Securities Exchange Act Release No. 82172 (November 29, 2017), 82 FR 57495 (December 5, 2017) (SR–MRX–2017–26).

[4] *See* Securities Exchange Act Release No. 84385 (October 9, 2018), 83 FR 52023 (October 15, 2018) (SR–MRX–2018–31).

[5] *Id.*

[6] The General 4 rules are categories of rules that are not trading rules. *See* 17 CFR 200.30–3(a)(76) (contemplating such requests). In addition, several other Self-Regulatory Organizations (''SROs'') incorporate by reference certain regulatory rules of other SROs and have received from the Commission similar exemptions from Section 19(b) of the Exchange Act. *See e.g.,* Securities Exchange Act Release Nos. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008), 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006); 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004).

[7] 15 U.S.C. 78mm.

[8] The Exchange will provide such notice via a posting on the same website location where the Exchange posts its own rule filings pursuant to Rule 19b–4 within the timeframe required by such rule. The website posting will include a link to the location on the Nasdaq website where the applicable proposed rule change is posted.

[9] *See* 17 CFR 240.0–12; Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

amended and therefore no member is impacted.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MRX–2019–09 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–MRX–2019–09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MRX–2019–09 and should be submitted on or before May 23, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–08917 Filed 5–1–19; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85725; File No. SR–CboeEDGX–2019–024]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Replace Obsolete Terminology

April 26, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 17, 2019, Cboe EDGX Exchange, Inc. (''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 Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to replace obsolete terminology. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://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 Exchange proposes to amend its rules to replace certain obsolete terms. Specifically, on November 30, 2018, the Exchange filed a rule filing, SR–CboeEDGX–2018–058, which, among other things, adopted the definition of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

EFID in Rule 21.1(k). More specifically, ''EFID'' is an executing firm ID and refers to what the automated trading system used by EDGX Options for the trading of options contracts (''System'') uses to identify the Member and the clearing number for the execution of orders and quotes submitted to the System on its options platform.[5] At the time, the Exchange noted that BZX's rules had referred only to the term ''MPID'', which is a Member's market participant identifier and generally equivalent to an EFID. The Exchange also noted however, that MPIDs are only used for equities trading and that the Exchange does not utilize MPIDs on its options platform, but rather uses EFIDs. As such, the Exchange now proposes to update all references to ''market participant ID'' and ''MPID'' to ''executing firm ID'' and ''EFID'' under Chapter XXI, which chapter relates to the trading of options listed on EDGX Options (*i.e.,* update terms in Rule 21.1(c)(1), Rule 21.1(g), and Rule 21.10(a)).

The Exchange also proposes to further clarify Rule 21.1(c)(1), which rule defines ''Attributable Orders''. Particularly, an Attributable Order is currently defined as orders that are designated for display (price and size) including the User's market participant identifier (''MPID''). As discussed above, the Exchange proposes to replace the reference to ''market participant identifier (''MPID'')'' to ''executing Firm ID (''EFID'')''. The Exchange proposes to also make clear that Users may use other unique identifiers on Attributable Orders in addition to, or in lieu of, EFIDs. More specifically, unique identifiers are other identifiers chosen by a User and currently comprised of a combination of four alpha characters appended to an Attributable Order. These identifiers allow users to apply a more granular, user-defined identifier on an Attributable Order to better track their orders. The Exchange notes that Attributable Orders are optional order designations and Users are currently able to allocate a user-defined unique identifier for internal, order tracking purposes. Additionally, the Exchange notes regardless of whether a User uses an Attributable Order and regardless of whether a User determines to display its EFID and/or another unique identifier on such Attributable Order, there is no impact on the Exchange's audit trail, its ability to surveil, its ability to match or clear trades, its ability to disseminate real-time or near real time trade information or any risk control functionality. Indeed, such identifiers on Attributable Orders are for display purposes only. Even where a User determines to append a unique identifier and not an EFID on an Attributable Order, the User's EFID will still be associated with such order and the Exchange's system will continue to be able to identify the Member and the clearing number for the execution of the order. The Exchange further notes that the proposed definition under 21.1(c)(1) is consistent with the definition of Attributable Orders on its affiliate, Cboe C2 Exchange, Inc. (''C2'').[6] The proposed rule change to Rule 21.1(c)(1) provides Members flexibility in what identifiers it may use on Attributable Orders and also makes clear that User's may use unique identifiers other than EFIDs. The Exchange notes no substantive change is being made by this rule change. The Exchange is merely updating its options rules to reflect the accurate terminology relating to market participant identifiers and clarifying the current ways in which a User may designate an optional display feature.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes its proposed rule change to update inaccurately defined terms or references under Rule 21.1(c)(1), Rule 21.1(g), Rule 21.1(k)(3), and Rule 21.10(a) will provide consistency and transparency in the rules and alleviate potential confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system and protecting investors and the public interest. Additionally, the Exchange believes that the proposed change to the definition of Attributable Orders provides consistency across the corresponding C2 Rule 6.10 and makes clear that User's may use other unique identifiers, which, as discussed above, are defined by the User and are currently comprised of a combination of four alpha characters. As a result, the proposed change to this definition provides further consistency and transparency in the Exchange's rules and with that of its affiliate's rules and alleviates potential confusion surrounding the designation of Attributable Orders, which protects investors and the public interest. The Exchange also believes that providing Users the option of using identifiers other than EFIDs provides Users more flexibility and ability to better track their orders. As noted above, the proposed filing does not substantively change any Member abilities under the rules, nor does it impact the Exchange's audit trail, its ability to surveil, its ability to match or clear trades, its ability to disseminate real-time or near real time trade information or any risk control functionality. The proposed change merely corrects inadvertent oversights with respect to terminology and makes explicit that a User may designate Attributable Orders by using EFIDs and/or other unique identifiers, which is an optional feature for display purposes only and that is currently available to all Users.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change does not address competitive issues, but rather, as discussed above, is merely intended to correct an inadvertent uses of inaccurate or obsolete terms, which will alleviate potential confusion.

[5] *See* Securities Exchange Act Release No. 84778 (December 10, 2018) 83 FR 64384 (December 14, 2018) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend Its Provision Related to Its Risk Monitor Mechanism) (SR–CboeEDGX–2018–058).

[6] *See* C2 Rule 6.10.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) [11] thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to immediately update its rulebook to reflect current terminology and reflect how Users can designate Attributable Orders. The Exchange has represented that no substantive changes are being made to its rules and further, that the proposed rule change will have no impact on (i) its ability to surveil, match or clear trades, and disseminate trade information; (ii) risk control functionality; or (iii) the Exchange's audit trail. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2019–024 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–2019–024. 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–2019–024 and should be submitted on or before May 23, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–08910 Filed 5–1–19; 8:45 am]

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[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85734; File No. SR–CboeEDGX–2019–009]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change, as Modified by Amendment No. 1, To Adopt Rule 21.21 (Solicitation Auction Mechanism)

April 26, 2019.

On February 21, 2019, Cboe EDGX Exchange, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt Rule 21.21, the Solicitation Auction Mechanism, a solicited order mechanism for larger-sized orders. The proposed rule change was published for comment in the **Federal Register** on March 12, 2019.[3] On April 23, 2019, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission has received no comments on the proposal.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 85253 (March 6, 2019), 84 FR 8921.

[4] Amendment No. 1 revises the proposal to (1) correct minor technical errors in the description of the proposed rule change; (2) remove an inadvertent description of an amendment to Exchange Rule 22.12, which the Exchange does not propose to amend in the proposal; and (3) update the

Continued

Section 19(b)(2) of the Act[5] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is April 26, 2019.

The Commission is extending the 45-day time period for Commission action on the proposed rule change, as modified by Amendment No. 1. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change, as modified by Amendment No. 1.

Accordingly, pursuant to Section 19(b)(2) of the Act,[6] the Commission designates June 10, 2019, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change, as modified by Amendment No. 1 (File No. SR–CboeEDGX–2019–009).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–08920 Filed 5–1–19; 8:45 am]

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Exchange's description of the proposed rule change's consistency with Section 11(a) of the Act. Amendment No. 1 is available at *https://www.sec.gov/comments/sr-cboeedgx-2019-009/srcboeedgx2019009-5405908-184490.pdf.*

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85726; File No. SR–BX–2019–010]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete the Exchange's Current Registration, Qualification and Continuing Education Rules

April 26, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 18, 2019, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delete the Exchange's current Registration, Qualification and Continuing Education rules (''Exchange Registration Rules'' and, generally, ''Registration Rules'') under the 1200 Series (Rules 1210 through 1250), and incorporate by reference The Nasdaq Stock Market LLC's (''Nasdaq'') rules at General 4 (''Nasdaq Registration Rules''), into General 4 of the Exchange's rulebook's (''Rulebook'') shell structure.[3]

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In 2017, the Exchange added a shell structure to its Rulebook with the purpose of improving efficiency and readability and to align its rules closer to those of its five sister exchanges, The Nasdaq Stock Market LLC; Nasdaq PHLX LLC; Nasdaq ISE, LLC; Nasdaq GEMX, LLC; and Nasdaq MRX, LLC (''Affiliated Exchanges''). The shell structure currently contains eight (8) General sections which, once complete, will apply a common set of rules to the Affiliated Exchanges. *See* Securities Exchange Act Release No. 82174 (November 29, 2017), 82 FR 57492 (December 5, 2017) (SR–BX–2017–054).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently amended, reorganized, and enhanced certain of its membership, registration, and qualification requirement rules partly in response to rule changes by the Financial Industry Regulatory Authority (''FINRA''), and also in order to conform the Exchange's rules more closely to those of its Affiliated Exchanges in the interest of uniformity and to facilitate compliance with membership, registration and qualification regulatory requirements by members of multiple Affiliated Exchanges including the Exchange.[4] To that end, the Exchange adopted a new 1200 Series of rules, captioned ''Registration, Qualification and Continuing Education,'' generally conforming the Exchange Registration Rules to FINRA's new 1200 Series, except for a number of Exchange-specific variations.[5]

The Exchange now proposes to delete the Exchange Registration Rules, currently under the 1200 Series (Rules 1210 through 1250), and incorporate by reference the Nasdaq Registration Rules at General 4 of Nasdaq's rulebook into General 4 of the Exchange's Rulebook. Relatedly, the Exchange will make necessary cross-reference updates throughout the Rulebook. Specifically, the Exchange will amend the cross-references in Exchange Rules 1001, 1011, and 3010.

The incorporation by reference of Nasdaq Registration Rules at General 4 into the Exchange's General 4 title and any necessary cross-reference updates are regulatory in nature.[6] The Exchange notes that as a condition of an exemption, which the Exchange will request and will need to be approved by the Commission pursuant to Section 36 of the Act,[7] the Exchange agrees to provide written notice to its members whenever Nasdaq proposes a change to

[4] *See* Securities Exchange Act Release No. 84353 (October 3, 2018), 83 FR 50999 (October 10, 2018) (SR–BX–2018–047).

[5] *Id.*

[6] The General 4 rules are categories of rules that are not trading rules. *See* 17 CFR 200.30–3(a)(76) (contemplating such requests). In addition, several other Self-Regulatory Organizations (''SROs'') incorporate by reference certain regulatory rules of other SROs and have received from the Commission similar exemptions from Section 19(b) of the Exchange Act. *See e.g.,* Securities Exchange Act Release Nos. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008), 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006); 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004).

[7] 15 U.S.C. 78mm.

its General 4 title.[8] Such notice will alert Exchange members to the proposed Nasdaq rule change and give them an opportunity to comment on the proposal. The Exchange will similarly inform its members in writing when the SEC approves any such proposed change.

Implementation

The Exchange proposes that this rule change becomes operative at such time as it receives approval for an exemption from the Securities and Exchange Commission, pursuant to its authority under Section 36 of the Act and Rule 0–12 [9] thereunder, from the Section 19(b) rule filing requirements to separately file a proposed rule change to amend the Exchange's General 4 title.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by consolidating its rules into a single rule set. The Exchange intends to also file similar proposed rule changes for the Nasdaq PHLX LLC; Nasdaq GEMX, LLC; Nasdaq ISE, LLC; and Nasdaq MRX, LLC markets so that the General 4 rules which govern Registration Rules are conformed.

Incorporating by reference the Nasdaq Registration Rules at General 4 into the Exchange's General 4 title will provide an easy reference for Exchange members seeking to comply with registration and qualification requirements on multiple markets. As noted, the Exchange intends to file similar proposed rule changes for other Affiliated Exchanges so that Nasdaq General 4 is the source document for all Registration Rules. The Exchange notes that the current rule is not changing and that Exchange members will be required to continue to comply with the Nasdaq Registration Rules as though such rules are fully set forth in Exchange's Rulebook. The Exchange desires to conform its rules and locate those rules within the same location in each Rulebook to provide Exchange members the ability to quickly locate rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that this rule change does not impose an undue burden on competition because the Exchange is merely incorporating by reference the Nasdaq Registration Rules at General 4 into its own Rulebook. The Exchange Registration Rules are not being amended and therefore no member is impacted.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX 2019–010 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–BX–2019–010. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2019–010 and should be submitted on or before May 23, 2019.

[8] The Exchange will provide such notice via a posting on the same website location where the Exchange posts its own rule filings pursuant to Rule 19b–4 within the timeframe required by such rule. The website posting will include a link to the location on the Nasdaq website where the applicable proposed rule change is posted.

[9] *See* 17 CFR 240.0–12; Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–08911 Filed 5–1–19; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33462]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

April 26, 2019.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of April 2019. A copy of each application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail.

Hearing requests should be received by the SEC by 5:30 p.m. on May 21, 2019, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: The Commission: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: Shawn Davis, Branch Chief, at (202) 551–6413 or Chief Counsel's Office at (202) 551–6821; SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE, Washington, DC 20549–8010.

ClearBridge American Energy MLP Fund Inc. [File No. 811–22805]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to ClearBridge Energy Midstream Opportunity Fund Inc. and, on November 16, 2018, made a final distribution to its shareholders based on net asset value. Expenses of $1,140,539 incurred in connection with the reorganization were paid by the applicant's investment adviser or an affiliate thereof.

Filing Date: The application was filed on March 7, 2019.

Applicant's Address: 620 Eighth Avenue, 49th Floor, New York, New York 10018.

College & University Facility Loan Trust Two [File No. 811–05506]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant currently has two beneficial owners and will continue to operate as a private investment fund in reliance on Section 3(c)(1) of the Act.

Filing Date: The application was filed on January 22, 2019.

Applicant's Address: c/o U.S. Bank National Association, as Owner Trustee, One Federal Street, Boston, Massachusetts 02110.

Deutsche DWS Value Series, Inc. [File No. 811–05385]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to DWS Mid Cap Value Fund and DWS CROCI Equity Dividend Fund, each a series of Deutsche DWS Investment Trust, and on August 1, 2018, made a final distribution to its shareholders based on net asset value. Expenses of $79,626 incurred in connection with the reorganization were paid by the applicant.

Filing Date: The application was filed on March 18, 2019.

Applicant's Address: 345 Park Avenue, New York, New York 10154.

Deutsche Multi-Market Income Trust [File No. 811–05689]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On November 19, 2018, applicant made liquidating distributions to its shareholders based on net asset value. Expenses of $997.50 incurred in connection with the liquidation were paid by the applicant.

Filing Date: The application was filed March 15, 2019.

Applicant's Address: 345 Park Avenue, New York, New York 10154.

Deutsche Strategic Income Trust [File No. 811–08382]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On November 19, 2018, applicant made liquidating distributions to its shareholders based on net asset value. Expenses of $997.50 incurred in connection with the liquidation were paid by the applicant.

Filing Date: The application was filed on March 15, 2019.

Applicant's Address: 345 Park Avenue, New York, New York 10154.

Eagle Capital Appreciation Fund [File No. 811–04338]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to Carillon Series Trust and, on November 17, 2017, made a final distribution to its shareholders based on net asset value. Expenses of $111,982.04 incurred in connection with the reorganization were paid by the applicant's investment adviser and its affiliates.

Filing Dates: The application was filed on January 25, 2019, and amended on April 12, 2019.

Applicant's Address: 880 Carillon Parkway, St. Petersburg, Florida 33716.

Eagle Growth & Income Fund [File No. 811–04767]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to Carillon Series Trust and, on November 17, 2017, made a final distribution to its shareholders based on net asset value. Expenses of $95,655.82 incurred in connection with the reorganization were paid by the applicant's investment adviser and its affiliates.

Filing Dates: The application was filed on January 25, 2019, and amended on April 12, 2019.

Applicant's Address: 880 Carillon Parkway, St. Petersburg, Florida 33716.

Fidelity Systematic Investment Plans [File No. 811–01905]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On November 16, 2018, applicant made liquidating distributions to its shareholders, based on net asset value. Expenses of $47,735.85 incurred in connection with

the liquidation were paid by Fidelity Investments Institutional Operations Company, Inc.

Filing Dates: The application was filed on November 30, 2018, and amended on April 18, 2019.

Applicant's Address: Fidelity Distributors Corporation, 900 Salem Street, Smithfield, Rhode Island 02917.

Multisector Income Portfolio [File No. 811–22786]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 22, 2018, applicant made liquidating distributions to its shareholders based on net asset value. No expenses were incurred in connection with the liquidation.

Filing Dates: The application was filed on February 21, 2019, and amended on April 2, 2019.

Applicant's Address: Two International Place, Boston, Massachusetts 02110.

SMID-Cap Portfolio [File No. 811–10609]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On May 18, 2018, applicant made liquidating distributions to its shareholders based on net asset value. No expenses were incurred in connection with the liquidation.

Filing Dates: The application was filed on February 21, 2019, and amended on April 12, 2019.

Applicant's Address: Two International Place, Boston, Massachusetts 02110.

Tax-Managed Global Small-Cap Portfolio [File No. 811–10599]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On January 19, 2018, applicant made liquidating distributions to its shareholders based on net asset value. No expenses were incurred in connection with the liquidation.

Filing Dates: The application was filed on March 5, 2019, and amended on April 5, 2019.

Applicant's Address: Two International Place, Boston, Massachusetts 02110.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–08885 Filed 5–1–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85731; File No. SR–NYSEAMER–2019–16]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.11E, Limit Up-Limit Down Plan and Trading Pauses in Individual Securities Due to Extraordinary Market Volatility

April 26, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on April 18, 2019, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.11E, Limit Up-Limit Down Plan and Trading Pauses in Individual Securities Due to Extraordinary Market Volatility. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Participants filed the Plan to Address Extraordinary Market Volatility (the ''Limit Up-Limit Down Plan'' or the ''Plan'') with the Commission on April 5, 2011 to create a market-wide limit up-limit down mechanism intended to address extraordinary market volatility in NMS Stocks,[4] as defined in Rule 600(b)(47) of Regulation NMS under the Exchange Act.[5] The Plan sets forth procedures that provide for market-wide limit up-limit down requirements to prevent trades in individual NMS Stocks from occurring outside of the specified Price Bands. These limit up-limit down requirements are coupled with Trading Pauses, as defined in Section I(Y) of the Plan, to accommodate more fundamental price moves. In particular, the Participants adopted this Plan to address extraordinary volatility in the securities markets, *i.e.,* significant fluctuations in individual securities' prices over a short period of time, such as those experienced during the ''Flash Crash'' on the afternoon of May 6, 2010.

The Plan was originally approved on a pilot basis to allow the public, the Participants, and the Commission to assess the operation of the Plan and whether the Plan should be modified prior to consideration of approval on a permanent basis.[6] The Commission recently approved an amendment to the Plan to allow the Plan to operate on a permanent basis.[7]

Rule 7.11E is designed to comply with the Plan's requirement that exchanges establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up-limit down and trading pause requirements specified in the Plan.[8] In sum, Rule 7.11E provides that the Exchange will not display or execute trading interest outside the Price Bands as required by the limit up-limit down and trading pause requirements specified in the Plan. Rule 7.11E is designed to ensure that trading interest

[4] On May 31, 2012, the Commission approved the Plan, as modified by Amendment No. 1. *See* Securities Exchange Act Release No. 67091, 77 FR 33498 (June 6, 2012) (File No. 4–631) (''Approval Order'').

[5] 17 CFR 242.600(b)(47).

[6] *See supra* note 4.

[7] *See* Securities Exchange Act Release No. 85623 (April 11, 2019), 84 FR 16086 (April 17, 2019) (File No. 4–631).

[8] *See* Securities Exchange Act Release No. 68875 (February 8, 2013), 78 FR 10678 (February 14, 2013) (SR–NYSEMKT–2013–05).

on the Exchange is either repriced or canceled in a manner consistent with the Plan.

Rule 7.11E currently includes a provision that ties the Rule's effectiveness to the pilot period for the Plan, including any extensions to the pilot period for the Plan. The Exchange proposes to amend Rule 7.11E to delete this provision because the Plan has been made permanent and is no longer operating as a pilot program. The Exchange does not propose any additional changes to Rule 7.11E. The proposed rule change would continue to align the effectiveness of Rule 7.11E to the Plan and ensure that the Exchange maintains written policies and procedures that are reasonably designed to comply with the limit up-limit down and trading pause requirements specified in the Plan.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[9] in general, and Section 6(b)(5) of the Act,[10] 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 between customers, issuers, brokers, or dealers. Rule 7.11E complies with the Plan's requirement that exchanges establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up-limit down and trading pause requirements specified in the Plan. The Exchange believes that the proposed rule change promotes just and equitable principles of trade because it would continue to align the effectiveness of Rule 7.11E to the Plan, without any changes. The proposed rule change would also ensure that the Exchange continues to maintain transparent written policies and procedures reasonably designed to comply with the limit up-limit down and trading pause requirements specified in the Plan.

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. The proposal would remove a provision from Rule 7.11E that ties its effectiveness to the pilot period for the Plan that was recently approved on a permanent basis. The proposal would continue to ensure that the Exchange continues to maintain written policies and procedures reasonably designed to comply with the Plan without implicating any competitive issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the Commission approved making the Plan pilot permanent on April 11, 2019, and therefore the Exchange's proposed changes to its rules reflecting that the Plan is now permanent should go into effect immediately. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.[15]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[16] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2019–16 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSEAMER–2019–16. 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

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78s(b)(2)(B).

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–NYSEAMER–2019–16 and should be submitted on or before May 23, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–08918 Filed 5–1–19; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2019–0014]

Agency Information Collection Activities: Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov*

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2019–0014].

The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than July 1, 2019. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Real Property Current Market Value Estimate—0960–0471. SSA considers an individual's resources when evaluating eligibility for Supplemental Security Income (SSI) payments. The value of an individual's resources, including non-home real property, is one of the eligibility requirements for SSI payments. SSA obtains current market value estimates of the claimant's real property through Form SSA–L2794. We allow respondents to use readily available records to complete the form, or we can accept their best estimates. We use this form as part of initial applications and in post-entitlement situations. The respondents are small business operators in real estate; state and local government employees tasked with assessing real property values; and other individuals knowledgeable about local real estate values.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–L2794	300	1	20	100

2. Child Care Dropout Questionnaire—20 CFR 404.211(e)(4)—0960–0474. If individuals applying for Title II disability benefits care for their own or their spouse's children under age 3, and have no steady earnings during the time they care for those children, they may exclude that period of care from the disability computation period. We call this the child-care dropout exclusion. SSA uses the information from Form SSA–4162 to determine if an individual qualifies for this exclusion. Respondents are applicants for Title II disability benefits.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–4162	2,000	1	5	167

3. Medical Report on Adult with Allegation of Human Immunodeficiency Virus Infection; Medical Report on Child with Allegation of Human Immunodeficiency Virus Infection—20 CFR 416.933–20 CFR 416.934—0960–0500. Section 1631(e)(i) of the Social Security Act (Act) authorizes the Commissioner of SSA to gather information to make a determination about an applicant's claim for SSI payments; this procedure is the Presumptive Disability (PD). SSA uses Forms SSA–4814–F5 and SSA–4815–F6 to collect information necessary to determine if an individual with human immunodeficiency virus infection, who is applying for SSI disability benefits, meets the requirements for PD. The respondents are the medical sources of

[17] 17 CFR 200.30–3(a)(12).

the applicants for SSI disability payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–4814–F5	9,600	1	8	1,280
SSA–4815–F6	80	1	10	13
Totals	9,680			1,293

4. Beneficiary Recontact Report—20 CFR 404.703 & 404.705—0960–0502. SSA investigates recipients of disability payments to determine their continuing eligibility for payments. Research indicates recipients may fail to report circumstances that affect their eligibility. Two such cases are: (1) When parents receiving disability benefits for their child marry; and (2) the removal of an entitled child from parents' care. SSA uses Form SSA–1588–SM to ask mothers or fathers about both their marital status and children under their care, to detect overpayments and avoid continuing payment to those are no longer entitled. Respondents are recipients of mothers' or fathers' Social Security benefits.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–1588–SM	76,944	1	5	6,412

5. Certification of Contents of Document(s) or Record(s)—20 CFR 404.715—0960–0689. SSA established procedures for individuals to provide the evidence necessary to establish their rights to Social Security benefits. Examples of such evidence categories include age, relationship, citizenship, marriage, death, and military service. Form SSA–704 allows SSA employees; State record custodians; and other custodians of evidentiary documents to certify and record information from original documents and records under their custodial ownership to establish these types of evidence. SSA uses Form SSA–704 in situations where individuals cannot produce the original evidentiary documentation required to establish benefits eligibility. The respondents are State record custodians and other custodians of evidentiary documents.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–704	293	1	10	49

6. Registration for Appointed Representative Services and Direct Payment—0960–0732. SSA uses Form SSA–1699 to register appointed representatives of claimants before SSA who:

- Want to register for direct payment of fees;
- Registered for direct payment of fees prior to 10/31/09, but need to update their information;
- Registered as appointed representatives on or after 10/31/09, but need to update their information; or
- Received a notice from SSA instructing them to complete this form.

By registering these individuals, SSA: (1) Authenticates and authorizes them to do business with us; (2) allows them to access our records for the claimants they represent; (3) facilitates direct payment of authorized fees to appointed representatives; and, (4) collects the information we need to meet Internal Revenue Service (IRS) requirements to issue specific IRS forms if we pay an appointed representative in excess of a specific amount ($600). The respondents are appointed representatives who want to use Form SSA–1699 for any of the purposes cited in this Notice.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–1699	17,700	1	20	5,900

7. Certificate of Incapacity—5 CFR 890.302(d)—0960–0739. Rules governing the Federal Employee Health Benefits (FEHB) plan require a physician to verify the disability of Federal employees' children ages 26 and

over for these children to retain health benefits under their employed parents' plans. The physician must verify the adult child's disability: (1) Pre-dates the child's 26th birthday; (2) is very serious; and (3) will continue for at least one year. Physicians use Form SSA–604, the Certificate of Incapacity, to document and certify this information, and the Social Security Administration uses the information provided to determine the eligibility for these children, ages 26 and over, for coverage under a parent's FEHB plan. The respondents are physicians of SSA employees' children ages 26 or over who are seeking to retain health benefits under their parent's FEHB coverage.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–604	50	1	45	38

Dated: April 29, 2019.

Naomi Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2019–08946 Filed 5–1–19; 8:45 am]

BILLING CODE 4191–02–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice With Respect to List of Countries Denying Fair Market Opportunities for Government-Funded Airport Construction Projects

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice announces that the United States Trade Representative has determined not to list any countries as denying fair market opportunities for U.S. products, suppliers, or bidders in foreign government-funded airport construction projects.

FOR FURTHER INFORMATION CONTACT: Kate Psillos, International Procurement Negotiator, *Kathryn.W.Psillos@ustr.eop.gov* or 202–395–9581, or Arthur Tsao, Assistant General Counsel, *Arthur_N_Tsao@ustr.eop.gov* or 202–395–6987.

SUPPLEMENTARY INFORMATION: Section 533 of the Airport and Airway Improvement Act of 1982, as amended by section 115 of the Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100–223 (*codified at* 49 U.S.C. 50104), requires the United States Trade Representative to decide whether any foreign country has denied fair market opportunities to U.S. products, suppliers, or bidders in connection with airport construction projects of $500,000 or more that are funded in whole or in part by the government of such country. The Office of the U.S. Trade Representative has not received any complaints or other information that indicates that U.S. products, suppliers, or bidders are being denied fair market opportunities in such airport construction projects. As a consequence, the United States Trade Representative has decided not to list any countries as denying fair market opportunities for U.S. products, suppliers, or bidders in foreign government-funded airport construction projects.

Jamieson Greer,

Chief of Staff, Office of the United States Trade Representative.

[FR Doc. 2019–08974 Filed 5–1–19; 8:45 am]

BILLING CODE 3290–F9–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 2018–0082]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Suspected Unapproved Parts Report

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on February 19, 2019. The information collected on the FAA Form 8120–11 is reported voluntarily by manufacturers, repair stations, aircraft owner/operators, air carriers, and the general public who wish to report suspected unapproved parts to the FAA for review. The report information is collected and correlated by the FAA, Aviation Safety Hotline Program Office, and used to determine if an unapproved part investigation is warranted.

DATES: Written comments should be submitted by June 3, 2019.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Joseph Palmisano by email at: *Joseph.Palmisano@faa.gov;* phone: 202–267–1638.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for MB's clearance of this information collection.

OMB Control Number: 2120–0552.

Title: Suspected Unapproved Parts Report.

Form Numbers: FAA Form 8120–1.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on February 19, 2019 (84 FR 4892). The information collected on the FAA Form 8120–11 is reported voluntarily by

manufacturers, repair stations, aircraft owner/operators, air carriers, and the general public who wish to report suspected unapproved parts to the FAA for review. The report information is collected and correlated by the FAA, Aviation Safety Hotline Program Office, and used to determine if an unapproved part investigation is warranted. When unapproved parts are confirmed that are likely to exist on other products or aircraft of the same or similar design or are being used in other facilities, the information is used as a basis for an aviation industry alert or notification. Alerts are used to inform industry of situations essential to the prevention of accidents, if the information had not been collected. The consequence to the aviation community would be the inability to determine whether or not unapproved parts are being offered for sale or use for installation on type-certificated products.

Procedures and processes relating to the SUP program and associated reports are found in FAA Order 8120.16A, Suspected Unapproved Parts Program, and AC 21–29, Detecting and Reporting Suspected Unapproved Parts. When unapproved parts are identified, the FAA notifies the public by published Field Notifications (FN), disseminated using Unapproved Parts Notifications (UPN), Aviation Maintenance Alerts, Airworthiness Directives (AD), entry into an issue of the Service Difficulty Reporting Summary, a Special Airworthiness Information Bulletin, a display on an internet site, or direct mailing. Reporting of information is strictly voluntary. The information is requested from any individual or facility suspecting an unapproved part. Any burden is minimized by requesting only necessary information to warrant an investigation.

Respondents: Anyone may fill out and send a Form 8120–11 into the FAA.

Frequency: Whenever anyone discovers or suspects they have received an unapproved part.

Estimated Average Burden per Response: About 30 minutes to read and disposition each form.

Estimated Total Annual Burden: The FAA collects approximately 208 forms from the public per year.

Issued in Washington, DC, on April 26, 2019.

Joy Wolf,

Directives & Forms Management Officer (DMO/FMO), Aircraft Certification Service.

[FR Doc. 2019–08871 Filed 5–1–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2019–0332]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: FAA Airport Master Record

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves aeronautical information that the FAA uses to carry out agency missions related to aviation flying safety, flight planning, airport engineering and federal grants analysis, aeronautical chart and flight information publications, and the promotion of air commerce as required by statute. The information to be collected will be used for airspace studies conducted under 49 U.S.C. 329(b) and will be published in flight information handbooks and charts for pilot use.

DATES: Written comments should be submitted by July 1, 2019.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By Mail: Andrew Goldsmith, Airport Engineering Division (AAS–100), Office of Airport Safety and Standards, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

By Fax: 202–267–5383.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Andrew Goldsmith by email at: *Andrew.E.Goldsmith@faa.gov;* phone: 202–267–7669.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0015.

Title: FAA Airport Master Record.

Form Numbers: FAA Forms 5010–1, 5010–2, 5010–3, 5010–5.

Type of Review: Renewal of an information collection.

Background: 49 U.S.C. 329(b) empowers and directs the Secretary of Transportation to collect and disseminate information on civil aeronautics. Aeronautical information is required by the FAA to carry out agency missions related to aviation flying safety, flight planning, airport engineering and federal grants analysis, aeronautical chart and flight information publications, and the promotion of air commerce as required by statute. The safety information collected includes, but is not limited to, the following: Airport name, associated city, airport owner and airport manager, airport latitude, longitude, elevation, runway description, services available, runway approach light systems, communications frequency, airport use, number of operations and based aircraft, obstruction data, and pertinent general remarks. Airport owners/managers and state inspectors submit this information to the FAA.

Respondents: Approximately 9,037 Airport owners/managers and state inspectors.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 1 hour.

Estimated Total Annual Burden: 9,037.

Issued in Washington, DC, on April 29, 2019.

Andrew Goldsmith,

Aeronautical Information Specialist, Airport Engineering Division, Office of Airport Safety and Standards.

[FR Doc. 2019–08944 Filed 5–1–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0356]

Agency Information Collection Activities; Extension of a Currently-Approved Information Collection Request: Transportation of Household Goods; Consumer Protection

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for information.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Federal Motor Carrier Safety Administration (FMCSA) announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. The information collected will be used to help regulate motor carriers transporting household goods (HHG) for individual shippers. FMCSA requests approval to extend an ICR titled ''Transportation of Household Goods; Consumer Protection.''

DATES: We must receive your comments on or before July 1, 2019.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA–2018–0356 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, 20590–0001.
- *Hand Delivery or Courier:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

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

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal Website. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Monique Riddick, Lead Transportation Specialist, Commercial Enforcement and Investigations Division, Department of Transportation, Federal Motor Carrier Safety Administration, West Building 6th Floor, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: (202) 366–8045; email *Monique.Riddick@dot.gov.*

SUPPLEMENTARY INFORMATION: Background: The Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Pub. L. 106–159, 113 Stat. 1748, Dec. 9, 1999) authorized the Secretary of Transportation (Secretary) to regulate HHG carriers engaged in interstate operations for individual shippers. In earlier legislation, Congress abolished the former Interstate Commerce Commission and transferred the Commission's jurisdiction over HHG transportation to the U.S. Department of Transportation (DOT) (ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803, Dec. 29 1995). Prior to FMCSA's establishment, the Secretary delegated this HHG jurisdiction to the Federal Highway Administration, FMCSA's predecessor organization within DOT.

FMCSA has authority to regulate the overall commercial operations of the HHG industry under 49 U.S.C. 14104, ''Household goods carrier operations.'' This ICR includes the information collection requirements contained in title 49 CFR part 375, ''Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations.'' The information collected encompasses that which is generated, maintained, retained, disclosed, and provided to, or for, the agency under 49 CFR part 375.

Sections 4202 through 4216 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Pub. L. 109–59, 119 Stat. 1144, Aug. 10, 2005) amended various provisions of existing law regarding HHG transportation. It specifically addressed: Definitions (section 4202); payment of rates (section 4203); registration requirements (section 4204); carrier operations (section 4205); enforcement of regulations (section 4206); liability of carriers under receipts and bills of lading (section 4207); arbitration requirements (section 4208); civil penalties for brokers and unauthorized transportation (section 4209); penalties for holding goods hostage (section 4210); consumer handbook (section 4211); release of broker information (section 4212); working group for Federal-State relations (section 4213); consumer complaint information (section 4214); review of liability of carriers (section 4215); and application of State laws (section 4216). These provisions triggered updates to 49 CFR part 375 on July 5, 2007 (72 FR 36760).

On July 16, 2012, FMCSA published a Direct Final Rule (DFR) titled ''Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations: Household Goods Motor Carrier Record Retention Requirements,'' (77 FR 41699). The rule amended the regulations governing the period during which HHG motor carriers must retain documentation of an individual shipper's waiver of receipt of printed copies of consumer protection materials. This change harmonized the retention period with other document retention requirements applicable to HHG motor carriers. FMCSA also amended the regulations to clarify that a HHG motor carrier is not required to retain waiver documentation from any individual shippers for whom the carrier does not actually provide services.

Title: Transportation of Household Goods; Consumer Protection.

OMB Control Number: 2126–0025.

Type of Request: Extension of a currently-approved information collection.

Respondents: Household goods movers.

Estimated Number of Respondents: 4,212 household goods movers.

Estimated Time per Response: Varies.

IC–1: Informational Documents Provided to Prospective Shippers

- ''Ready to Move'' Pamphlet: Less than 1 minute.
- ''Your Rights and Responsibilities'' Pamphlet: Less than 1 minute.
- Arbitration and Complaint Summaries: 2 hours to create summaries, less than 1 minute to print.
- Internet website Hyperlinks to Federal Consumer Protection Information: 0.5 hours.
- Signed Receipt for Verification of Booklets Received: less than 3 minutes.

IC–2: Written Cost Estimates for Prospective Shippers

- Physical surveys—binding: 2 hours.
- Physical surveys—non-binding: 2 hours.
- No physical surveys—non-binding: 0.5 hours.

IC–3: Orders for Service, Bills of Lading

- Orders for Service, Goods Inventories, and Bills of Lading: 0.5 hours.
- Weighing shipments: 1 minute.

IC–4: In-Transit Service Notifications

- Notification of delay: 5 minutes.
- Notification of delay and record requested: 15 minutes.
- Notification of early delivery: 5 minutes.

IC–5: Complaint & Inquiry Records, Including Establishing Record System

- Establish complain and inquiry record system: 0.5 hours.
- Recording complaint and inquiry: 5 minutes for complaint, 1 minute for inquiry.

Expiration Date: August 31, 2019.

Frequency of Response: Varies.

Estimated Total Annual Burden: 4,282,171 hours [IC–1 Informational Documents Provided to Prospective Shippers at 24,692 hours + IC–2 Written Cost Estimates for Prospective Shippers at 3,593,866 hours + IC–3 Orders for Service, Bills of Lading at 621,621 hours + IC–4 In-Transit Service Notifications at 17,496 hours + IC–5 Complaint & Inquiry Records, Including Establishing Record System at 24,496 hours].

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the information collected. The Agency will summarize or include your comments in the request for OMB's clearance of this ICR.

Issued under the authority of 49 CFR 1.87.

G. Kelly Regal,

Associate Administrator for Office of Research and Information Technology.

[FR Doc. 2019–08964 Filed 5–1–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2019–0015]

Pipeline Safety: Request for Special Permit; Gulf South Pipeline Company, LP

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice of extension of comment period.

SUMMARY: On March 26, 2019, PHMSA published a notice to solicit public comment on a request for a special permit from Gulf South Pipeline Company, LP, seeking relief from compliance with certain requirements in the federal pipeline safety regulations. The comment period closed on April 25, 2019. PHMSA is issuing this notice to extend the comment period for an additional 15 days to give the public more time to review the special permit and its associated supporting documents. At the conclusion of the 15-day extension comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant or deny the special permit request.

DATES: The closing date for filing comments is extended from April 25, 2019, to May 17, 2019.

ADDRESSES: Comments should reference the docket number for the specific special permit request and may be submitted in the following ways:

- *E-Gov Website: http://www.Regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: 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:* Docket Management System: 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 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov.*

Note: Privacy Act Statement: There is a privacy statement published at *http://www.Regulations.gov.* Comments, including any personal information provided, are posted without changes or edits to *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

General: Ms. Kay McIver by telephone at 202–366–0113, or email at *kay.mciver@dot.gov.*

Technical: Mr. Steve Nanney by telephone at 713–272–2855, or email at *Steve.Nanney@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA received a special permit request from Gulf South Pipeline Company, LP, (''GSPC'') to deviate from the Federal pipeline safety regulations in 49 CFR 192.611, for one segment of 30-inch diameter, Index 330 Pipeline, located in St. Mary Parish, Louisiana, where the class location has changed from a Class 1 location to a Class 3 location. The application requests a new permit to operate the existing Class 1 pipe in the new Class 3 location for the segment from survey station 527+87 to 567+51 (3964 feet).

The proposed special permit inspection area extends from survey station 0+03, the start of the Index 330 Pipeline at Bayou Sale Junction, to survey station 1212+28 at the Weeks Island Junction. The Inspection Area is 22.96 miles long (121,558 feet) and extends from St. Mary Parish to Iberia Parish in Louisiana.

In lieu of pipe replacement, GSPC seeks permission to perform alternative risk control activities based on integrity management program principles and requirements.

The special permit request provided by the operator includes a draft environmental assessment (EA), proposed special permit conditions, and location map. These documents are filed at *http://www.Regulations.gov,* in Docket No. PHMSA–2019–0015. We invite interested persons to participate by reviewing the proposed special permit documents and draft EA at *http://www.Regulations.gov,* and by submitting written comments, data or other views. Please include any comments on potential safety and environmental impacts that may result if the special permit is granted.

Before issuing a decision on the special permit request, PHMSA will evaluate all comments received on or before the comment closing date. Comments received after the comment

closing date will be evaluated if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment we receive in making our decision to grant or deny a request.

Issued in Washington, DC, on April 29, 2019, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2019–08985 Filed 5–1–19; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2019–0087]

Pipeline Safety: Potential for Damage to Pipeline Facilities Caused by Earth Movement and Other Geological Hazards

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice; issuance of advisory bulletin.

SUMMARY: PHMSA is issuing this advisory bulletin to remind owners and operators of gas and hazardous liquid pipelines of the potential for damage to pipeline facilities caused by earth movement from both landslides and subsidence in variable, steep, and rugged terrain and for varied geological conditions. These conditions can pose a threat to the integrity of pipeline facilities if those threats are not identified and mitigated.

FOR FURTHER INFORMATION CONTACT: Operators of pipelines subject to regulation by PHMSA should contact the appropriate PHMSA Region Office. The PHMSA Region Offices and their contact information are as follows:

- Eastern Region: 609–771–7800
  Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia
- Southern Region: 404–832–1147
  Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, and Tennessee
- Central Region: 816–329–3800
  Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin
- Southwest Region: 713–272–2859
  Arkansas, Louisiana, New Mexico, Oklahoma, and Texas
- Western Region: 720–963–3160
  Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming

Intrastate pipeline operators should contact the appropriate state pipeline safety authority. A list of state pipeline safety authorities is available at *http://www.napsr.org/state-program-managers.html.*

For general information about this notice contact Mike Yazemboski, Project Manager, PHMSA Eastern Region, at 609–771–7800 or by email at *Mike.Yazemboski@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of this advisory bulletin is to remind owners and operators of gas and hazardous liquid pipelines, particularly those with facilities located in inland areas, about the serious safety-related issues that can result from earth movement and other geologic hazards.

Natural gas and hazardous liquid pipelines are required to be designed to withstand external loads including those that may be imposed by geological forces. Specifically, natural gas pipelines must be designed in accordance with 49 CFR 192.103 and hazardous liquid pipelines must be designed in accordance with § 195.110. To comply with these regulations, the design of new pipelines, including repairs or replacement, must consider load that may be imposed by geological forces.

Once operational, § 192.317(a) of the pipeline safety regulations for natural gas pipelines states that ''[t]he operator must take all practicable steps to protect each transmission line or main from washouts, floods, unstable soil, landslides, or other hazards that may cause the pipeline to move or to sustain abnormal loads. In addition, the operator must take all practicable steps to protect offshore pipelines from damage by mud slides, water currents, hurricanes, ship anchors, and fishing operations.'' This advisory bulletin addresses those protective requirements associated with damage caused by geological factors.

In addition, § 192.705 requires operators of gas transmission lines to have a patrol program to observe surface conditions on and adjacent to the transmission line right-of-way for indications of leaks, construction activity, and other factors affecting safety and operation and the frequency of patrols must be based upon the size of the line, operating pressures, class locations, terrain, seasonal weather conditions, and other relevant factors. One of the primary reasons for this patrol requirement is to monitor geological movement, both slowly occurring or acute changes, which may affect the current or future safe operation of the pipeline.

Furthermore, § 192.613(a) states that ''[e]ach operator shall have a procedure for continuing surveillance of its facilities to determine and take appropriate action concerning changes in class location, failures, leakage history, corrosion, substantial changes in cathodic protection requirements, and other unusual operating and maintenance conditions.'' Section 192.613(b) further states that ''[i]f a segment of pipeline is determined to be in unsatisfactory condition but no immediate hazard exists, the operator shall initiate a program to recondition or phase out the segment involved, or, if the segment cannot be reconditioned or phased out, reduce the maximum allowable operating pressure in accordance with § 192.619(a) and (b).''

Section 195.401(b)(1) of the pipeline safety regulations for hazardous liquid pipelines states that ''[w]henever an operator discovers any condition that could adversely affect the safe operation of its pipeline system, it must correct the condition within a reasonable time. However, if the condition is of such a nature that it presents an immediate hazard to persons or property, the operator may not operate the affected part of the system until it has corrected the unsafe condition.'' Section 195.401(b)(2) further states that ''[w]hen an operator discovers a condition on a pipeline covered under [the integrity management requirements in] § 195.452, the operator must correct the condition as prescribed in § 195.452(h).'' Land movement, severe flooding, river scour, and river channel migration are the types of unusual operating conditions that can adversely affect the safe operation of a pipeline and require corrective action under §§ 192.613(a) and 195.401(b). Additional guidance for identifying risk factors and mitigating natural force hazards on pipeline segments, that could affect high consequence areas, are outlined in Appendix C, section B, to Part 195.

Sections 192.935 and 195.452(i) require an operator to take additional preventative and mitigative measures to prevent a pipeline failure and to mitigate the consequences of a pipeline failure that could affect a high consequence area. An operator must base the additional measures on the

threats the operator has identified for each pipeline segment. If an operator determines there is a threat to the pipeline, such as outside force damage (*e.g.,* earth movement, floods), the operator must take steps to prevent a failure and to minimize the consequences of a failure under these regulations.

PHMSA is aware of recent earth movement and other geological-related incidents/accidents and safety-related conditions throughout the county, particularly in the eastern portion of the United States. Seven of the more notable events are briefly described below:

- On October 21, 2016, a pipeline release of over 1,238 barrels of gasoline spilled into the Loyalsock Creek in Lycoming County, Pennsylvania. The release was caused by extreme localized flooding and soil erosion.
- On December 5, 2016, approximately 12,615 barrels of crude oil was released into Ash Coulee Creek in Billings County, North Dakota. The metallurgical and root cause failure analysis indicated the failure was caused by compressive and bending forces due to a landslide impacting the pipeline. The landslide was the result of excessive moisture within the hillside creating unstable soil conditions.
- On April 30, 2018, a pipeline failure occurred in a remote mountainous region of Marshall County, West Virginia resulting in the release of 2,658 barrels of propane. The failure and subsequent release was caused by lateral movement of the 8-inch intrastate pipeline due to earth movement along the right-of-way.
- On June 7, 2018, a rupture occurred on a 36-inch pipeline located in a rural, mountainous area near Moundsville, West Virginia, resulting in the release of approximately 165,000 MCF of natural gas. The failed sections of the pipeline were sent to a metallurgical laboratory to determine the probable cause behind the failure of the pipeline. According to the analysis, the cause of the rupture was due to earth movement on the right-of-way due to a single overload event. Overloading of the pipeline likely resulted from a series of lateral displacements with accompanying bending.
- On January 9, 2018, a failure occurred on a 22-inch transmission pipeline in Montecito California. The incident resulted in a fire and explosion and the release of an estimated 12,000 MFC of natural gas within a Class 3 location.[1] It is believed that heavy rains and localized flooding contributed to the incident. Automated safety equipment designed to stop the flow of gas to the effected segment activated to shut off gas flow to the damaged segment of pipeline.
- On January 31, 2018, a portion of a pipeline experienced an in-service rupture near the city of Summerfield, Ohio. The rupture of the 24-inch interstate pipeline resulted in the release of approximately 23,500 MCF of natural gas in a rural forested area. A root cause analysis concluded that the girth weld failure was caused by axial stress due to movement of the pipe that exceeded the cross-sectional tensile strength of the net section weld zone surrounding the crack initiation location. This determination is supported by metallurgical analysis, strain capacity evaluation and geotechnical findings.
- On January 29, 2019, a pipeline ruptured near the town of Lumberport in Harrison County, West Virginia. The rupture was located at a girth weld of an elbow on the 12-inch interstate pipeline. The root cause investigation concluded that a landslide about 150 yards from the rupture moved the pipeline approximately 10 feet from its original location causing excessive stress on the pipe resulting in the rupture.

II. Advisory Bulletin (ADB–2019–02)

To: Owners and Operators of Gas and Hazardous Liquid Pipeline Systems.

Subject: Potential Damage to Pipeline Facilities Caused by External Loads Imposed by Earth Movement and Other Geologic Hazards on and Adjacent to Pipeline Right-of-Way Corridors.

Advisory: All owners and operators of gas and hazardous liquid pipelines are reminded that earth movement, particularly in variable, steep, and rugged terrain and with varied geological subsurface conditions, can pose a threat to the integrity of a pipeline if those threats are not mitigated. Pipeline operators should consider taking the following actions to ensure pipeline safety:

1. Identify areas surrounding the pipeline that may be prone to large earth movement, including but not limited to slope instability, subsidence, frost heave, soil settlement, erosion, earthquakes, and other dynamic geologic conditions that may pose a safety risk.

2. Utilize geotechnical engineers during the design, construction, and ongoing operations of a pipeline system to ensure that sufficient information is available to avoid or minimize the impact of earth movement on the integrity of the pipeline system. At a minimum, this should include soil strength characteristics, ground and surface water conditions, propensity for erosion or scour of underlying soils, and the propensity of earthquakes or frost heave.

3. Develop design, construction, and monitoring plans and procedures for each identified location, based on the site-specific hazards identified. When constructing new pipelines, develop and implement procedures for pipe and girth weld designs to increase their effectiveness for taking loads, either stresses or strains, exerted from pipe movement in areas where geological subsurface conditions and movement are a hazard to the pipeline integrity.

4. Monitoring plans may include:

- Ensuring during construction of new pipelines that excavators do not steepen, load (including changing the groundwater levels) or undercut slopes which may cause excessive ground movement during construction or after operations commence.
- Conducting periodic visits and site inspections; increased patrolling may be necessary due to potential hazards identified and existing/pending weather conditions. Right-of-way patrol staff must be trained on how to detect and report to appropriate staff the conditions that may lead to or exhibit ground movement.
- Identifying geodetic monitoring points (*i.e.,* survey bench marks) to track potential ground movement;
- Installing slope inclinometers to track ground movement at depth which may otherwise not be detectable during ROW patrols;
- Installing standpipe piezometers to track changes in groundwater conditions that may affect slope stability;
- Evaluating the accumulation of strain in the pipeline by installing strain gauges on the pipeline.
- Conducting stress/strain analysis utilizing in-line inspection tools equipped with Inertia Mapping Unit technology and High Resolution Deformation in-line inspection for pipe bending and denting from movement.
- Utilizing aerial mapping light detection and ranging or other technology to track changes in ground conditions.

5. Develop mitigation measures to remediate the identified locations.

6. Mitigation measures should be based on site-specific conditions and may include:

- Re-routing the pipeline right-of-way prior to construction to avoid areas prone to large ground movement such as unstable slope areas, earthquake fault zones, permafrost movement, or scour.

[1] *See* 49 CFR 192.5(b)(3) (defining Class 3 locations).

• Utilize properly designed horizontal directional drilling (HDD) to go below areas of potential land movement.

• Installation of drainage measures in the trench to mitigate subsurface flows and enhance surface water draining at the site including streams, creeks, runs, gullies or other sources of surface run-off that may be contributing surface water to the site or changing groundwater levels that may exacerbate earth movement.

• Reducing the steepness of potentially unstable slopes, including installing retaining walls, soldier piles, sheet piles, wire mesh systems, mechanically stabilized earth systems and other mechanical structures.

• Installing trench breakers and slope breakers to mitigate trench seepage and divert trench flows along the surface to safe discharge points off the site or right-of-way.

• Building retaining walls and/or installing steel piling or concrete caissons to stabilize steep slope areas as long as the corrosion control systems are not compromised.

• Reducing the loading on the site by removing and/or reducing the excess backfill materials to off-site locations. Soil placement should be carefully planned to avoid triggering earth movement in other locations.

• Compacting backfill materials at the site to increase strength, reduce water infiltration, and to achieve optimal moisture content.

• Drying the soil using special additives such as lime-kiln dust or cement-kiln to allow the materials to be re-used and worked at the site. Over-saturated materials may require an extensive amount of time and space to dry.

• Regrading the pipeline right-of-way to minimize scour and erosion.

• Bringing the pipeline above ground and placing them on supports that can accommodate large ground movements, (*e.g.,* transitions across earthquake fault zones or unstable slopes, without putting excessive stress or strain on the pipeline).

• Reducing the operating pressure temporarily or shutting-in the affected pipeline segment completely.

• Re-routing the pipeline when other appropriate mitigation measures cannot be effectively implemented to maintain safety.

If a pipeline has suffered damage or is shut-in as a precautionary measure due to earth movement or other geologic hazards, the operator should advise the appropriate PHMSA regional office or state pipeline safety authority before returning the line to service, increasing its operating pressure, or otherwise changing its operating status. Per § 190.239, PHMSA may propose additional safety measures, including testing of the pipeline, or design changes to address external loads induced by ground movement, be taken to ensure that the serviceability of the pipeline has not been impaired or that the condition will not worsen over time. Furthermore, reporting a safety-related condition as prescribed in §§ 191.23 and 195.55 may also be required.

Issued in Washington, DC, on April 29, 2019, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2019–08984 Filed 5–1–19; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Low Income Taxpayer Clinic Grant Program; Availability of 2020 Grant Application Package

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This document contains a notice that the IRS has made available the 2020 Grant Application Package and Guidelines (Publication 3319) for organizations interested in applying for a Low Income Taxpayer Clinic (LITC) matching grant for the 2020 grant year, which runs from January 1, 2020, through December 31, 2020. The application period runs from May 1, 2019, through June 17, 2019.

DATES: All applications and requests for continued funding for the 2020 grant year must be filed electronically by 11:59 p.m. (Eastern Daylight Time) on June 17, 2019. The IRS is authorized to award multi-year grants not to exceed three years. For an organization not currently receiving a grant for 2019, an organization that received a single year grant in 2019, or an organization whose multi-year grant ends in 2019, the organization must apply electronically at *www.grants.gov.* For an organization currently receiving a grant for 2019 that is requesting funding for the second or third year of a multi-year grant, the organization must submit a request for continued funding electronically at *www.grantsolutions.gov.* All organizations must use the funding number of TREAS–GRANTS–052020–001, and the Catalog of Federal Domestic Assistance program number is 21.008. See *https://beta.sam.gov/.* The LITC Program Office is scheduling a webinar to cover the application process on May 15, 2019. See *www.irs.gov/advocate/low-income-taxpayer-clinics* for more details, including registration information.

FOR FURTHER INFORMATION CONTACT: Bill Beard at (949) 575–6200 (not a toll-free number) or by email at *beard.william@irs.gov.* The LITC Program Office is located at: IRS, Taxpayer Advocate Service, LITC Grant Program Administration Office, TA: LITC, 1111 Constitution Avenue NW, Room 1034, Washington, DC 20224. Copies of the *2020 Grant Application Package and Guidelines,* IRS Publication 3319 (Rev. 5–2019, can be downloaded from the IRS internet site at *www.irs.gov/advocate* or ordered by calling the IRS Distribution Center toll-free at 1–800–829–3676.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to Internal Revenue Code (IRC) section 7526, the IRS will annually award up to $6,000,000 (unless otherwise provided by specific Congressional appropriation) to qualified organizations, subject to the limitations set forth in the statute. Grants may be awarded for the development, expansion, or continuation of low income taxpayer clinics. For calendar year 2019, Congress appropriated a total of $12,000,000 in federal funds for LITC grants. See Public Law 116–6.

A qualified organization may receive a matching grant of up to $100,000 per year for up to a three-year project period. A qualified organization is one that represents low income taxpayers in controversies with the IRS and informs individuals for whom English is a second language (ESL taxpayers) of their taxpayer rights and responsibilities, and does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred).

Examples of qualified organizations include (1) a clinical program at an accredited law, business, or accounting school whose students represent low income taxpayers in tax controversies with the IRS and (2) an organization exempt from tax under IRC section 501(a) whose employees and volunteers represent low income taxpayers in controversies with the IRS and may also make referrals to qualified volunteers to provide representation.

A clinic will be treated as representing low income taxpayers in controversies with the IRS if at least 90 percent of the taxpayers represented by the clinic have incomes that do not

exceed 250 percent of the federal poverty level. In addition, the amount in controversy for the tax year to which the controversy relates generally cannot exceed the amount specified in IRC section 7463 (currently $50,000) for eligibility for special small tax case procedures in the United States Tax Court. The IRS may award grants to qualified organizations to fund one-year, two-year, or three-year project periods. Grant funds may be awarded for start-up expenditures incurred by new clinics during the grant year.

Mission Statement

Low Income Taxpayer Clinics ensure the fairness and integrity of the tax system for taxpayers who are low income or speak English as a second language by, providing *pro bono* representation on their behalf in tax disputes with the IRS; educating them about their rights and responsibilities as taxpayers; and identifying and advocating for issues that impact them.

Selection Consideration

Despite the IRS's efforts to foster parity in availability and accessibility in the selection of organizations receiving LITC matching grants and the continued increase in clinic services nationwide, there remain communities that are underrepresented by clinics. Although each application and request for continued funding for the 2020 grant year will be given due consideration, the IRS will give special consideration to applicants from the following underserved geographic areas:

Arizona—Central
Florida—Mid-Florida and the panhandle
Hawaii—Entire State
Montana—Entire State
New York—Southeast Corner
North Dakota—Entire State
Pennsylvania—Northern
Puerto Rico—Entire Territory
West Virginia—Entire State
Wyoming—Entire State

A more detailed list of the underserved cities and counties within each state is available in Publication 3319 at *www.irs.gov/pub/irs-pdf/p3319.pdf.*

In determining whether to award a grant, the IRS will consider a variety of factors, including: (1) The number of taxpayers who will be assisted by the organization, including the number of ESL taxpayers in that geographic area; (2) the existence of other LITCs assisting the same population of low income and ESL taxpayers; (3) the quality of the program offered by the organization, including the qualifications of its administrators and qualified representatives, and its record, if any, in providing representation services to low income taxpayers; (4) the quality of the application, including the reasonableness of the proposed budget; (5) the organization's compliance with all federal tax obligations (filing and payment); (6) the organization's compliance with all federal nontax monetary obligations (filing and payment); (7) whether debarment or suspension (31 CFR part 19) applies or whether the organization is otherwise excluded from or ineligible for a federal award; and (8) alternative funding sources available to the organization, including amounts received from other grants and contributors and the endowment and resources of the institution sponsoring the organization.

Applications that pass the eligibility screening process will undergo a Technical Evaluation and must receive a minimum score to be considered further. Details regarding the scoring process can be found in Publication 3319. Applications achieving the minimum score will be subject to a Program Office evaluation. A request for continued funding from an organization currently receiving a grant for 2019 will also be subject to a Program Office evaluation. The final funding decision is made by the National Taxpayer Advocate, unless recused. The costs of preparing and submitting an application (or a request for continued funding) are the responsibility of each applicant. Applications and requests for continued funding may be released in response to Freedom of Information Act requests. Therefore, applicants must not include any individual taxpayer information.

The LITC Program Office will notify each applicant in writing once funding decisions have been made.

Nina E. Olson,

National Taxpayer Advocate.

[FR Doc. 2019–08971 Filed 5–1–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0525]

Agency Information Collection Activity Under OMB Review: VA MATIC Enrollment/Change

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 3, 2019.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov*. Please refer to ''OMB Control No. 2900–0525'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Danny S. Green, Enterprise Records Service (005R1B), Department of Veterans Affairs, 811 Vermont Avenue NW, Washington, DC 20420, (202) 421–1354 or email *Danny.Green2@va.gov*. Please refer to ''OMB Control No.2900–0525'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: VA MATIC Enrollment/Change, VA Form 29–0165.

OMB Control Number: 2900–0525.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 29–0165 is used by the insured to enroll in or to change the account number and/or bank from which a deduction was previously authorized. The information requested is authorized by law, 38 U.S.C. 1908.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 84 FR, 34 on February 20, 2019, page 5200.

Affected Public: Individuals or Households.

Estimated Annual Burden: 1,250.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 5,000.

By direction of the Secretary.

Danny S. Green,

Interim Department Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2019–08959 Filed 5–1–19; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing Residual Risk and Technology Review; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2017–0662; FRL–9992–56–OAR]

RIN 2060–AT34

National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP): Asphalt Processing and Asphalt Roofing Manufacturing. The proposed action presents the results of the residual risk and technology review (RTR) conducted as required under the Clean Air Act (CAA). The EPA is also proposing amendments to correct and clarify regulatory provisions related to emissions during periods of startup, shutdown, and malfunction; add requirements for periodic performance testing; add electronic reporting of performance test results and reports, performance evaluation reports, compliance reports, and Notification of Compliance Status reports; revise monitoring requirements for control devices used to comply with the particulate matter (PM) standards; and include other technical corrections to improve consistency and clarity. Although the proposed amendments are not anticipated to result in reductions in emissions of hazardous air pollutants (HAP), if finalized, they would result in improved compliance and implementation of the rule.

DATES:

Comments. Comments must be received on or before June 17, 2019. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before June 3, 2019.

Public Hearing. If anyone contacts us requesting a public hearing on or before May 7, 2019, we will hold a hearing. Additional information about the hearing, if requested, will be published in a subsequent **Federal Register** document and posted at *https://www.epa.gov/stationary-sources-air-pollution/asphalt-processing-and-asphalt-roofing-manufacturing-national.* See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

ADDRESSES:

Comments. Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2017–0662, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* See **SUPPLEMENTARY INFORMATION** for detail about how the EPA treats submitted comments. *Regulations.gov* is our preferred method of receiving comments. However, the following other submission methods are also accepted:

- *Email: a-and-r-docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2017–0662 in the subject line of the message.
- *Fax:* (202) 566–9744. Attention Docket ID No. EPA–HQ–OAR–2017–0662.
- *Mail:* To ship or send mail via the United States Postal Service, use the following address: U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA–HQ–OAR–2017–0662, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand/Courier Delivery:* Use the following Docket Center address if you are using express mail, commercial delivery, hand delivery, or courier: EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. Delivery verification signatures will be available only during regular business hours.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Tonisha Dawson, Sector Policies and Programs Division (Mail Code D243–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–1454; fax number: (919) 541–4991; and email address: *dawson.tonisha@epa.gov.* For specific information regarding the risk modeling methodology, contact Matthew Woody, Health and Environmental Impacts Division (Mail Code C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–1535; fax number: (919) 541–0840; and email address: *woody.matthew@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact John Cox, Office of Enforcement and Compliance Assurance (OECA), U.S. Environmental Protection Agency, EPA WJC South Building (Mail Code 2221A), 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 564–1395; and email address: *cox.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Public hearing. Please contact Ms. Virginia Hunt at (919) 541–0832 or by email at *hunt.virginia@epa.gov* to request a public hearing, to register to speak at the public hearing, or to inquire as to whether a public hearing will be held.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2017–0662. All documents in the docket are listed in *Regulations.gov.* Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *Regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2017–0662. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *https://www.regulations.gov* or email. This type of information should be submitted by mail as discussed below.

The EPA may publish any comment received to its public docket. 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.*

The *https://www.regulations.gov* website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

Submitting CBI. Do not submit information containing CBI to the EPA through *https://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, mark the outside of the digital storage media as CBI and then identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that do not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2017–0662.

Preamble Acronyms and Abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

AEGL acute exposure guideline level
AERMOD air dispersion model used by the HEM–3 model
APCD air pollution control device
ATSDR Agency for Toxic Substances and Disease Registry
BACT best available control technology
CAA Clean Air Act
CalEPA California EPA
CBI Confidential Business Information
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
ECHO Enforcement and Compliance History Online
EPA Environmental Protection Agency
ERPG Emergency Response Planning Guideline
ERT Electronic Reporting Tool
GACT generally available control technologies
HAP hazardous air pollutant(s)
HCl hydrogen chloride
HEM–3 Human Exposure Model, Version 1.1.0
HF hydrogen fluoride
HI hazard index
HQ hazard quotient
IBR ncorporation by reference
ICAC Institute of Clean Air Companies
IRIS Integrated Risk Information System
km kilometer
LAER lowest achievable emission rate
MACT maximum achievable control technology
mg/m^3 milligrams per cubic meter
MIR maximum individual risk
NAAQS National Ambient Air Quality Standards
NAICS North American Industry Classification System
NEI National Emission Inventory
NESHAP national emission standards for hazardous air pollutants
NRDC Natural Resources Defense Council
NSR New Source Review
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OECA Office of Enforcement and Compliance Assurance
OMB Office of Management and Budget
PB–HAP hazardous air pollutants known to be persistent and bio-accumulative in the environment
PDF portable document format
PM particulate matter
POM polycyclic organic matter
ppm parts per million
PRA Paperwork Reduction Act
RACT reasonably available control technology
RBLC RACT/BACT/LAER Clearinghouse
REL reference exposure level
RFA Regulatory Flexibility Act
RfC reference concentration
RTR residual risk and technology review
SAB Science Advisory Board
SSM startup, shutdown, and malfunction
THC total hydrocarbons
TOSHI target organ-specific hazard index
tpy tons per year
TRIM.FaTE Total Risk Integrated Methodology. Fate, Transport, and Ecological Exposure Model
UF uncertainty factor
UMRA Unfunded Mandates Reform Act
URE unit risk estimate
USGS U.S. Geological Survey
VCS voluntary consensus standards

Organization of this Document. The information in this preamble is organized as follows:

I. General Information
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B. What are the source categories and how does the current NESHAP regulate their HAP emissions?
C. What data collection activities were conducted to support this action?
D. What other relevant background information and data are available?
III. Analytical Procedures and Decision Making
A. How do we consider risk in our decision making?
B. How do we perform the technology review?
C. How do we estimate post-MACT risk posed by the source categories?
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A. What are the results of the risk assessment and analyses?
B. What are our proposed decisions regarding risk acceptability, ample margin of safety, and adverse environmental effect?
C. What are the results and proposed decisions based on our technology review?
D. What are the overall results of the risk and technology reviews?
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F. What compliance dates are we proposing?
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VIII. Statutory and Executive Order Reviews
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C. Paperwork Reduction Act (PRA)
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F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

I. General Information

A. Does this action apply to me?

Table 1 of this preamble lists the NESHAP and associated regulated industrial source categories that are the subject of this proposal. Table 1 is not intended to be exhaustive, but rather provides a guide for readers regarding the entities that this proposed action is likely to affect. The proposed standards, once promulgated, will be directly applicable to the affected sources. Federal, state, local, and tribal government entities would not be affected by this proposed action. As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (see 57 FR 31576, July 16, 1992) and *Documentation for Developing the Initial Source Category List* (see EPA–450/3–91–030), the Asphalt Processing source category is any facility engaged in the preparation of asphalt flux at stand-alone asphalt processing facilities, petroleum refineries, and asphalt roofing facilities. Asphalt preparation, called ''blowing,'' is the oxidation of asphalt flux, achieved by bubbling air through the heated asphalt, to raise the softening point, and to reduce penetration of the oxidized asphalt. An asphalt processing facility includes one or more asphalt flux blowing stills, asphalt flux storage tanks storing asphalt flux intended for processing in the blowing stills, oxidized asphalt storage tanks, and oxidized asphalt loading racks.

As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (see 57 FR 31576, July 16, 1992) and *Documentation for Developing the Initial Source Category List* (see EPA–450/3–91–030), the Asphalt Roofing Manufacturing source category includes any facility consisting of one or more asphalt roofing manufacturing lines. An asphalt roofing manufacturing line includes the collection of equipment used to manufacture asphalt roofing products through a series of sequential process steps. The equipment that constitutes an asphalt roofing manufacturing line varies depending on the type of substrate used (*i.e.,* organic or inorganic) and the final product manufactured (*e.g.,* roll roofing, laminated shingles). An asphalt roofing manufacturing line can include a saturator (including wet looper), coater, coating mixers, sealant applicators, adhesive applicators, and asphalt storage and process tanks. Both the asphalt processing and asphalt roofing manufacturing categories are covered under one NESHAP because these processes are closely related and are often collocated. For more information about the source categories identified in Table 1 of this preamble, see section II.B of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

Source category	NESHAP	NAICS code [1]
Asphalt Processing	Asphalt Processing and Asphalt Roofing Manufacturing	324110
Asphalt Roofing Manufacturing	Asphalt Processing and Asphalt Roofing Manufacturing	324122

[1] North American Industry Classification System.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at *https://www.epa.gov/stationary-sources-air-pollution/asphalt-processing-and-asphalt-roofing-manufacturing-national*. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents at this same website. Information on the overall RTR program is available at *https://www3.epa.gov/ttn/atw/rrisk/rtrpg.html*.

A redline version of the regulatory language that incorporates the proposed changes in this action is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2017–0662).

II. Background

A. What is the statutory authority for this action?

The statutory authority for this action is provided by sections 112 and 301 of the CAA, as amended (42 U.S.C. 7401 *et seq.*). Section 112 of the CAA establishes a two-stage regulatory process to develop standards for emissions of HAP from stationary sources. Generally, the first stage involves establishing technology-based standards and the second stage involves evaluating those standards that are based on maximum achievable control technology (MACT) to determine whether additional standards are needed to address any remaining risk associated with HAP emissions. This second stage is commonly referred to as the ''residual risk review.'' In addition to the residual risk review, the CAA also requires the EPA to review standards set under CAA section 112 every 8 years to determine if there are ''developments in practices, processes, or control technologies'' that may be appropriate to incorporate into the standards. This review is commonly referred to as the ''technology review.'' When the two reviews are combined into a single rulemaking, it is commonly referred to as the ''risk and technology review.'' The discussion that follows identifies the most relevant statutory sections and briefly explains the contours of the methodology used to implement these statutory requirements. A more comprehensive discussion appears in the document titled *CAA Section 112 Risk and Technology Reviews: Statutory Authority and Methodology,* in the docket for this rulemaking.

In the first stage of the CAA section 112 standard setting process, the EPA promulgates technology-based standards under CAA section 112(d) for categories of sources identified as emitting one or more of the HAP listed in CAA section 112(b). Sources of HAP emissions are

either major sources or area sources, and CAA section 112 establishes different requirements for major source standards and area source standards. ''Major sources'' are those that emit or have the potential to emit 10 tons per year (tpy) or more of a single HAP or 25 tpy or more of any combination of HAP. All other sources are ''area sources.'' For major sources, CAA section 112(d)(2) provides that the technology-based NESHAP must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). These standards are commonly referred to as MACT standards. CAA section 112(d)(3) also establishes a minimum control level for MACT standards, known as the MACT ''floor.'' The EPA must also consider control options that are more stringent than the floor. Standards more stringent than the floor are commonly referred to as beyond-the-floor standards. In certain instances, as provided in CAA section 112(h), the EPA may set work practice standards where it is not feasible to prescribe or enforce a numerical emission standard. For area sources, CAA section 112(d)(5) gives the EPA discretion to set standards based on generally available control technologies or management practices (GACT standards) in lieu of MACT standards.

The second stage in standard-setting focuses on identifying and addressing any remaining (*i.e.,* ''residual'') risk according to CAA section 112(f). For source categories subject to MACT standards, section 112(f)(2) of the CAA requires the EPA to determine whether promulgation of additional standards is needed to provide an ample margin of safety to protect public health or to prevent an adverse environmental effect. Section 112(d)(5) of the CAA provides that this residual risk review is not required for categories of area sources subject to GACT standards. Section 112(f)(2)(B) of the CAA further expressly preserves the EPA's use of the two-step approach for developing standards to address any residual risk and the Agency's interpretation of ''ample margin of safety'' developed in the *National Emissions Standards for Hazardous Air Pollutants: Benzene Emissions from Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, Benzene Storage Vessels, Benzene Equipment Leaks, and Coke By-Product Recovery Plants* (Benzene NESHAP) (54 FR 38044, September 14, 1989). The EPA notified Congress in the Risk Report that the Agency intended to use the Benzene NESHAP approach in making CAA section 112(f) residual risk determinations (EPA–453/R–99–001, p. ES–11). The EPA subsequently adopted this approach in its residual risk determinations and the United States Court of Appeals for the District of Columbia Circuit (the Court) upheld EPA's interpretation that CAA section 112(f)(2) incorporates the approach established in the Benzene NESHAP. See *Natural Resources Defense Council (NRDC)* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008).

The approach incorporated into the CAA and used by the EPA to evaluate residual risk and to develop standards under CAA section 112(f)(2) is a two-step approach. In the first step, the EPA determines whether risks are acceptable. This determination ''considers all health information, including risk estimation uncertainty, and includes a presumptive limit on maximum individual lifetime [cancer] risk (MIR) [1] of approximately 1 in 10 thousand.'' 54 FR 38045, September 14, 1989. If risks are unacceptable, the EPA must determine the emissions standards necessary to reduce risk to an acceptable level without considering costs. In the second step of the approach, the EPA considers whether the emissions standards provide an ample margin of safety to protect public health ''in consideration of all health information, including the number of persons at risk levels higher than approximately 1 in 1 million, as well as other relevant factors, including costs and economic impacts, technological feasibility, and other factors relevant to each particular decision.'' *Id.* The EPA must promulgate emission standards necessary to provide an ample margin of safety to protect public health. After conducting the ample margin of safety analysis, we consider whether a more stringent standard is necessary to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect.

CAA section 112(d)(6) separately requires the EPA to review standards promulgated under CAA section 112 and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less often than every 8 years. In conducting this review, which we call the ''technology review,'' the EPA is not required to recalculate the MACT floor. *Natural Resource Defense Council (NRDC)* v. *EPA,* 529 F.3d 1077, 1084 (D.C. Cir. 2008). *Association of Battery Recyclers, Inc.* v. *EPA,* 716 F.3d 667 (D.C. Cir. 2013). The EPA may consider cost in deciding whether to revise the standards pursuant to CAA section 112(d)(6).

B. What are the source categories and how does the current NESHAP regulate their HAP emissions?

The current NESHAP for the Asphalt Processing and Asphalt Roofing Manufacturing source categories was promulgated on April 29, 2003 (68 FR 22975), and codified at 40 CFR part 63, subpart LLLLL. As promulgated in 2003 and further amended on May 17, 2005 (70 FR 28360), the NESHAP prescribes MACT standards for asphalt processing and asphalt roofing manufacturing facilities that are major sources of HAP. The MACT standards establish emission limits for PM and total hydrocarbons (THC) as surrogates for total organic HAP. Sources of HAP emissions regulated by 40 CFR part 63, subpart LLLLL, include the following: Each blowing still, asphalt storage tank, and asphalt loading rack at asphalt processing facilities and each coating mixer, coater, saturator, wet looper, asphalt storage tank, and sealant and adhesive applicator at asphalt roofing manufacturing facilities. The main HAP emitted from these sources include hydrogen chloride (HCl) (from blowing stills at asphalt processing facilities that use chlorinated catalysts), methylene chloride, hexane, methyl chloride, formaldehyde, and other organic HAP. More information and details regarding the HAP emitted from these sources are provided in Appendix 1 of the *Residual Risk Assessment for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories in Support of the 2018 Risk and Technology Review Proposed Rule,* in Docket ID No. EPA–HQ–OAR–2017–0662. The MACT standards also limit the opacity and visible emissions from certain saturators, coaters, and asphalt storage tanks.

As of August 1, 2018, there are eight facilities in operation and subject to the MACT standards. Four of the eight facilities are strictly asphalt processing facilities, and the other four operate an asphalt processing facility collocated with an asphalt roofing manufacturing facility. A complete list of facilities that are currently subject to the MACT standards is available in Appendix A of the memorandum titled *Clean Air Act Section 112(d)(6) Review for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories,* in Docket ID No. EPA–HQ–OAR–2017–0662.

[1] Although defined as ''maximum individual risk,'' MIR refers only to cancer risk. MIR, one metric for assessing cancer risk, is the estimated risk if an individual were exposed to the maximum level of a pollutant for a lifetime.

C. What data collection activities were conducted to support this action?

In June 2017, the EPA issued a request, pursuant to CAA section 114, to collect information from asphalt processing and asphalt roofing manufacturing facilities. This effort focused on gathering comprehensive information about process equipment, control technologies, point and fugitive emissions, and other aspects of facility operations. Companies completed the survey for their facilities and submitted responses to the EPA in September 2017. The information not claimed as CBI by respondents is available in the memorandum titled *Data Received from Clean Air Act Section 114 Request for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories,* in Docket ID No. EPA–HQ–OAR–2017–0662.

D. What other relevant background information and data are available?

The EPA used multiple sources of information to support this proposed action. Before developing the final list of affected facilities described in section II.B of this preamble, the EPA's Enforcement and Compliance History Online (ECHO) database was used as a tool to identify potentially affected facilities with asphalt processing and/or asphalt roofing manufacturing operations that are subject to the NESHAP. The ECHO database provides integrated compliance and enforcement information for approximately 800,000 regulated facilities nationwide.

The 2014 National Emissions Inventory (NEI) database provided facility-specific data and MACT category data that were used with the information received through the CAA section 114 request described in section II.C of this preamble to develop the modeling input file for the risk assessment. The NEI is a database that contains information about sources that emit criteria air pollutants, their precursors, and HAP. The database includes estimates of annual air pollutant emissions from point, nonpoint, and mobile sources in the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. The EPA collects this information and releases an updated version of the NEI database every 3 years. The NEI includes information necessary for conducting risk modeling, including annual HAP emissions estimates from individual emission points at facilities and the related emissions release parameters.

In conducting the technology review, we examined information in the Reasonably Available Control Technology (RACT)/Best Available Control Technology (BACT)/Lowest Achievable Emission Rate (LAER) Clearinghouse (RBLC) to identify technologies in use and determine whether there have been relevant developments in practices, processes, or control technologies. The RBLC is a database that contains case specific information on air pollution technologies that have been required to reduce the emissions of air pollutants from stationary sources. Under EPA's New Source Review (NSR) program, if a facility is planning new construction or a modification that will increase the air emissions by a large amount, an NSR permit must be obtained. This central database promotes the sharing of information among permitting agencies and aids in case-by-case determinations for NSR permits. The EPA also reviewed subsequent air toxic regulatory actions for other source categories and information from site visits to determine whether there have been developments in practices, processes, or control technologies in the Asphalt Processing and Asphalt Roofing Manufacturing source categories.

III. Analytical Procedures and Decision Making

In this section, we describe the analyses performed to support the proposed decisions for the RTR and other issues addressed in this proposal.

A. How do we consider risk in our decision making?

As discussed in section II.A of this preamble and in the Benzene NESHAP, in evaluating and developing standards under CAA section 112(f)(2), we apply a two-step approach to determine whether or not risks are acceptable and to determine if the standards provide an ample margin of safety to protect public health. As explained in the Benzene NESHAP, ''the first step judgment on acceptability cannot be reduced to any single factor'' and, thus, ''[t]he Administrator believes that the acceptability of risk under section 112 is best judged on the basis of a broad set of health risk measures and information.'' 54 FR 38046, September 14, 1989. Similarly, with regard to the ample margin of safety determination, ''the Agency again considers all of the health risk and other health information considered in the first step. Beyond that information, additional factors relating to the appropriate level of control will also be considered, including cost and economic impacts of controls, technological feasibility, uncertainties, and any other relevant factors.'' *Id.*

The Benzene NESHAP approach provides flexibility regarding factors the EPA may consider in making determinations and how the EPA may weigh those factors for each source categories. The EPA conducts a risk assessment that provides estimates of the MIR posed by the HAP emissions from each source in the source categories, the hazard index (HI) for chronic exposures to HAP with the potential to cause noncancer health effects, and the hazard quotient (HQ) for acute exposures to HAP with the potential to cause noncancer health effects.[2] The assessment also provides estimates of the distribution of cancer risk within the exposed populations, cancer incidence, and an evaluation of the potential for an adverse environmental effect. The scope of the EPA's risk analysis is consistent with the EPA's response to comments on our policy under the Benzene NESHAP where the EPA explained that:

> [t]he policy chosen by the Administrator permits consideration of multiple measures of health risk. Not only can the MIR figure be considered, but also incidence, the presence of noncancer health effects, and the uncertainties of the risk estimates. In this way, the effect on the most exposed individuals can be reviewed as well as the impact on the general public. These factors can then be weighed in each individual case. This approach complies with the *Vinyl Chloride* mandate that the Administrator ascertain an acceptable level of risk to the public by employing his expertise to assess available data. It also complies with the Congressional intent behind the CAA, which did not exclude the use of any particular measure of public health risk from the EPA's consideration with respect to CAA section 112 regulations, and thereby implicitly permits consideration of any and all measures of health risk which the Administrator, in his judgment, believes are appropriate to determining what will 'protect the public health'.

See 54 FR 38057, September 14, 1989. Thus, the level of the MIR is only one factor to be weighed in determining acceptability of risk. The Benzene NESHAP explained that ''an MIR of approximately one in 10 thousand should ordinarily be the upper end of the range of acceptability. As risks increase above this benchmark, they become presumptively less acceptable under CAA section 112, and would be weighed with the other health risk measures and information in making an

[2] The MIR is defined as the cancer risk associated with a lifetime of exposure at the highest concentration of HAP where people are likely to live. The HQ is the ratio of the potential exposure to the HAP to the level at or below which no adverse chronic noncancer effects are expected; the HI is the sum of HQs for HAP that affect the same target organ or organ system.

overall judgment on acceptability. Or, the Agency may find, in a particular case, that a risk that includes an MIR less than the presumptively acceptable level is unacceptable in the light of other health risk factors.'' *Id.* at 38045. Similarly, with regard to the ample margin of safety analysis, the EPA stated in the Benzene NESHAP that: ''EPA believes the relative weight of the many factors that can be considered in selecting an ample margin of safety can only be determined for each specific source category. This occurs mainly because technological and economic factors (along with the health-related factors) vary from source category to source category.'' *Id.* at 38061. We also consider the uncertainties associated with the various risk analyses, as discussed earlier in this preamble, in our determinations of acceptability and ample margin of safety.

The EPA notes that it has not considered certain health information to date in making residual risk determinations. At this time, we do not attempt to quantify the HAP risk that may be associated with emissions from other facilities that do not include the source categories under review, mobile source emissions, natural source emissions, persistent environmental pollution, or atmospheric transformation in the vicinity of the sources in the categories.

The EPA understands the potential importance of considering an individual's total exposure to HAP in addition to considering exposure to HAP emissions from the source category and facility. We recognize that such consideration may be particularly important when assessing noncancer risk, where pollutant-specific exposure health reference levels (*e.g.,* reference concentrations (RfCs)) are based on the assumption that thresholds exist for adverse health effects. For example, the EPA recognizes that, although exposures attributable to emissions from a source category or facility alone may not indicate the potential for increased risk of adverse noncancer health effects in a population, the exposures resulting from emissions from the facility in combination with emissions from all of the other sources (*e.g.,* other facilities) to which an individual is exposed may be sufficient to result in an increased risk of adverse noncancer health effects. In May 2010, the Science Advisory Board (SAB) advised the EPA ''that RTR assessments will be most useful to decision makers and communities if results are presented in the broader context of aggregate and cumulative risks, including background concentrations and contributions from other sources in the area.'' [3]

In response to the SAB recommendations, the EPA incorporates cumulative risk analyses into its RTR risk assessments, including those reflected in this proposal. The Agency (1) conducts facility-wide assessments, which include source categories emission points, as well as other emission points within the facilities; (2) combines exposures from multiple sources in the same category that could affect the same individuals; and (3) for some persistent and bioaccumulative pollutants, analyzes the ingestion route of exposure. In addition, the RTR risk assessments consider aggregate cancer risk from all carcinogens and aggregated noncancer HQs for all noncarcinogens affecting the same target organ or target organ system.

Although we are interested in placing source categories and facility-wide HAP risk in the context of total HAP risk from all sources combined in the vicinity of each source, we are concerned about the uncertainties of doing so. Estimates of total HAP risk from emission sources other than those that we have studied in depth during this RTR review would have significantly greater associated uncertainties than the source categories or facility-wide estimates. Such aggregate or cumulative assessments would compound those uncertainties, making the assessments too unreliable.

B. How do we perform the technology review?

Our technology review focuses on the identification and evaluation of developments in practices, processes, and control technologies that have occurred since the MACT standards were promulgated. Where we identify such developments, we analyze their technical feasibility, estimated costs, energy implications, and non-air environmental impacts. We also consider the emission reductions associated with applying each development. This analysis informs our decision of whether it is ''necessary'' to revise the emissions standards. In addition, we consider the appropriateness of applying controls to new sources versus retrofitting existing sources. For this exercise, we consider any of the following to be a ''development'':

- Any add-on control technology or other equipment that was not identified and considered during development of the original MACT standards;
- Any improvements in add-on control technology or other equipment (that were identified and considered during development of the original MACT standards) that could result in additional emissions reduction;
- Any work practice or operational procedure that was not identified or considered during development of the original MACT standards;
- Any process change or pollution prevention alternative that could be broadly applied to the industry and that was not identified or considered during development of the original MACT standards; and
- Any significant changes in the cost (including cost effectiveness) of applying controls (including controls the EPA considered during the development of the original MACT standards).

In addition to reviewing the practices, processes, and control technologies that were considered at the time we originally developed (or last updated) the NESHAP, we review a variety of data sources in our investigation of potential practices, processes, or controls to consider. See sections II.C and II.D of this preamble for information on the specific data sources that were reviewed as part of the technology review.

C. How do we estimate post-MACT risk posed by the source categories?

In this section, we provide a complete description of the types of analyses that we generally perform during the risk assessment process. In some cases, we do not perform a specific analysis because it is not relevant. For example, in the absence of emissions of HAP known to be persistent and bioaccumulative in the environment (PB–HAP), we would not perform a multipathway exposure assessment. Where we do not perform an analysis, we state that we do not and provide the reason. While we present all of our risk assessment methods, we only present risk assessment results for the analyses actually conducted (see section IV.A of this preamble).

The EPA conducts a risk assessment that provides estimates of the MIR for cancer posed by the HAP emissions from each source in the source categories, the HI for chronic exposures to HAP with the potential to cause noncancer health effects, and the HQ for acute exposures to HAP with the potential to cause noncancer health effects. The assessment also provides estimates of the distribution of cancer risk within the exposed populations,

[3] Recommendations of the SAB RTR Panel are provided in their report, which is available at: *https://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SAB-10-007-unsigned.pdf.*

cancer incidence, and an evaluation of the potential for an adverse environmental effect. The seven sections that follow this paragraph describe how we estimated emissions and conducted the risk assessment. The docket for this rulemaking contains the following document, which provides more information on the risk assessment inputs and models: *Residual Risk Assessment for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories in Support of the 2018 Risk and Technology Review Proposed Rule.* The methods used to assess risk (as described in the seven primary steps below) are consistent with those described by the EPA in the document reviewed by a panel of the EPA's SAB in 2009;[4] and described in the SAB review report issued in 2010. They are also consistent with the key recommendations contained in that report.

1. How did we estimate actual emissions and identify the emissions release characteristics?

For each facility that we determined to be subject to the MACT standards (see section II.B of this preamble), we gathered emissions data from Version 1 of the 2014 NEI. For each NEI record, we reviewed the source classification code and emission unit and process descriptions, and then assigned the record to an emission source type regulated by the MACT standards (*i.e.,* each record identified as an affected source at each facility was labeled adhesive/sealant applicator equipment, asphalt loading rack, asphalt storage tank, blowing still, coater, or coating mixer) or an emission source type not regulated by the MACT standards (*i.e.,* each record that was not identified as an affected source at each facility was labeled non-source category type). The non-source category type emissions sources are units or processes that are co-located at one or more of the asphalt processing or asphalt roofing manufacturing facilities, but are not part of the Asphalt Processing and Asphalt Roofing Manufacturing source categories. For example, some of these asphalt affected sources are co-located with petroleum refinery operations that are part of a different source category (*i.e.,* Petroleum Refineries) which are regulated by different NESHAP (*i.e.,* 40 CFR part 63, subparts CC and UUU).

After we determined which emissions sources were part of the source category, we then examined all the NEI records (excluding non-source category records) and developed lists of HAP that were reported, and, thus, expected to be emitted, for each emission process group in the source category. Using the emissions data from this analysis, we created speciation profiles to gap-fill missing HAP emissions data for facility-specific records.

As part of the CAA section 114 request (see section II.C of this preamble), the EPA asked companies to review (and revise, if necessary) the NEI-based data described above, including emission values, emission release point parameters, coordinates, and emission process group assignments. We used all this information to reevaluate our emission process group assignments for each NEI record in the modeling file. We also used this information to update emission release point parameter data. In other words, we used the CAA section 114 response data wherever possible (in lieu of the data we established using the NEI and gap fill procedures), unless it failed certain quality assurance checks.

For further details on the assumptions and methodologies used to estimate actual emissions and identify the emissions release characteristics, see Appendix 1 of the *Residual Risk Assessment for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories in Support of the 2018 Risk and Technology Review Proposed Rule* in Docket ID No. EPA–HQ–OAR–2017–0662.

2. How did we estimate MACT-allowable emissions?

The available emissions data in the RTR emissions dataset include estimates of the mass of HAP emitted during a specified annual time period. These ''actual'' emission levels are often lower than the emission levels allowed under the requirements of the current MACT standards. The emissions allowed under the MACT standards are referred to as the ''MACT-allowable'' emissions. We discussed the consideration of both MACT-allowable and actual emissions in the final Coke Oven Batteries RTR (70 FR 19998–19999, April 15, 2005) and in the proposed and final Hazardous Organic NESHAP RTR (71 FR 34428, June 14, 2006, and 71 FR 76609, December 21, 2006, respectively). In those actions, we noted that assessing the risk at the MACT-allowable level is inherently reasonable since that risk reflects the maximum level facilities could emit and still comply with national emission standards. We also explained that it is reasonable to consider actual emissions, where such data are available, in both steps of the risk analysis, in accordance with the Benzene NESHAP approach. (54 FR 38044, September 14, 1989.)

The Asphalt Processing and Asphalt Roofing Manufacturing NESHAP specifies performance standards (*i.e.,* a THC percent reduction or combustion efficiency requirement) for blowing stills, asphalt loading racks, and asphalt storage tanks at existing, new, and reconstructed asphalt processing facilities; asphalt storage tanks at existing asphalt roofing manufacturing lines; and coaters, saturators, wet loopers, coating mixers, sealant and adhesive applicators, and asphalt storage tanks at new and reconstructed asphalt roofing manufacturing lines. Consequently, the MACT-allowable emissions for all of these emission sources are assumed to be equal to the actual emissions. For coating mixers, saturators, coaters, sealant applicators, and adhesive applicators at existing asphalt roofing manufacturing lines, the NESHAP specifies a production-based MACT-allowable limit (*i.e.,* 0.08 pounds PM per ton of asphalt shingle or mineral-surfaced roll roofing produced basis), but allows owners and operators of these emissions sources the alternative of complying with the performance-based standards applicable to new and reconstructed asphalt roofing manufacturing lines. Based on responses received from the CAA section 114 request (see section II.C of this preamble), most facilities use combustion controls to meet the alternative performance-based standards for existing coating mixers, saturators, coaters, sealant applicators, and adhesive applicators, rather than complying with the numerical production-based standard. Therefore, we decided to treat the performance-based standard as the applicable standard and used the actual emission levels as a reasonable estimation of the MACT-allowable emissions levels for these emission sources.

For further details on the assumptions and methodologies used to estimate MACT-allowable emissions, see Appendix 1 of the *Residual Risk Assessment for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories in Support of the 2018 Risk and Technology Review Proposed Rule,* in Docket ID No. EPA–HQ–OAR–2017–0662.

[4] U.S. EPA. *Risk and Technology Review (RTR) Risk Assessment Methodologies: For Review by the EPA's Science Advisory Board with Case Studies—MACT I Petroleum Refining Sources and Portland Cement Manufacturing,* June 2009. EPA–452/R–09–006. *https://www3.epa.gov/airtoxics/rrisk/rtrpg.html.*

3. How do we conduct dispersion modeling, determine inhalation exposures, and estimate individual and population inhalation risk?

Both long-term and short-term inhalation exposure concentrations and health risk from the source categories addressed in this proposal were estimated using the Human Exposure Model (HEM–3).[5] The HEM–3 performs three primary risk assessment activities: (1) Conducting dispersion modeling to estimate the concentrations of HAP in ambient air, (2) estimating long-term and short-term inhalation exposures to individuals residing within 50 kilometers (km) of the modeled sources, and (3) estimating individual and population-level inhalation risk using the exposure estimates and quantitative dose-response information.

a. Dispersion Modeling

The air dispersion model AERMOD, used by the HEM–3 model, is one of the EPA's preferred models for assessing air pollutant concentrations from industrial facilities.[6] To perform the dispersion modeling and to develop the preliminary risk estimates, HEM–3 draws on three data libraries. The first is a library of meteorological data, which is used for dispersion calculations. This library includes 1 year (2016) of hourly surface and upper air observations from 824 meteorological stations, selected to provide coverage of the United States and Puerto Rico. A second library of United States Census Bureau census block[7] internal point locations and populations provides the basis of human exposure calculations (U.S. Census, 2010). In addition, for each census block, the census library includes the elevation and controlling hill height, which are also used in dispersion calculations. A third library of pollutant-specific dose-response values is used to estimate health risk. These are discussed below.

b. Risk From Chronic Exposure to HAP

In developing the risk assessment for chronic exposures, we use the estimated annual average ambient air concentrations of each HAP emitted by each source in the source categories. The HAP air concentrations at each nearby census block centroid located within 50 km of the facility are a surrogate for the chronic inhalation exposure concentration for all the people who reside in that census block. A distance of 50 km is consistent with both the analysis supporting the 1989 Benzene NESHAP (54 FR 38044, September 14, 1989) and the limitations of Gaussian dispersion models, including AERMOD.

For each facility, we calculate the MIR as the cancer risk associated with a continuous lifetime (24 hours per day, 7 days per week, 52 weeks per year, 70 years) exposure to the maximum concentration at the centroid of each inhabited census block. We calculate individual cancer risk by multiplying the estimated lifetime exposure to the ambient concentration of each HAP (in micrograms per cubic meter) by its unit risk estimate (URE). The URE is an upper-bound estimate of an individual's incremental risk of contracting cancer over a lifetime of exposure to a concentration of 1 microgram of the pollutant per cubic meter of air. For residual risk assessments, we generally use UREs from EPA's Integrated Risk Information System (IRIS). For carcinogenic pollutants without IRIS values, we look to other reputable sources of cancer dose-response values, often using California EPA (CalEPA) UREs, where available. In cases where new, scientifically credible dose-response values have been developed in a manner consistent with EPA guidelines and have undergone a peer review process similar to that used by the EPA, we may use such dose-response values in place of, or in addition to, other values, if appropriate. The pollutant-specific dose-response values used to estimate health risk are available at *https://www.epa.gov/fera/dose-response-assessment-assessing-health-risks-associated-exposure-hazardous-air-pollutants*.

To estimate individual lifetime cancer risks associated with exposure to HAP emissions from each facility in the source categories, we sum the risks for each of the carcinogenic HAP[8] emitted by the modeled facility. We estimate cancer risk at every census block within 50 km of every facility in the source categories. The MIR is the highest individual lifetime cancer risk estimated for any of those census blocks. In addition to calculating the MIR, we estimate the distribution of individual cancer risks for the source categories by summing the number of individuals within 50 km of the sources whose estimated risk falls within a specified risk range. We also estimate annual cancer incidence by multiplying the estimated lifetime cancer risk at each census block by the number of people residing in that block, summing results for all of the census blocks, and then dividing this result by a 70-year lifetime.

To assess the risk of noncancer health effects from chronic exposure to HAP, we calculate either an HQ or a target organ-specific hazard index (TOSHI). We calculate an HQ when a single noncancer HAP is emitted. Where more than one noncancer HAP is emitted, we sum the HQ for each of the HAP that affects a common target organ or target organ system to obtain a TOSHI. The HQ is the estimated exposure divided by the chronic noncancer dose-response value, which is a value selected from one of several sources. The preferred chronic noncancer dose-response value is the EPA RfC, defined as ''an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime'' (*https://iaspub.epa.gov/sor_internet/registry/termreg/searchandretrieve/glossariesandkeywordlists/search.do?details=&vocabName=IRIS%20Glossary*). In cases where an RfC from the EPA's IRIS is not available or where the EPA determines that using a value other than the RfC is appropriate, the chronic noncancer dose-response value can be a value from the following prioritized sources, which define their dose-response values similarly to the EPA: (1) The Agency for Toxic Substances and Disease Registry (ATSDR) Minimum Risk Level (*https://www.atsdr.cdc.gov/*

[5] For more information about HEM–3, go to *https://www.epa.gov/fera/risk-assessment-and-modeling-human-exposure-model-hem.*

[6] U.S. EPA. Revision to the *Guideline on Air Quality Models: Adoption of a Preferred General Purpose (Flat and Complex Terrain) Dispersion Model and Other Revisions* (70 FR 68218, November 9, 2005).

[7] A census block is the smallest geographic area for which census statistics are tabulated.

[8] The EPA's 2005 *Guidelines for Carcinogen Risk Assessment* classifies carcinogens as: ''carcinogenic to humans,'' ''likely to be carcinogenic to humans,'' and ''suggestive evidence of carcinogenic potential.'' These classifications also coincide with the terms ''known carcinogen, probable carcinogen, and possible carcinogen,'' respectively, which are the terms advocated in The EPA's *Guidelines for Carcinogen Risk Assessment,* published in 1986 (51 FR 33992, September 24, 1986). In August 2000, the document, *Supplemental Guidance for Conducting Health Risk Assessment of Chemical Mixtures* (EPA/630/R–00/002), was published as a supplement to the 1986 document. Copies of both documents can be obtained from *https://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=20533&CFID=70315376&CFTOKEN=71597944.* Summing the risk of these individual compounds to obtain the cumulative cancer risk is an approach that was recommended by the EPA's SAB in their 2002 peer review of EPA's National Air Toxics Assessment (NATA) titled *NATA—Evaluating the National-scale Air Toxics Assessment 1996 Data—an SAB Advisory,* available at *https://yosemite.epa.gov/sab/sabproduct.nsf/214C6E915BB04E14852570CA007A682C/$File/ecadv02001.pdf.*

mrls/index.asp); (2) the CalEPA Chronic Reference Exposure Level (REL) (*https://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0*); or (3) as noted above, a scientifically credible dose-response value that has been developed in a manner consistent with the EPA guidelines and has undergone a peer review process similar to that used by the EPA. The pollutant-specific dose-response values used to estimate health risks are available at *https://www.epa.gov/fera/dose-response-assessment-assessing-health-risks-associated-exposure-hazardous-air-pollutants*.

c. Risk From Acute Exposure to HAP That May Cause Health Effects Other Than Cancer

For each HAP for which appropriate acute inhalation dose-response values are available, the EPA also assesses the potential health risks due to acute exposure. For these assessments, the EPA makes conservative assumptions about emission rates, meteorology, and exposure location. We use the peak hourly emission rate,[9] worst-case dispersion conditions, and, in accordance with our mandate under section 112 of the CAA, the point of highest off-site exposure to assess the potential risk to the maximally exposed individual.

To characterize the potential health risks associated with estimated acute inhalation exposures to a HAP, we generally use multiple acute dose-response values, including acute RELs, acute exposure guideline levels (AEGLs), and emergency response planning guidelines (ERPG) for 1-hour exposure durations, if available, to calculate acute HQs. The acute HQ is calculated by dividing the estimated acute exposure by the acute dose-response value. For each HAP for which acute dose-response values are available, the EPA calculates acute HQs.

An acute REL is defined as ''the concentration level at or below which no adverse health effects are anticipated for a specified exposure duration.''[10] Acute RELs are based on the most sensitive, relevant, adverse health effect reported in the peer-reviewed medical and toxicological literature. They are designed to protect the most sensitive individuals in the population through the inclusion of margins of safety. Because margins of safety are incorporated to address data gaps and uncertainties, exceeding the REL does not automatically indicate an adverse health impact. AEGLs represent threshold exposure limits for the general public and are applicable to emergency exposures ranging from 10 minutes to 8 hours.[11] They are guideline levels for ''once-in-a-lifetime, short-term exposures to airborne concentrations of acutely toxic, high-priority chemicals.'' *Id.* at 21. The AEGL–1 is specifically defined as ''the airborne concentration (expressed as ppm (parts per million) or mg/m^3 (milligrams per cubic meter)) of a substance above which it is predicted that the general population, including susceptible individuals, could experience notable discomfort, irritation, or certain asymptomatic nonsensory effects. However, the effects are not disabling and are transient and reversible upon cessation of exposure.'' The document also notes that ''Airborne concentrations below AEGL–1 represent exposure levels that can produce mild and progressively increasing but transient and nondisabling odor, taste, and sensory irritation or certain asymptomatic, nonsensory effects.'' Id. AEGL–2 are defined as ''the airborne concentration (expressed as parts per million or milligrams per cubic meter) of a substance above which it is predicted that the general population, including susceptible individuals, could experience irreversible or other serious, long-lasting adverse health effects or an impaired ability to escape.'' Id.

ERPGs are ''developed for emergency planning and are intended as health-based guideline concentrations for single exposures to chemicals.''[12] *Id.* at 1. The ERPG–1 is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to 1 hour without experiencing other than mild transient adverse health effects or without perceiving a clearly defined, objectionable odor.'' *Id.* at 2. Similarly, the ERPG–2 is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to 1 hour without experiencing or developing irreversible or other serious health effects or symptoms which could impair an individual's ability to take protective action.'' *Id.* at 1.

An acute REL for 1-hour exposure durations is typically lower than its corresponding AEGL–1 and ERPG–1. Even though their definitions are slightly different, AEGL–1s are often the same as the corresponding ERPG–1s, and AEGL–2s are often equal to ERPG–2s. The maximum HQs from our acute inhalation screening risk assessment typically result when we use the acute REL for a HAP. In cases where the maximum acute HQ exceeds 1, we also report the HQ based on the next highest acute dose-response value (usually the AEGL–1 and/or the ERPG–1).

For the acute inhalation risk assessment of the Asphalt Processing and Asphalt Roofing Manufacturing source categories, we did not always use the default acute emissions multiplier of 10. For approximately 65 percent of the modeling file records, we used facility-specific maximum (*i.e.,* acute) hourly emissions from the responses to the CAA section 114 request (see section II.C of this preamble) because these data were available. For the remaining records (excluding asphalt storage tanks), we applied the default acute emissions multiplier of 10. For asphalt storage tanks, we applied a multiplier of four. A further discussion of why these factors were chosen can be found in Appendix 1 of *Residual Risk Assessment for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories in Support of the 2018 Risk and Technology Review Proposed Rule,* in Docket ID No. EPA–HQ–OAR–2017–0662.

In our acute inhalation screening risk assessment, acute impacts are deemed negligible for HAP for which acute HQs are less than or equal to 1 (even under the conservative assumptions of the screening assessment), and no further

[9] In the absence of hourly emission data, we develop estimates of maximum hourly emission rates by multiplying the average actual annual emissions rates by a factor (either a category-specific factor or a default factor of 10) to account for variability. This is documented in *Residual Risk Assessment for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories in Support of the 2018 Risk and Technology Review Proposed Rule* and in Appendix 5 of the report: *Analysis of Data on Short-term Emission Rates Relative to Long-term Emission Rates.* Both are available in the docket for this rulemaking.

[10] CalEPA issues acute RELs as part of its Air Toxics Hot Spots Program, and the 1-hour and 8-hour values are documented in *Air Toxics Hot Spots Program Risk Assessment Guidelines, Part I, The Determination of Acute Reference Exposure Levels for Airborne Toxicants,* which is available at *https://oehha.ca.gov/air/general-info/oehha-acute-8-hour-and-chronic-reference-exposure-level-rel-summary.*

[11] National Academy of Sciences, 2001. *Standing Operating Procedures for Developing Acute Exposure Levels for Hazardous Chemicals,* page 2. Available at *https://www.epa.gov/sites/production/files/2015-09/documents/sop_final_standing_operating_procedures_2001.pdf.* Note that the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances ended in October 2011, but the AEGL program continues to operate at the EPA and works with the National Academies to publish final AEGLs (*https://www.epa.gov/aegl*).

[12] *ERPGS Procedures and Responsibilities.* March 2014. American Industrial Hygiene Association. Available at: *https://www.aiha.org/get-involved/AIHAGuidelineFoundation/EmergencyResponsePlanningGuidelines/Documents/ERPG%20Committee%20Standard%20Operating%20Procedures%20%20-%20March%202014%20Revision%20%28Updated%2010-2-2014%29.pdf.*

analysis is performed for these HAP. In cases where an acute HQ from the screening step is greater than 1, we consider additional site-specific data to develop a more refined estimate of the potential for acute exposures of concern. For these source categories, the data refinements employed consisted of ensuring the locations where the maximum HQ occurred were off facility property and where the public could potentially be exposed. These refinements are discussed more fully in the *Residual Risk Assessment for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories in Support of the 2018 Risk and Technology Review Proposed Rule,* which is available in the docket for this action.

4. How do we conduct the multipathway exposure and risk screening assessment?

The EPA conducted a tiered screening assessment examining the potential for significant human health risks due to exposures via routes other than inhalation (*i.e.,* ingestion). We first determined whether any sources in the source categories emitted any PB–HAP, as identified in EPA's Air Toxics Risk Assessment Library (See Volume 1, Appendix D, at *https://www2.epa.gov/fera/risk-assessment-and-modeling-air-toxics-risk-assessment-reference-library*).

For the Asphalt Processing and Asphalt Roofing Manufacturing source categories, we identified PB–HAP emissions of cadmium compounds, lead compounds, mercury compounds, and polycyclic organic matter (POM) (of which polycyclic aromatic hydrocarbons is a subset), so we proceeded to the next step of the evaluation. In this step, we determined whether the facility-specific emission rates of the emitted PB–HAP were large enough to create the potential for significant human health risk through ingestion under reasonable worst-case conditions. To facilitate this step, we used previously developed screening threshold emission rates for several PB–HAP that are based on a hypothetical upper-end screening exposure scenario developed for use in conjunction with the EPA's Total Risk Integrated Methodology. Fate, Transport, and Ecological Exposure (TRIM.FaTE) model. The PB–HAP with screening threshold emission rates are arsenic compounds, cadmium compounds, chlorinated dibenzodioxins and furans, mercury compounds, and POM. Based on the EPA estimates of toxicity and bioaccumulation potential, the pollutants above represent a conservative list for inclusion in multipathway risk assessments for RTR rules. (See Volume 1, Appendix D at *https://www.epa.gov/sites/production/files/201308/documents/volume_1_reflibrary.pdf.*) In this assessment, we compare the facility-specific emission rates of these PB–HAP to the screening threshold emission rates for each PB–HAP to assess the potential for significant human health risks via the ingestion pathway. We call this application of the TRIM.FaTE model the Tier 1 screening assessment. The ratio of a facility's actual emission rate to the Tier 1 screening threshold emission rate is a ''screening value.''

We derive the Tier 1 screening threshold emission rates for these PB–HAP (other than lead compounds) to correspond to a maximum excess lifetime cancer risk of 1-in-1 million (*i.e.,* for arsenic compounds, polychlorinated dibenzodioxins and furans, and POM) or, for HAP that cause noncancer health effects (*i.e.,* cadmium compounds and mercury compounds), a maximum HQ of 1. If the emission rate of any one PB–HAP or combination of carcinogenic PB–HAP in the Tier 1 screening assessment exceeds the Tier 1 screening threshold emission rate for any facility (*i.e.,* the screening value is greater than 1), we conduct a second screening assessment, which we call the Tier 2 screening assessment.

In the Tier 2 screening assessment, the location of each facility that exceeds a Tier 1 screening threshold emission rate is used to refine the assumptions associated with the Tier 1 fisher and farmer exposure scenarios at that facility. A key assumption in the Tier 1 screening assessment is that a lake and/or farm is located near the facility. As part of the Tier 2 screening assessment, we use a U.S. Geological Survey (USGS) database to identify actual waterbodies within 50 km of each facility. We also examine the differences between local meteorology near the facility and the meteorology used in the Tier 1 screening assessment. We then adjust the previously-developed Tier 1 screening threshold emission rates for each PB–HAP for each facility based on an understanding of how exposure concentrations estimated for the screening scenario change with the use of local meteorology and USGS waterbody data. If the PB–HAP emission rates for a facility exceed the Tier 2 screening threshold emission rates and data are available, we may conduct a Tier 3 screening assessment. If PB–HAP emission rates do not exceed a Tier 2 screening value of 1, we consider those PB–HAP emissions to pose risks below a level of concern.

There are several analyses that can be included in a Tier 3 screening assessment, depending upon the extent of refinement warranted, including validating that the lakes are fishable, considering plume-rise to estimate emissions lost above the mixing layer, and considering hourly effects of meteorology and plume rise on chemical fate and transport. If the Tier 3 screening assessment indicates that risks above levels of concern cannot be ruled out, the EPA may further refine the screening assessment through a site-specific assessment.

In evaluating the potential multipathway risk from emissions of lead compounds, rather than developing a screening threshold emission rate, we compare maximum estimated chronic inhalation exposure concentrations to the level of the current National Ambient Air Quality Standard (NAAQS) for lead.[13] Values below the level of the primary (health-based) lead NAAQS are considered to have a low potential for multipathway risk.

For further information on the multipathway assessment approach, see the *Residual Risk Assessment for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories in Support of the 2018 Risk and Technology Review Proposed Rule,* which is available in the docket for this action.

5. How do we conduct the environmental risk screening assessment?

a. Adverse Environmental Effects, Environmental HAP, and Ecological Benchmarks

The EPA conducts a screening assessment to examine the potential for an adverse environmental effect as required under section 112(f)(2)(A) of the CAA. Section 112(a)(7) of the CAA defines ''adverse environmental effect'' as ''any significant and widespread adverse effect, which may reasonably be anticipated, to wildlife, aquatic life, or other natural resources, including

[13] In doing so, the EPA notes that the legal standard for a primary NAAQS—that a standard is requisite to protect public health and provide an adequate margin of safety (CAA section 109(b))—differs from the CAA section 112(f) standard (requiring, among other things, that the standard provide an ''ample margin of safety to protect public health''). However, the primary lead NAAQS is a reasonable measure of determining risk acceptability (*i.e.,* the first step of the Benzene NESHAP analysis) since it is designed to protect the most susceptible group in the human population—children, including children living near major lead emitting sources. 73 FR 67002/3; 73 FR 67000/3; 73 FR 67005/1. In addition, applying the level of the primary lead NAAQS at the risk acceptability step is conservative, since that primary lead NAAQS reflects an adequate margin of safety.

adverse impacts on populations of endangered or threatened species or significant degradation of environmental quality over broad areas.''

The EPA focuses on eight HAP, which are referred to as ''environmental HAP,'' in its screening assessment: Six PB–HAP and two acid gases. The PB–HAP included in the screening assessment are arsenic compounds, cadmium compounds, dioxins/furans, POM, mercury (both inorganic mercury and methyl mercury), and lead compounds. The acid gases included in the screening assessment are HCl and hydrogen fluoride (HF).

HAP that persist and bioaccumulate are of particular environmental concern because they accumulate in the soil, sediment, and water. The acid gases, HCl and HF, are included due to their well-documented potential to cause direct damage to terrestrial plants. In the environmental risk screening assessment, we evaluate the following four exposure media: Terrestrial soils, surface water bodies (includes water-column and benthic sediments), fish consumed by wildlife, and air. Within these four exposure media, we evaluate nine ecological assessment endpoints, which are defined by the ecological entity and its attributes. For PB–HAP (other than lead), both community-level and population-level endpoints are included. For acid gases, the ecological assessment evaluated is terrestrial plant communities.

An ecological benchmark represents a concentration of HAP that has been linked to a particular environmental effect level. For each environmental HAP, we identified the available ecological benchmarks for each assessment endpoint. We identified, where possible, ecological benchmarks at the following effect levels: Probable effect levels, lowest-observed-adverse-effect level, and no-observed-adverse-effect level. In cases where multiple effect levels were available for a particular PB–HAP and assessment endpoint, we use all of the available effect levels to help us to determine whether ecological risks exist and, if so, whether the risks could be considered significant and widespread.

For further information on how the environmental risk screening assessment was conducted, including a discussion of the risk metrics used, how the environmental HAP were identified, and how the ecological benchmarks were selected, see Appendix 9 of the *Residual Risk Assessment for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories in Support of the 2018 Risk and Technology Review Proposed Rule,* which is available in the docket for this action.

b. Environmental Risk Screening Methodology

For the environmental risk screening assessment, the EPA first determined whether any facilities in the Asphalt Processing and Asphalt Roofing Manufacturing source categories emitted any of the environmental HAP. For the Asphalt Processing and Asphalt Roofing Manufacturing source categories, we identified emissions of cadmium compounds, HCl, lead, mercury, and POM. Because one or more of the environmental HAP evaluated are emitted by at least one facility in the source categories, we proceeded to the second step of the evaluation.

c. PB–HAP Methodology

The environmental screening assessment includes six PB–HAP, arsenic compounds, cadmium compounds, dioxins/furans, POM, mercury (both inorganic mercury and methyl mercury), and lead compounds. With the exception of lead, the environmental risk screening assessment for PB–HAP consists of three tiers. The first tier of the environmental risk screening assessment uses the same health-protective conceptual model that is used for the Tier 1 human health screening assessment. TRIM.FaTE model simulations were used to back-calculate Tier 1 screening threshold emission rates. The screening threshold emission rates represent the emission rate in tpy that results in media concentrations at the facility that equal the relevant ecological benchmark. To assess emissions from each facility in the category, the reported emission rate for each PB–HAP was compared to the Tier 1 screening threshold emission rate for that PB–HAP for each assessment endpoint and effect level. If emissions from a facility do not exceed the Tier 1 screening threshold emission rate, the facility ''passes'' the screening assessment, and, therefore, is not evaluated further under the screening approach. If emissions from a facility exceed the Tier 1 screening threshold emission rate, we evaluate the facility further in Tier 2.

In Tier 2 of the environmental screening assessment, the screening threshold emission rates are adjusted to account for local meteorology and the actual location of lakes in the vicinity of facilities that did not pass the Tier 1 screening assessment. For soils, we evaluate the average soil concentration for all soil parcels within a 7.5-km radius for each facility and PB–HAP. For the water, sediment, and fish tissue concentrations, the highest value for each facility for each pollutant is used. If emission concentrations from a facility do not exceed the Tier 2 screening threshold emission rate, the facility ''passes'' the screening assessment and typically is not evaluated further. If emissions from a facility exceed the Tier 2 screening threshold emission rate, we evaluate the facility further in Tier 3.

As in the multipathway human health risk assessment, in Tier 3 of the environmental screening assessment, we examine the suitability of the lakes around the facilities to support life and remove those that are not suitable (*e.g.,* lakes that have been filled in or are industrial ponds), adjust emissions for plume-rise, and conduct hour-by-hour time-series assessments. If these Tier 3 adjustments to the screening threshold emission rates still indicate the potential for an adverse environmental effect (*i.e.,* facility emission rate exceeds the screening threshold emission rate), we may elect to conduct a more refined assessment using more site-specific information. If, after additional refinement, the facility emission rate still exceeds the screening threshold emission rate, the facility may have the potential to cause an adverse environmental effect.

To evaluate the potential for an adverse environmental effect from lead, we compared the average modeled air concentrations (from HEM–3) of lead around each facility in the source categories to the level of the secondary NAAQS for lead. The secondary lead NAAQS is a reasonable means of evaluating environmental risk because it is set to provide substantial protection against adverse welfare effects which can include ''effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.''

d. Acid Gas Environmental Risk Methodology

The environmental screening assessment for acid gases evaluates the potential phytotoxicity and reduced productivity of plants due to chronic exposure to HF and HCl. The environmental risk screening methodology for acid gases is a single-tier screening assessment that compares modeled ambient air concentrations (from AERMOD) to the ecological benchmarks for each acid gas. To identify a potential adverse

environmental effect (as defined in section 112(a)(7) of the CAA) from emissions of HF and HCl, we evaluate the following metrics: The size of the modeled area around each facility that exceeds the ecological benchmark for each acid gas, in acres and km^2; the percentage of the modeled area around each facility that exceeds the ecological benchmark for each acid gas; and the area-weighted average screening value around each facility (calculated by dividing the area-weighted average concentration over the 50-km modeling domain by the ecological benchmark for each acid gas). For further information on the environmental screening assessment approach, see Appendix 9 of the *Residual Risk Assessment for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories in Support of the 2018 Risk and Technology Review Proposed Rule,* which is available in the docket for this action.

6. How do we conduct facility-wide assessments?

To put the source categories risks in context, we typically examine the risks from the entire ''facility,'' where the facility includes all HAP-emitting operations within a contiguous area and under common control. In other words, we examine the HAP emissions not only from the source categories' emission points of interest, but also emissions of HAP from all other emission sources at the facility for which we have data. For these source categories, we conducted the facility-wide assessment using a dataset compiled from the 2014 NEI. The source category records of that NEI dataset were removed, evaluated, and updated as described in section II.C of this preamble: What data collection activities were conducted to support this action? Once a quality assured source category dataset was available, it was placed back with the remaining records from the NEI for that facility. The facility-wide file was then used to analyze risks due to the inhalation of HAP that are emitted ''facility-wide'' for the populations residing within 50 km of each facility, consistent with the methods used for the source category analysis described above. For these facility-wide risk analyses, the modeled source category risks were compared to the facility-wide risks to determine the portion of the facility-wide risks that could be attributed to the source categories addressed in this proposal. We also specifically examined the facility that was associated with the highest estimate of risk and determined the percentage of that risk attributable to the source category of interest. The *Residual Risk Assessment for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories in Support of the 2018 Risk and Technology Review Proposed Rule,* available through the docket for this action, provides the methodology and results of the facility-wide analyses, including all facility-wide risks and the percentage of source categories contribution to facility-wide risks.

7. How do we consider uncertainties in risk assessment?

Uncertainty and the potential for bias are inherent in all risk assessments, including those performed for this proposal. Although uncertainty exists, we believe that our approach, which used conservative tools and assumptions, ensures that our decisions are health and environmentally protective. A brief discussion of the uncertainties in the RTR emissions dataset, dispersion modeling, inhalation exposure estimates, and dose-response relationships follows below. Also included are those uncertainties specific to our acute screening assessments, multipathway screening assessments, and our environmental risk screening assessments. A more thorough discussion of these uncertainties is included in the *Residual Risk Assessment for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories in Support of the 2018 Risk and Technology Review Proposed Rule,* which is available in the docket for this action. If a multipathway site-specific assessment was performed for these source categories, a full discussion of the uncertainties associated with that assessment can be found in Appendix 11 of that document, *Site-Specific Human Health Multipathway Residual Risk Assessment Report.*

a. Uncertainties in the RTR Emissions Dataset

Although the development of the RTR emissions dataset involved quality assurance/quality control processes, the accuracy of emissions values will vary depending on the source of the data, the degree to which data are incomplete or missing, the degree to which assumptions made to complete the datasets are accurate, errors in emission estimates, and other factors. The emission estimates considered in this analysis generally are annual totals for certain years, and they do not reflect short-term fluctuations during the course of a year or variations from year to year. The estimates of peak hourly emission rates for the acute effects screening assessment were based on an emission adjustment factor applied to the average annual hourly emission rates, which are intended to account for emission fluctuations due to normal facility operations.

b. Uncertainties in Dispersion Modeling

We recognize there is uncertainty in ambient concentration estimates associated with any model, including the EPA's recommended regulatory dispersion model, AERMOD. In using a model to estimate ambient pollutant concentrations, the user chooses certain options to apply. For RTR assessments, we select some model options that have the potential to overestimate ambient air concentrations (*e.g.,* not including plume depletion or pollutant transformation). We select other model options that have the potential to underestimate ambient impacts (*e.g.,* not including building downwash). Other options that we select have the potential to either under- or overestimate ambient levels (*e.g.,* meteorology and receptor locations). On balance, considering the directional nature of the uncertainties commonly present in ambient concentrations estimated by dispersion models, the approach we apply in the RTR assessments should yield unbiased estimates of ambient HAP concentrations. We also note that the selection of meteorology dataset location could have an impact on the risk estimates. As we continue to update and expand our library of meteorological station data used in our risk assessments, we expect to reduce this variability.

c. Uncertainties in Inhalation Exposure Assessment

Although every effort is made to identify all of the relevant facilities and emission points, as well as to develop accurate estimates of the annual emission rates for all relevant HAP, the uncertainties in our emission inventory likely dominate the uncertainties in the exposure assessment. Some uncertainties in our exposure assessment include human mobility, using the centroid of each census block, assuming lifetime exposure, and assuming only outdoor exposures. For most of these factors, there is neither an under nor overestimate when looking at the maximum individual risk or the incidence, but the shape of the distribution of risks may be affected. With respect to outdoor exposures, actual exposures may not be as high if people spend time indoors, especially for very reactive pollutants or larger particles. For all factors, we reduce uncertainty when possible. For example, with respect to census-block

centroids, we analyze large blocks using aerial imagery and adjust locations of the block centroids to better represent the population in the blocks. We also add additional receptor locations where the population of a block is not well represented by a single location.

d. Uncertainties in Dose-Response Relationships

There are uncertainties inherent in the development of the dose-response values used in our risk assessments for cancer effects from chronic exposures and noncancer effects from both chronic and acute exposures. Some uncertainties are generally expressed quantitatively, and others are generally expressed in qualitative terms. We note, as a preface to this discussion, a point on dose-response uncertainty that is stated in the EPA's 2005 *Guidelines for Carcinogen Risk Assessment;* namely, that ''the primary goal of EPA actions is protection of human health; accordingly, as an Agency policy, risk assessment procedures, including default options that are used in the absence of scientific data to the contrary, should be health protective'' (the EPA's 2005 *Guidelines for Carcinogen Risk Assessment,* page 1–7). This is the approach followed here as summarized in the next paragraphs.

Cancer UREs used in our risk assessments are those that have been developed to generally provide an upper bound estimate of risk.[14] That is, they represent a ''plausible upper limit to the true value of a quantity'' (although this is usually not a true statistical confidence limit). In some circumstances, the true risk could be as low as zero; however, in other circumstances the risk could be greater.[15] Chronic noncancer RfC and reference dose values represent chronic exposure levels that are intended to be health-protective levels. To derive dose-response values that are intended to be ''without appreciable risk,'' the methodology relies upon an uncertainty factor (UF) approach,[16] which considers uncertainty, variability, and gaps in the available data. The UFs are applied to derive dose-response values that are intended to protect against appreciable risk of deleterious effects.

Many of the UFs used to account for variability and uncertainty in the development of acute dose-response values are quite similar to those developed for chronic durations. Additional adjustments are often applied to account for uncertainty in extrapolation from observations at one exposure duration (*e.g.,* 4 hours) to derive an acute dose-response value at another exposure duration (*e.g.,* 1 hour). Not all acute dose-response values are developed for the same purpose, and care must be taken when interpreting the results of an acute assessment of human health effects relative to the dose-response value or values being exceeded. Where relevant to the estimated exposures, the lack of acute dose-response values at different levels of severity should be factored into the risk characterization as potential uncertainties.

Uncertainty also exists in the selection of ecological benchmarks for the environmental risk screening assessment. We established a hierarchy of preferred benchmark sources to allow selection of benchmarks for each environmental HAP at each ecological assessment endpoint. We searched for benchmarks for three effect levels (*i.e.,* no-effects level, threshold-effect level, and probable effect level), but not all combinations of ecological assessment/environmental HAP had benchmarks for all three effect levels. Where multiple effect levels were available for a particular HAP and assessment endpoint, we used all of the available effect levels to help us determine whether risk exists and whether the risk could be considered significant and widespread.

Although we make every effort to identify appropriate human health effect dose-response values for all pollutants emitted by the sources in this risk assessment, some HAP emitted by these source categories are lacking dose-response assessments. Accordingly, these pollutants cannot be included in the quantitative risk assessment, which could result in quantitative estimates understating HAP risk. To help to alleviate this potential underestimate, where we conclude similarity with a HAP for which a dose-response value is available, we use that value as a surrogate for the assessment of the HAP for which no value is available. To the extent use of surrogates indicates appreciable risk, we may identify a need to increase priority for an IRIS assessment for that substance. We additionally note that, generally speaking, HAP of greatest concern due to environmental exposures and hazard are those for which dose-response assessments have been performed, reducing the likelihood of understating risk. Further, HAP not included in the quantitative assessment are assessed qualitatively and considered in the risk characterization that informs the risk management decisions, including consideration of HAP reductions achieved by various control options.

For a group of compounds that are unspeciated (*e.g.,* glycol ethers), we conservatively use the most protective dose-response value of an individual compound in that group to estimate risk. Similarly, for an individual compound in a group (*e.g.,* ethylene glycol diethyl ether) that does not have a specified dose-response value, we also apply the most protective dose-response value from the other compounds in the group to estimate risk.

e. Uncertainties in Acute Inhalation Screening Assessments

In addition to the uncertainties highlighted above, there are several factors specific to the acute exposure assessment that the EPA conducts as part of the risk review under section 112 of the CAA. The accuracy of an acute inhalation exposure assessment depends on the simultaneous occurrence of independent factors that may vary greatly, such as hourly emissions rates, meteorology, and the presence of humans at the location of the maximum concentration. In the acute screening assessment that we conduct under the RTR program, we assume that peak emissions from the source categories and worst-case meteorological conditions co-occur, thus, resulting in maximum ambient concentrations. These two events are unlikely to occur at the same time, making these assumptions conservative. We then include the additional assumption that a person is located at this point during this same time period. For these source categories, these assumptions would tend to be worst-case actual exposures, as it is unlikely that a person would be located at the point of maximum exposure during the time when peak emissions and worst-case meteorological conditions occur simultaneously.

f. Uncertainties in the Multipathway and Environmental Risk Screening Assessments

For each source categories, we generally rely on site-specific levels of PB–HAP or environmental HAP emissions to determine whether a refined assessment of the impacts from

[14] IRIS glossary (*https://ofmpub.epa.gov/sor_internet/registry/termreg/searchandretrieve/glossariesandkeywordlists/search.do?details=&glossaryName=IRIS%20Glossary*).

[15] An exception to this is the URE for benzene, which is considered to cover a range of values, each end of which is considered to be equally plausible, and which is based on maximum likelihood estimates.

[16] See *A Review of the Reference Dose and Reference Concentration Processes,* U.S. EPA, December 2002, and *Methods for Derivation of Inhalation Reference Concentrations and Application of Inhalation Dosimetry,* U.S. EPA, 1994.

multipathway exposures is necessary or whether it is necessary to perform an environmental screening assessment. This determination is based on the results of a three-tiered screening assessment that relies on the outputs from models—TRIM.FaTE and AERMOD—that estimate environmental pollutant concentrations and human exposures for five PB–HAP (dioxins, POM, mercury, cadmium, and arsenic) and two acid gases (HF and HCl). For lead, we use AERMOD to determine ambient air concentrations, which are then compared to the secondary NAAQS standard for lead. Two important types of uncertainty associated with the use of these models in RTR risk assessments and inherent to any assessment that relies on environmental modeling are model uncertainty and input uncertainty.[17]

Model uncertainty concerns whether the model adequately represents the actual processes (*e.g.,* movement and accumulation) that might occur in the environment. For example, does the model adequately describe the movement of a pollutant through the soil? This type of uncertainty is difficult to quantify. However, based on feedback received from previous EPA SAB reviews and other reviews, we are confident that the models used in the screening assessments are appropriate and state-of-the-art for the multipathway and environmental screening risk assessments conducted in support of RTR.

Input uncertainty is concerned with how accurately the models have been configured and parameterized for the assessment at hand. For Tier 1 of the multipathway and environmental screening assessments, we configured the models to avoid underestimating exposure and risk. This was accomplished by selecting upper-end values from nationally representative datasets for the more influential parameters in the environmental model, including selection and spatial configuration of the area of interest, lake location and size, meteorology, surface water, soil characteristics, and structure of the aquatic food web. We also assume an ingestion exposure scenario and values for human exposure factors that represent reasonable maximum exposures.

In Tier 2 of the multipathway and environmental screening assessments, we refine the model inputs to account for meteorological patterns in the vicinity of the facility versus using upper-end national values, and we identify the actual location of lakes near the facility rather than the default lake location that we apply in Tier 1. By refining the screening approach in Tier 2 to account for local geographical and meteorological data, we decrease the likelihood that concentrations in environmental media are overestimated, thereby increasing the usefulness of the screening assessment. In Tier 3 of the screening assessments, we refine the model inputs again to account for hour-by-hour plume rise and the height of the mixing layer. We can also use those hour-by-hour meteorological data in a TRIM.FaTE run using the screening configuration corresponding to the lake location. These refinements produce a more accurate estimate of chemical concentrations in the media of interest, thereby reducing the uncertainty with those estimates. The assumptions and the associated uncertainties regarding the selected ingestion exposure scenario are the same for all three tiers.

For the environmental screening assessment for acid gases, we employ a single-tiered approach. We use the modeled air concentrations and compare those with ecological benchmarks.

For all tiers of the multipathway and environmental screening assessments, our approach to addressing model input uncertainty is generally cautious. We choose model inputs from the upper end of the range of possible values for the influential parameters used in the models, and we assume that the exposed individual exhibits ingestion behavior that would lead to a high total exposure. This approach reduces the likelihood of not identifying high risks for adverse impacts.

Despite the uncertainties, when individual pollutants or facilities do not exceed screening threshold emission rates (*i.e.,* screen out), we are confident that the potential for adverse multipathway impacts on human health is very low. On the other hand, when individual pollutants or facilities do exceed screening threshold emission rates, it does not mean that impacts are significant, only that we cannot rule out that possibility and that a refined assessment for the site might be necessary to obtain a more accurate risk characterization for the source categories.

The EPA evaluates the following HAP in the multipathway and/or environmental risk screening assessments, where applicable: Arsenic, cadmium, dioxins/furans, lead, mercury (both inorganic and methyl mercury), POM, HCl, and HF. These HAP represent pollutants that can cause adverse impacts either through direct exposure to HAP in the air or through exposure to HAP that are deposited from the air onto soils and surface waters and then through the environment into the food web. These HAP represent those HAP for which we can conduct a meaningful multipathway or environmental screening risk assessment. For other HAP not included in our screening assessments, the model has not been parameterized such that it can be used for that purpose. In some cases, depending on the HAP, we may not have appropriate multipathway models that allow us to predict the concentration of that pollutant. The EPA acknowledges that other HAP beyond these that we are evaluating may have the potential to cause adverse effects and, therefore, the EPA may evaluate other relevant HAP in the future, as modeling science and resources allow.

IV. Analytical Results and Proposed Decisions

A. What are the results of the risk assessment and analyses?

As described above, for the Asphalt Processing and Asphalt Roofing Manufacturing source categories, we conducted an inhalation risk assessment for all HAP emitted, a multipathway screening assessment for the PB–HAP emitted, and an environmental risk screening assessment on the PB–HAP and acid gases (*e.g.,* HCl) emitted. We present results of the risk assessment briefly below and in more detail in the *Residual Risk Assessment for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories in Support of the 2018 Risk and Technology Review Proposed Rule,* which is available in the docket for this action.

1. Inhalation Risk Assessment Results

The results of the chronic baseline inhalation cancer risk assessment indicate that, based on estimates of current actual and allowable emissions, the MIR posed by the two asphalt source categories, which were considered together in this analysis, is less than 1-in-1 million. The total estimated cancer incidence based on actual and allowable emission levels is 0.0007 excess cancer cases per year, or 1 case every 1,430 years. The population exposed to cancer risks greater than or equal to 1-in-1 million considering actual and allowable emissions is 0 (see Table 2 of this preamble). In addition, the

[17] In the context of this discussion, the term ''*uncertainty*'' as it pertains to exposure and risk encompasses both variability in the range of expected inputs and screening results due to existing spatial, temporal, and other factors, as well as *uncertainty* in being able to accurately estimate the true result.

maximum chronic noncancer HI (TOSHI) is less than 1.

TABLE 2—ASPHALT PROCESSING AND ASPHALT ROOFING MANUFACTURING INHALATION RISK ASSESSMENT RESULTS

Number of facilities [1]	Maximum individual cancer risk (in 1 million) [2]	Estimated population at increased risk of cancer ≥1-in-1 million	Estimated annual cancer incidence (cases per year)	Maximum chronic noncancer TOSHI	Maximum screening acute noncancer HQ
	Based on actual emissions level [2 3]	Based on actual emissions level [3]	Based on actual emissions level [3]	Based on actual emissions level [3]	Based on actual emissions level
8	<1	0	0.0007	0.1	HQ_{REL} = 4 (formaldehyde).

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk due to HAP emissions from the source categories.
[3] Actual emissions equal allowable emissions; therefore, actual risks equal allowable risks.

2. Acute Risk Results

As presented in Table 2 of this preamble, the acute exposures to emissions from the Asphalt Processing and Asphalt Roofing Manufacturing source categories result in a maximum HQ of 4 based on the REL for formaldehyde. This is driven by emissions from storage tanks. The next highest dose-response value for formaldehyde, the AEGL–1, results in an HQ of 0.3. In addition, acute exposure to acrolein results in an HQ of 2 based on the REL for acrolein. This is driven by emissions from blowing stills. The next highest dose-response value for acrolein, the AEGL1, results in an HQ of 0.09. These results include a refinement performed using aerial photos to ensure the maximum exposure evaluated would occur off-site in areas where the public could be exposed. As described above, the acute REL represents a health-protective level of exposure, with no adverse health effects anticipated below those levels, even for the most sensitive individuals and repeated exposures. As exposure concentration increases above the acute REL, the potential for adverse health effects increases; however, we do not have an acute reference value for a level of exposure at which adverse health effects might be expected. Therefore, when an REL is exceeded and an AEGL–1 or ERPG–1 level is available (*i.e.,* levels at which mild, reversible effects are anticipated in the general public for a single exposure), we typically use the AEGL–1 and/or ERPG–1 as an additional measure to characterize the risk of adverse health effects. For more detail on the screening level acute risk assessment results, refer to the draft residual risk document: *Residual Risk Assessment for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories in Support of the 2018 Risk and Technology Review Proposed Rule,* which is available in the docket for this action.

3. Multipathway Risk Screening Results

The multipathway risk screening assessment resulted in a maximum Tier 2 cancer screening value of 2 for POM. The Tier 2 screening values for all other PB–HAP emitted from the source categories (cadmium compounds, lead compounds, and mercury compounds) were less than 1. Based on these results, we are confident that the cancer risks due to multipathway exposures are lower than 2-in-1 million and the noncancer HIs are less than 1.

In the case of lead, the multipathway risks were assessed by comparing modeled ambient lead concentrations against the primary NAAQS for lead. The results of this analysis indicate that based on actual and allowable emissions, the maximum annual off-site ambient lead concentrations are below the primary NAAQS; therefore, we assume there are no multipathway risks due to lead emissions.

4. Environmental Risk Screening Results

The ecological risk screening assessment indicated all modeled points were below the Tier 1 screening threshold based on actual and allowable emissions of PB–HAPs (cadmium compounds, lead compounds, mercury compounds, and POM) and acid gases (HCl) emitted by the source categories.

In the case of lead, the environmental risks were assessed by comparing modeled ambient lead concentrations against the secondary NAAQS for lead. The results of this analysis indicate that, based on actual and allowable emissions, the maximum annual off-site ambient lead concentrations were below the secondary NAAQS; therefore, we conclude there are no environmental risks due to lead emissions.

5. Facility-Wide Risk Results

An assessment of whole-facility risks was performed as described above to characterize the source category risk in the context of whole facility risks.[18] Whole facility risks were estimated using the NEI-based data described in section III.C.1 of this preamble. The maximum lifetime individual cancer risk posed by the eight facilities, based on whole facility emissions, is 9-in-1 million with naphthalene and benzene emissions from facility-wide fugitive emissions and nickel compound emissions from flares from the Petroleum Refinery source category driving the risk. Regarding the noncancer risk assessment, the maximum chronic noncancer HI posed by whole facility emissions is estimated to be 0.1 (for the respiratory system), which occurred at two facilities.

6. What demographic groups might benefit from this regulation?

To examine the potential for any environmental justice issues that might be associated with the source categories, we performed a demographic analysis, which is an assessment of risks to individual demographic groups of the populations living within 5 km and within 50 km of the facilities. In the analysis, we evaluated the distribution of HAP-related cancer and noncancer risks from the Asphalt Processing and Asphalt Roofing Manufacturing source categories across different demographic groups within the populations living near the eight facilities.[19]

Results of the demographic analysis indicate that, for six of the 11 demographic groups, African American,

[18] The facility-wide risk assessment includes all emission points within Asphalt Processing and Asphalt Roofing Manufacturing source categories (including those for which there are no standards), as well as other emission points covered by other NESHAP.

[19] Demographic groups included in the analysis are: White, African American, Native American, other races and multiracial, Hispanic or Latino, children 17 years of age and under, adults 18 to 64 years of age, adults 65 years of age and over, adults without a high school diploma, people living below the poverty level, people living two times the poverty level, and linguistically isolated people.

Native American, other and multiracial, ages 0–17, ages 18–64, and below the poverty level, the percentage of the population living within 5 km of facilities in the source categories is greater than the corresponding national percentage for the same demographic groups. When examining the risk levels of those exposed to emissions from asphalt processing and asphalt roofing manufacturing facilities, we find that no one is exposed to a cancer risk at or above 1-in-1 million or to a chronic noncancer TOSHI greater than 1.

The methodology and the results of the demographic analysis are presented in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Asphalt Processing and Asphalt Roofing Manufacturing Source Categories Operations,* available in the docket for this action.

B. What are our proposed decisions regarding risk acceptability, ample margin of safety, and adverse environmental effects?

1. Risk Acceptability

We weigh all health risk factors in our risk acceptability determination, including the cancer MIR, the number of persons in various cancer and noncancer risk ranges, cancer incidence, the maximum noncancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, and risk estimation uncertainties (54 FR 38044, September 14, 1989).

For the Asphalt Processing and Asphalt Roofing Manufacturing source categories, the risk analysis indicates that the cancer risk to the individual most exposed is below 1-in-1 million from both actual and allowable emissions. This risk is considerably less than 100-in-1 million, which is the presumptive upper limit of acceptable risk. The risk analysis also estimates a cancer incidence of 0.0007 excess cancer cases per year, or 1 case every 1,430 years, as well a maximum chronic noncancer TOSHI value below 1 (0.1). In addition, the risk assessment indicates no significant potential for multipathway health effects.

The results of the acute screening analysis estimate a maximum acute noncancer HQ of 4 based on the acute REL. To better characterize the potential health risks associated with estimated worst-case acute exposures to HAP, we examine a wider range of available acute health metrics than we do for our chronic risk assessments. This is in acknowledgement that there are generally more data gaps and uncertainties in acute reference values than there are in chronic reference values. By definition, the acute REL represents a health-protective level of exposure, with effects not anticipated below those levels, even for repeated exposures; however, the level of exposure that would cause health effects is not specifically known. As the exposure concentration increases above the acute REL, the potential for effects increases. Therefore, when an REL is exceeded and an AEGL–1 or ERPG–1 level is available (*i.e.,* levels at which mild, reversible effects are anticipated in the general public for a single exposure), we typically use them as an additional comparative measure, as they provide an upper bound for exposure levels above which exposed individuals could experience effects.

Based on the AEGL–1 for formaldehyde, the HQ is less than 1 (0.3), below the level at which mild, reversible adverse effects would be anticipated. In addition, the acute screening assessment includes the conservative (health protective) assumptions that every process releases its peak hourly emissions at the same hour, that the worst-case dispersion conditions occur at that same hour, and that an individual is present at the location of maximum concentration for that hour. Together, these factors lead us to conclude that significant acute effects are not anticipated due to emissions from these categories.

Considering all the health risk information and factors discussed above, including the uncertainties, we propose to find that risks from the Asphalt Processing and Asphalt Roofing Manufacturing source categories are acceptable. As risks for the Asphalt Processing and Asphalt Roofing Manufacturing source categories were assessed together in one risk assessment, and based on the results of that risk assessment, we are proposing risks from the Asphalt Processing source category are acceptable and risks from the Asphalt Roofing Manufacturing source category are acceptable.

2. Ample Margin of Safety Analysis

Under the ample margin of safety analysis, we evaluated the cost and feasibility of available control technologies and other measures (including the controls, measures, and costs reviewed under the technology review) that could be applied in these source categories to further reduce the risks (or potential risks) due to emissions of HAP identified in the risk assessment. In this analysis, we considered the results of the technology review, risk assessment, and other aspects of our MACT rule review to determine whether there are any cost-effective controls or other measures that would reduce emissions further. Although we are proposing that the risks from these source categories are acceptable, the maximum acute risk is an HQ of 4 caused by formaldehyde emissions from four asphalt storage tanks. There is also an HQ of 2 caused by acrolein emissions from a blowing still. We considered whether the MACT standards applicable to these emission points in particular, as well as all the current MACT standards applicable to these source categories, provide an ample margin of safety to protect public health.

With regard to the sources of acute risks, we identified two options for reducing the acute HQ of 4 due to formaldehyde emissions from asphalt storage tanks: (1) Installing ductwork and routing the exhaust of the four asphalt storage tanks to an existing thermal incinerator, or (2) installing ductwork and routing the exhaust of the four asphalt storage tanks to a single new packed bed scrubber. Under these options, the formaldehyde emissions would be reduced by 99.5 percent and 95.0 percent, respectively, and the acute HQ would likely be reduced to less than 1. However, because formaldehyde emissions from asphalt storage tanks are low (*i.e.,* 0.46 tpy formaldehyde is emitted from all asphalt storage tanks in the source categories combined), reduction in the emissions achieved by these two options is not cost effective. We estimate the cost effectiveness to be from $102,400 per ton of formaldehyde reduced (option 1) to $3.7 million per ton of formaldehyde reduced (option 2). Installing a packed bed scrubber would also lead to an increase in energy use from the facility. Due to the additional environmental impacts that would be imposed, the small risk reduction, and the substantial costs associated with these options, we are proposing that additional emissions controls for asphalt storage tanks are not necessary to provide an ample margin of safety to protect public health. See the technical memorandum titled *Asphalt Storage Tank Controls—Ample Margin of Safety Analysis,* in Docket ID No. EPA–HQ–OAR–2017–0662 for details.

We did not identify any processes, practices, or control technologies to further reduce organic HAP emissions (including acrolein emissions) from blowing stills (see section IV.C of this preamble for more details). Therefore, we are proposing that revisions to the current standards for organic HAP for this emission source are not necessary

and that acrolein-specific standards for this emission source are also not necessary to provide an ample margin of safety to protect public health.

For other emissions and emissions sources, including asphalt loading racks, coating mixers, saturators (including wet loopers), coaters, sealant applicators, adhesive (laminate) applicators, and HCl emissions from blowing stills, risks are low. Nevertheless, to determine whether it was possible to reduce this already low risk further, we evaluated possible approaches to reduce HAP emissions from these sources.

With regard to HCl emissions, the risk analysis for the Asphalt Processing and Asphalt Roofing Manufacturing source categories includes an assessment of risk from emissions of HCl from blowing stills. As detailed in the *Residual Risk Assessment for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories in Support of the 2018 Risk and Technology Review Proposed Rule,* four major sources within these source categories reported HCl emissions. The estimated risk associated with HCl emissions is low, less than the source-category maximum HI of 0.1, which is from acrolein emissions, indicating that HCl emissions are not a risk driver under the NESHAP as it currently exists. Nevertheless, we evaluated possible options to further reduce HCl emissions and risks under the ample margin of safety analysis. This evaluation is discussed in more detail in section IV.C of this preamble.

During development of the 2003 NESHAP (68 FR 24562), the EPA evaluated HCl emissions from blowing stills in the Asphalt Processing source category. In the 2003 final rule preamble (68 FR 24562), the EPA explained that for ''blowing stills that use chlorinated catalysts, emissions of HCl can be reduced by a gas scrubber using caustic scrubbing media.'' However, EPA did not identify any asphalt processing or asphalt roofing manufacturers that were using scrubbers at that time. In the 2003 preamble, EPA stated that ''since gas scrubbing has not been demonstrated as an effective technology for controlling HCl emissions from asphalt processing and due to the potentially high cost per megagram of HCl reduced ($23,900), the additional cost of going beyond-the-floor was not warranted. Nor is process substitution a viable option for controlling HCl emissions . . . .'' [20] Therefore, in the 2003 final rule preamble, the EPA concluded that ''MACT for HCl emissions from blowing stills using catalyst was based on no emission reduction.''

As discussed in detail in section IV.C of this preamble, the EPA again evaluated possible options to reduce HCl emissions, but as in the 2003 rulemaking (68 FR 24562), we did not identify any cost-effective practices, processes, or control technologies to reduce HCl emissions.

For the other emissions sources (*i.e.,* asphalt loading racks, coating mixers, saturators (including wet loopers), coaters, sealant applicators, adhesive (laminate) applicators), we also did not identify any processes, practices, or control technologies that would further reduce emissions and health risks from these sources (see section IV.C of this preamble for more details). Therefore, we are proposing that additional standards for these emission sources are not necessary to provide an ample margin of safety to protect public health.

In summary, due to the low level of current risk, the minimal risk reductions that could be achieved with the control options that we evaluated for asphalt storage tanks and the substantial costs associated with those additional control options, and because we did not identify cost-effective processes, practices, or control technologies that would further reduce emissions and health risks from asphalt loading racks, coating mixers, saturators (including wet loopers), coaters, sealant applicators, adhesive (laminate) applicators, and blowing stills, we are proposing that the current NESHAP provides an ample margin of safety to protect public health.

3. Adverse Environmental Effect

Considering the results of our environmental risk screening, we do not expect an adverse environmental effect as a result of HAP emissions from these source categories, and we are proposing that it is not necessary to set a more stringent standard to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect.

C. What are the results and proposed decisions based on our technology review?

1. Introduction

In section III.B of this preamble, we describe our typical approach for conducting technology reviews and the types of information we gather and evaluate as part of these reviews. In addition, as we described in the preamble of the Coke Ovens RTR final rule published on April 15, 2005 (70 FR 20009), and in the recent proposed RTR rule for coatings operations titled *National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances; Printing, Coating, and Dyeing of Fabrics and Other Textiles; and Surface Coating of Metal Furniture Residual Risk and Technology Reviews* published on September 12, 2018 (83 FR 46262), we believe that the results of a CAA section 112(f) risk determination for a CAA section 112(d) standard should be key factors in any subsequent CAA section 112(d)(6) determination for that standard. In these two previous actions, the agency described potential scenarios where it may not be necessary to revise the standards based on developments in technologies, practices, or processes if the remaining risks associated with HAP emissions from a source category have already been reduced to a level where we have determined further reductions under CAA section 112(f) are not necessary. Under one scenario, if the ample margin of safety analysis for the CAA section 112(f) determination was not based on the availability or cost of particular control technologies, practices, or processes, then advances in air pollution control technology, practices, or processes would not necessarily be a cause to revise the MACT standard pursuant to CAA section 112(d)(6), because the CAA section 112(f) standard (or a CAA section 112(d) standard evaluated pursuant to CAA section 112(f)) would continue to assure an adequate level of safety. Under another scenario, if the ample margin of safety analysis for a CAA section 112(f) standard (or a CAA section 112(d) standard evaluated pursuant to CAA section 112(f)) shows that lifetime excess cancer risk to the individual most exposed to emissions from a source in the category is less than 1-in-1 million, and the remaining risk associated with threshold pollutants falls below a similar threshold of safety, then no further revision under CAA section 112(d)(6) would be necessary, because an ample margin of safety has already been assured.

[20] During development of the 2001 proposed rule (66 FR 58610) and the 2003 final rule (68 FR 24562), the EPA also considered requiring facilities to use non-chlorinated catalysts. However, the EPA determined that the need to use catalyst is driven by the quality of the asphalt feedstocks, which is highly variable. Because the demand for high-quality asphalt flux can sometimes be greater than the supply and because high-quality feedstocks might not be available in a particular geographic region, some roofing manufacturers must accept lower quality feedstock. These sources must use a catalyst in the asphalt flux blowing operation or they cannot produce an acceptable asphalt product for roofing materials. See 66 FR 58610, 58618–19 (November 21, 2001) and 68 FR 24562, 24565 (May 7, 2003).

As described in the risk review sections of this preamble (see sections IV.A and IV.B), the risks due to HAP emissions from the Asphalt Processing and Asphalt Roofing Manufacturing source categories are low. The inhalation cancer MIR is below 1-in-1 million, the maximum inhalation chronic noncancer HI is below 1, and the worst-case maximum inhalation acute HQ is 4 (using the REL for formaldehyde). With regard to multipathway risks, based on a Tier 2 screening assessment, we are confident that the cancer risks due to multipathway exposures are lower than 2-in-1 million and the noncancer HI is less than 1. Furthermore, as described in our ample margin of safety analysis (see section IV.B of this preamble), we concluded that risks are acceptable and the current NESHAP provides an ample margin of safety to protect public health.

We, therefore, solicit comment on whether revisions to the NESHAP are ''necessary,'' as that term is used in CAA section 112(d)(6), in situations such as this where the EPA has determined that CAA section 112(d) standards evaluated pursuant to CAA section 112(f) provide an ample margin of safety to protect public health and prevent an adverse environmental effect. In other words, we solicit comment on the conclusion that, if remaining risks associated with air emissions from a source category have already been reduced to levels where we have determined that further reductions are not necessary under CAA section 112(f), then it is not ''necessary'' to revise the standards based on developments in technologies, practices, or processes under CAA section 112(d)(6). See CAA section 112(d)(6) (''The Administrator shall review, and revise as necessary (taking into account developments in practices, processes, and control technologies), emissions standards promulgated under this section no less often than every 8 years.'').

Though we believe the results of the ample margin of safety analysis may eliminate the need to revise the emissions standards based on developments in technologies, practices, or processes, we nonetheless conducted a technology review to determine whether any developments to further reduce HAP emissions have occurred and to consider whether the current standards should be revised to reflect any such developments.

2. Sources of Emissions and the Information Considered in Our Technology Review

Sources of HAP emissions regulated by the NESHAP for the Asphalt Processing and Asphalt Roofing Manufacturing source categories include each blowing still, asphalt loading rack, and asphalt storage tank at asphalt processing facilities and each coating mixer, coater, saturator, wet looper, asphalt storage tank, and sealant and adhesive applicator at asphalt roofing manufacturing facilities. Pursuant to CAA section 112(d)(6), we conducted a technology review to determine whether any developments have occurred since promulgation of the 2003 NESHAP that may warrant revisions to the current Asphalt Processing and Asphalt Roofing Manufacturing NESHAP.

In conducting our technology review, we used and reviewed the RBLC database, subsequent air toxic regulatory actions for other source categories, information from site visits, and data submitted by facilities in response to the CAA section 114 request (see sections II.C and II.D of this preamble). The findings of our technology review are described below. Further details are provided in the technical memorandum titled *Clean Air Act Section 112(d)(6) Review for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories,* in Docket ID No. EPA–HQ–OAR–2017–0662, which is available in the docket for this proposed rule.

3. Asphalt Loading Racks, Asphalt Storage Tanks, Coating Mixers, Saturators (Including Wet Loopers), Coaters, Sealant Applicators, and Adhesive Applicators

After reviewing information from the aforementioned resources, we did not find any developments (since promulgation of the original NESHAP) in practices, processes, and control technologies that could be applied to asphalt loading racks, asphalt storage tanks, coating mixers, saturators (including wet loopers), coaters, sealant applicators, or adhesive (laminate) applicators and that could be used to reduce emissions from asphalt processing and asphalt roofing manufacturing facilities. We also did not identify any developments in work practices, pollution prevention techniques, or process changes that could achieve emission reductions from these emissions sources.

We determined that the control technologies used to control stack emissions from these emission sources have not changed since the EPA promulgated the NESHAP on April 29, 2003 (68 FR 22975). In general, facilities continue to use combustion technology to control organic HAP emissions from asphalt loading racks and asphalt storage tanks in the Asphalt Processing source category, and facilities in the Asphalt Roofing Manufacturing source category continue to use either combustion technology or PM control devices to control organic HAP emissions from coaters, saturators, wet loopers, coating mixers, sealant and adhesive applicators, and asphalt storage tanks.

In light of the results of the technology review for asphalt loading racks, asphalt storage tanks, coating mixers, saturators (including wet loopers), coaters, sealant applicators, and adhesive (laminate) applicators, we propose to conclude that no revisions to the current standards are necessary for these emission sources pursuant to CAA section 112(d)(6). For further details on the information, assumptions, and methodologies used in this analysis, see the technical memorandum titled *Clean Air Act Section 112(d)(6) Review for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories,* in Docket ID No. EPA–HQ–OAR–2017–0662. We solicit comment on our proposed decision for these emission sources.

4. Blowing Stills

The main HAP emitted from blowing stills are organic HAP (such as formaldehyde, methylene chloride, phenol, POM, toluene) and HCl. We evaluated potential developments in practices, processes, and control technologies for these HAP.

As previously discussed in the proposal for the original 40 CFR part 63, subpart LLLLL, rulemaking standards (66 FR 58610), in asphalt processing, heated asphalt flux is taken from storage and charged to a heated blowing still where air is bubbled up through the flux. This process raises the softening temperature of the asphalt. The blowing process also decreases the penetration rate of the asphalt when applied to the roofing substrate. Organic HAP volatilize and/or are formed during asphalt processing because of the exothermic oxidation reactions that occur in the blowing still. Facilities use thermal oxidizers to control organic HAP emissions from these sources. We did not identify any developments in practices, processes, or control technologies, nor any developments in work practices, pollution prevention techniques, or process changes to control organic HAP from blowing stills at asphalt processing facilities.

Some processing operations use a catalyst (*e.g.,* ferric chloride, phosphoric acid) in the blowing still that promotes the oxidation of asphalt in the blowing still. The need to use a catalyst is primarily driven by the type of feedstock used (*i.e.,* certain feedstocks require the catalyst to be used to attain desired product specifications). If facilities use a chlorinated catalyst in the blowing still during asphalt processing, then HCl emissions can result from (1) the conversion of ferric chloride catalyst to ferrous chloride in the blowing still, (2) HCl present in the ferric catalyst itself, (3) trace amount of HCl present in the asphalt flux, and (4) oxidation of chlorinated compounds by the blowing still thermal oxidizer.

In addition to assessing developments in practices, processes, and control technologies for organic HAP emitted from blowing stills, the EPA also elected to conduct a technology review for these HCl emissions. Based on the responses to the EPA's CAA section 114 request (see section II.C of this preamble for details about our CAA section 114 request), we determined that none of the 10 existing blowing stills that use a chlorinated catalyst uses an air pollution control device (APCD) to control HCl emissions. However, we identified two potential HCl emission reduction options: (1) Installing a packed bed scrubber at the outlet of the blowing still (or at the outlet of the combustion device controlling organic HAP emissions) or (2) installing a dry sorbent injection and fabric filter at the outlet of the blowing still. Although the EPA previously considered (and rejected) the installation of scrubbers to control HCl emissions from blowing stills under the beyond-the-floor analysis for the original 2001 rulemaking proposal (66 FR 58610),[21] we identified option 1 as a potential development in practices, processes, and control technologies based on a response received from the CAA section 114 request indicating that one facility uses a caustic scrubber to control hydrogen sulfide (non-HAP) emissions from one of their blowing stills. We believe that while the primary purpose of the caustic scrubber is to reduce hydrogen sulfide emissions, there is also likely a reduction in HCl emissions due to the use of caustic as the scrubbing medium. We identified option 2 as a potential development in practices, processes, and control technologies because it reflects HCl control options used in EPA's New Source Performance Standards and Emission Guidelines for Hospital/Medical/Infectious Waste Incinerators.

Table 3 of this preamble presents the nationwide impacts for the two HCl emission reduction options considered for blowing stills. We estimate the total capital costs for these controls would be about $7.4 million to $10.7 million with annualized costs of $1.4 million to $2.3 million. Based on available information, only three facilities in the U.S. currently use the chlorinated catalyst. The cost estimates shown in Table 3 reflect the total estimated costs for those three facilities. Therefore, the average capital costs for option 1 would be about $2,480,000 per facility, the average annualized costs would be about $500,000 per facility, and the average HCl cost effectiveness would be about $60,000 per ton. The costs for option 2 are higher.

TABLE 3—NATIONWIDE EMISSIONS REDUCTIONS AND COST IMPACTS OF CONTROL OPTIONS CONSIDERED FOR BLOWING STILLS AT ASPHALT PROCESSING FACILITIES

Control option	Total capital investment ($)	Total annualized costs ($/yr)	HCl emission reductions (tpy)	HCl cost effectiveness ($/ton)
1	7,436,000	1,440,000	134	10,800
2	10,719,000	2,337,000	127	18,400

See the technical memorandum titled *Clean Air Act Section 112(d)(6) Review for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories,* in Docket ID No. EPA–HQ–OAR–2017–0662 for details regarding the information, assumptions, and methodologies used to calculate these estimates. Given that the estimated risks due to HCl emissions are low and based on the relatively high costs per facility for each of the options, we propose to conclude that neither of these options is necessary for reducing HCl emissions from blowing stills that use chlorinated catalysts. In addition, we considered whether it might be feasible for facilities that need to use a catalyst to use non-chlorinated substitute catalysts. However, we did not identify a viable non-chlorinated catalyst substitute. Therefore, in light of the results of the technology review, we are proposing that it is not necessary to promulgate an emissions standard in 40 CFR part 63, subpart LLLLL, for blowing stills pursuant to CAA section 112(d)(6). We solicit comment on our proposed decision.

D. What are the overall results of the risk and technology reviews?

As noted in section IV.B of this preamble, we conclude that risks are acceptable and that the current NESHAP provides an ample margin of safety to protect public health and prevents an adverse environmental effect.

Based on our technology review, we did not identify any developments in practices, processes, or control technologies that warrant revisions to the NESHAP. Therefore, we propose that no revisions to the NESHAP are necessary pursuant to sections 112(f) or 112(d)(6) of the CAA for HAP emitted from these source categories.

E. What other actions are we proposing?

In addition to the proposed actions described above, we are proposing additional revisions to the NESHAP. We are proposing revisions to the startup, shutdown, and malfunction (SSM) provisions of the MACT rule in order to ensure that they are consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), which vacated two provisions that exempted sources from the requirement to comply with otherwise applicable CAA section 112(d) emission standards during periods of SSM. We also are proposing revisions to require electronic reporting of emissions test results and reports, performance evaluation reports, compliance reports, and Notification of Compliance Status reports, to add an option for establishing the maximum pressure drop across a control device used to comply with the PM standards,

[21] The EPA determined in the original 2001 proposal that no facility was using scrubbers to control HCl emissions from blowing stills, and scrubbers were not cost effective for controlling HCl emissions from blowing stills.

to add requirements for periodic performance testing, and to clarify text or correct typographical errors, grammatical errors, and cross-reference errors. Our analyses and proposed changes related to these issues are discussed below.

1. SSM Requirements

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously.

a. Proposed Elimination of the SSM Exemption

We are proposing the elimination of the SSM exemption in this rule, which appears at 40 CFR 63.8685(a), as well as other provisions related to that exemption as discussed below. Consistent with *Sierra Club* v. *EPA,* we are proposing that the standards in this rule apply at all times. We are proposing several revisions to Table 7 to Subpart LLLLL of Part 63 (the General Provisions Applicability Table, hereafter referred to as the ''General Provisions table to subpart LLLLL'') as is explained in more detail below. For example, we are proposing at 40 CFR 63.8685(c) to eliminate the incorporation of the General Provisions' requirement that the source develop an SSM plan. We are also proposing to make 40 CFR 63.8691(d) no longer applicable beginning 181 days after publication of the final rule in the **Federal Register**, which specifies that deviations during SSM periods are not violations, and to remove the portion of the ''deviation'' definition in 40 CFR 63.8698 that specifically addresses SSM periods. We also are proposing to eliminate and revise certain recordkeeping and reporting requirements related to the SSM exemption as further described below.

The EPA has attempted to ensure that the provisions we are proposing to eliminate are inappropriate, unnecessary, or redundant in the absence of the SSM exemption. We are specifically seeking comment on whether we have successfully done so. In proposing the removal of the exemptions, the EPA has taken into account startup and shutdown periods and, for the reasons explained below, has not proposed alternate standards for those periods.

We are proposing that startups and shutdowns are normal operation for the Asphalt Processing and Asphalt Roofing Manufacturing source categories; therefore, emissions from startup and shutdown activities must be included when determining if all the standards are being attained. We are proposing at 40 CFR 63.8685(a) that facilities must be in compliance with the emission limitations (including operating limits) in this subpart ''at all times,'' except during periods of nonoperation of the affected source (or specific portion thereof) resulting in cessation of the emissions to which this subpart applies. Similar language is also being proposed for 40 CFR 63.8690(b) and 40 CFR 63.8691(b) for monitoring and collecting data, and meeting operating limits, respectively. We are proposing to clarify that the standards and operating limits do not apply ''. . . during periods of nonoperation of the affected source (or specific portion thereof) resulting in cessation of the emissions . . .'' because industry stakeholders requested this clarification in their responses to the CAA section 114 request (see section II.C of this preamble), and this language is used in other MACT standards (*e.g.,* 40 CFR part 63, subpart YY). Furthermore, based on the information we received for control device operations from the responses to the CAA section 114 request (see section II.C of this preamble), we concluded that control devices can be operated normally during periods of startup or shutdown for these source categories. Emission reductions from blowing stills, storage tanks, saturators, wet loopers, coating mixers, sealant applicators, and adhesive applicators are typically achieved by routing vapors to a combustion device (*e.g.,* thermal oxidizer, flare, process heater, or boiler) to meet a THC standard, or to a particulate control device (*e.g.,* high velocity air filter, electrostatic precipitator, or fiberbed filter) to meet a PM standard. In some cases, the facility may need to run a combustion device on supplemental fuel before there are enough volatile organic compounds for the combustion to be (nearly) self-sustaining. It is common practice to start a control device prior to startup of the emissions source it is controlling, so the control device would be operating before emissions are routed to it. We expect control devices would be operating during startup and shutdown events in a manner consistent with normal operating periods, and that these control devices will be operated to maintain and meet the monitoring parameter operating limits set during the performance test. We do not expect startup and shutdown events to affect emissions from blowing stills, storage tanks, saturators, wet loopers, coating mixers, sealant applicators, or adhesive applicators. Emissions generated during startup and shutdown periods are the same or lower than during steady-state conditions because the amount of feed materials (*e.g.,* asphalt flux or oxidized asphalt) introduced to the process during those periods is lower compared to normal operations. Therefore, if the emission control devices are operated during startup and shutdown, then HAP emissions will be the same or lower than during steady-state operating conditions.

We are also proposing new related language in 40 CFR 63.8685(b) to require that the owner or operator operate and maintain any affected source, including air pollution control equipment and monitoring equipment, at all times to minimize emissions. For example, in the event of an emission capture system or control device malfunction for a controlled operation, to comply with the proposed new language in 40 CFR 63.8685(b), the facility would need to cease the controlled operation as quickly as practicable to ensure that excess emissions during emission capture system and control device malfunctions are minimized. See section IV.E.1.b.i of this preamble for further discussion of this proposed revision.

Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source's operations. Malfunctions, in contrast, are neither predictable nor routine. Instead, they are, by definition, sudden, infrequent, and not reasonably preventable failures of emissions control, process or monitoring equipment. (40 CFR 63.2) (Definition of malfunction). The EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards, and this reading has been upheld as reasonable by the Court in *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (2016). Under CAA section 112, emissions standards for new sources must be no less stringent than the level ''achieved'' by the best controlled similar source, and for existing sources, generally, must be no less stringent than the average emission limitation ''achieved'' by the best performing 12 percent of sources in the category. There is nothing in CAA section 112 that directs the Agency to

consider malfunctions in determining the level ''achieved'' by the best performing sources when setting emission standards. As the Court has recognized, the phrase ''average emissions limitation achieved by the best performing 12 percent of'' sources ''says nothing about how the performance of the best units is to be calculated.'' *Nat'l Ass'n of Clean Water Agencies* v. *EPA,* 734 F.3d 1115, 1141 (D.C. Cir. 2013). While the EPA accounts for variability in setting emissions standards, nothing in CAA section 112 requires the Agency to consider malfunctions as part of that analysis. The EPA is not required to treat a malfunction in the same manner as the type of variation in performance that occurs during routine operations of a source. A malfunction is a failure of the source to perform in a ''normal or usual manner,'' and no statutory language compels the EPA to consider such events in setting CAA section 112 standards.

As the D.C. Circuit recognized in *U.S. Sugar Corp,* accounting for malfunctions in setting standards would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category, and given the difficulties associated with predicting or accounting for the frequency, degree, and duration of various malfunctions that might occur. *Id.* at 608 (''the EPA would have to conceive of a standard that could apply equally to the wide range of possible boiler malfunctions, ranging from an explosion to minor mechanical defects. Any possible standard is likely to be hopelessly generic to govern such a wide array of circumstances.''). As such, the performance of units that are malfunctioning is not ''reasonably'' foreseeable. See, *e.g., Sierra Club* v. *EPA,* 167 F.3d 658, 662 (D.C. Cir. 1999) (''The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to 'invest the resources to conduct the perfect study.' ''). See also, *Weyerhaeuser* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978) (''In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation.''). In addition, emissions during a malfunction event can be significantly higher than emissions at any other time of source operation. For example, if an air pollution control device with 99-percent removal goes off-line as a result of a malfunction (as might happen if, for example, the bags in a baghouse catch fire) and the emission unit is a steady state type unit that would take days to shut down, the source would go from 99-percent control to zero control until the control device was repaired. The source's emissions during the malfunction would be 100 times higher than during normal operations. As such, the emissions over a 4-day malfunction period would exceed the annual emissions of the source during normal operations. As this example illustrates, accounting for malfunctions could lead to standards that are not reflective of (and significantly less stringent than) levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret CAA section 112 to avoid such a result. The EPA's approach to malfunctions is consistent with CAA section 112 and is a reasonable interpretation of the statute.

Although no statutory language compels the EPA to set standards for malfunctions, the EPA has the discretion to do so where feasible. For example, in the Petroleum Refinery Sector RTR, the EPA established a work practice standard for unique types of malfunction that result in releases from pressure relief devices or emergency flaring events because we had information to determine that such work practices reflected the level of control that applies to the best performing sources. 80 FR 75178, 75211–14 (December 1, 2015). The EPA will consider whether circumstances warrant setting work practice standards for a particular type of malfunction and, if so, whether the EPA has sufficient information to identify the relevant best performing sources and establish a standard for such malfunctions. We also encourage commenters to provide any such information.

It is unlikely that a malfunction in the Asphalt Processing and Asphalt Roofing Manufacturing source categories would result in a violation of the standard. Because a process malfunction could lead to defective products, it would need to be corrected by the operators as quickly as possible to minimize economic losses. Furthermore, a process malfunction would not necessarily lead to an increase in the HAP content of the asphalt flux or oxidized asphalt used in the process, or the amount of HAP emitted from the process. Finally, a malfunction of an emission capture system and control device in which the operator responds by quickly ceasing the associated operation is also unlikely to lead to a violation because compliance is based on a 3-hour average compliance period.

In the unlikely event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112(d) standard was, in fact, sudden, infrequent, not reasonably preventable, and was not instead caused in part by poor maintenance or careless operation. 40 CFR 63.2 (definition of malfunction).

If the EPA determines in a particular case that an enforcement action against a source for violation of an emission standard is warranted, the source can raise any and all defenses in that enforcement action and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

In summary, the EPA's interpretation of the CAA and, in particular, CAA section 112, is reasonable and encourages practices that will avoid malfunctions. Administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations. *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (2016).

b. Proposed Revisions Related to the General Provisions Applicability Table

i. 40 CFR 63.8685(b) General Duty

We are proposing to revise the General Provisions table to subpart LLLLL (Table 7) entry for 40 CFR 63.6(e)(1)(i) by changing the ''yes'' in column 4 to a ''no'' in which 40 CFR 63.6(e)(1)(i) would no longer be applicable beginning 181 days after publication of the final rule in the **Federal Register**. Section 63.6(e)(1)(i) describes the general duty to minimize

emissions. Some of the language in that section is no longer necessary or appropriate in light of the elimination of the SSM exemption. We are proposing instead to add general duty regulatory text at 40 CFR 63.8685(b) that reflects the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the general duty entails during periods of SSM. With the elimination of the SSM exemption, there is no need to differentiate between normal operations, startup and shutdown, and malfunction events in describing the general duty. Therefore, the language the EPA is proposing for 40 CFR 63.8685(b) does not include that language from 40 CFR 63.6(e)(1).

We are also proposing to revise the General Provisions table to subpart LLLLL (Table 7) entry for 40 CFR 63.6(e)(1)(ii) by changing the ''yes'' in column 4 to a ''no'' in which 40 CFR 63.6(e)(1)(ii) would be no longer applicable beginning 181 days after publication of the final rule in the **Federal Register**. Section 63.6(e)(1)(ii) imposes requirements that are not necessary with the elimination of the SSM exemption or are redundant with the general duty requirement being added at 40 CFR 63.8685(b).

ii. SSM Plan

We are proposing to revise the General Provisions table to subpart LLLLL (Table 7) entry for 40 CFR 63.6(e)(3) by changing the ''yes'' in column 4 to a ''no.'' Generally, these paragraphs require development of an SSM plan and specify SSM recordkeeping and reporting requirements related to the SSM plan. We are also proposing to make the current provisions at 40 CFR 63.8685(c) requiring the SSM plan to no longer be applicable beginning 181 days after publication of the final rule in the **Federal Register**. As noted, the EPA is proposing to remove the SSM exemptions. Therefore, affected units will be subject to an emission standard during such events. The applicability of a standard during such events will ensure that sources have ample incentive to plan for and achieve compliance, and, thus, the SSM plan requirements are no longer necessary.

iii. Compliance With Standards

We are proposing to revise the General Provisions table to subpart LLLLL (Table 7) entry for 40 CFR 63.6(f)(1) by changing the ''yes'' in column 4 to a ''no'' in which 40 CFR 63.6(f)(1) would no longer be applicable beginning 181 days after publication of the final rule in the **Federal Register**. The current language of 40 CFR 63.6(f)(1) exempts sources from non-opacity standards during periods of SSM. As discussed above, the Court in *Sierra Club* v. *EPA* vacated the exemptions contained in this provision and held that the CAA requires that some CAA section 112 standards apply continuously. Consistent with *Sierra Club* v. *EPA,* the EPA is proposing to revise standards in this rule to apply at all times.

We are proposing to revise the General Provisions table to subpart LLLLL (Table 7) entry for 40 CFR 63.6(h)(1) by changing the ''yes'' in column 4 to a ''no'' in which 40 CFR 63.6(h)(1) would no longer be applicable beginning 181 days after publication of the final rule in the **Federal Register**. The current language of 40 CFR 63.6(h)(1) exempts sources from opacity standards during periods of SSM. As discussed above, the Court in *Sierra Club* v. *EPA* vacated the exemptions contained in this provision and held that the CAA requires that some CAA section 112 standards apply continuously. Consistent with *Sierra Club,* the EPA is proposing to revise standards in this rule to apply at all times.

iv. 40 CFR 63.8687 Performance Testing

We are proposing to revise the General Provisions table to subpart LLLLL (Table 7) entry for 40 CFR 63.7(e)(1) by changing the ''yes'' in column 4 to a ''no'' in which 40 CFR 63.7(e)(1) would no longer be applicable beginning 181 days after publication of the final rule in the **Federal Register**. We are also proposing to remove a similar requirement at 40 CFR 63.8687(c). Section 63.7(e)(1) describes performance testing requirements. The EPA is instead proposing to add a performance testing requirement at 40 CFR 63.8687(b) applicable beginning 181 days after publication of the final rule in the **Federal Register**. The performance testing requirements we are proposing to add differ from the General Provisions performance testing provisions in several respects. The proposed regulatory text does not include the language in 40 CFR 63.7(e)(1) that restated the SSM exemption and language that precluded startup and shutdown periods from being considered ''representative'' for purposes of performance testing. The proposed performance testing provisions will not allow performance testing during startup or shutdown. As in 40 CFR 63.7(e)(1), performance tests conducted under this subpart should not be conducted during malfunctions because conditions during malfunctions are often not representative of normal operating conditions. 40 CFR 63.7(e) requires that the owner or operator maintain records of process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. The EPA is proposing at 40 CFR 63.8687(b) to add language clarifying that the owner or operator must make such records available to the Administrator upon request.

v. Monitoring

We are proposing to revise the General Provisions table to subpart LLLLL (Table 7) entry for 40 CFR 63.8(c)(1)(i) and (iii) by changing the ''yes'' in column 4 to a ''no'' in which 40 CFR 63.8(c)(1)(i) and (iii) would no longer be applicable beginning 181 days after publication of the final rule in the **Federal Register**. The cross-references to the general duty and SSM plan requirements in those subparagraphs are not necessary in light of other requirements of 40 CFR 63.8 that require good air pollution control practices (40 CFR 63.8(c)(1)) and that set out the requirements of a quality control program for monitoring equipment (40 CFR 63.8(d)).

vi. 40 CFR 63.8694 Recordkeeping

We are proposing to revise the General Provisions table to subpart LLLLL (Table 7) entry for 40 CFR 63.10(b)(2)(i) by changing the ''yes'' in column 4 to a ''no'' in which 40 CFR 63.10(b)(2)(i) would no longer be applicable beginning 181 days after publication of the final rule in the **Federal Register**. Section 63.10(b)(2)(i) describes the recordkeeping requirements during startup and shutdown. These recording provisions are no longer necessary because the EPA is proposing that recordkeeping and reporting applicable to normal operations will apply to startup and shutdown. In the absence of special provisions applicable to startup and shutdown, such as a startup and shutdown plan, there is no reason to retain additional recordkeeping for startup and shutdown periods.

We are proposing to revise the General Provisions table to subpart LLLLL (Table 7) entry for 40 CFR 63.10(b)(2)(ii) by changing the ''yes'' in column 4 to a ''no'' in which 40 CFR 63.10(b)(2)(ii) would no longer be applicable beginning 181 days after publication of the final rule in the **Federal Register**. Section 63.10(b)(2)(ii)

describes the recordkeeping requirements during a malfunction, requiring a record of ''the occurrence and duration of each malfunction.'' A similar recordkeeping requirement is already in 40 CFR 63.8694(a)(1), requiring owners and operators to retain a copy of each compliance report; and we are proposing at 40 CFR 63.8693(d) that the compliance report contain, amongst other data elements, a record of ''the date, time, and duration'' of each deviation from an emission limit, operating limit, opacity limit, and visible emission limit. The regulatory text we are proposing to add differs from the General Provisions it is replacing in that the General Provisions requires the creation and retention of a record of the occurrence and duration of each malfunction of process, air pollution control, and monitoring equipment; however, the EPA is proposing that this requirement apply to any failure to meet an applicable standard (*e.g.,* any malfunction that leads to a deviation from an emission limit, operating limit, opacity limit, or visible emission limit) and is requiring that the source record the date, time, and duration of the failure rather than the ''occurrence.'' For each deviation, the EPA is also proposing to add to 40 CFR 63.8693(d)(4) and (13) a requirement that sources include in their compliance reports (and, therefore, keep records pursuant to 40 CFR 63.8694(a)(1)) a list of the affected source or equipment and actions taken to minimize emissions, an estimate of the quantity of each regulated pollutant emitted over the emission limitation for which the source failed to meet the standard, and a description of the method used to estimate the emissions. Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA is proposing to require that sources keep records of this information to ensure that there is adequate information to allow the EPA to determine the severity of any failure to meet a standard, and to provide data that may document how the source met the general duty to minimize emissions when the source has failed to meet an applicable standard.

We are proposing to revise the General Provisions table to subpart LLLLL (Table 7) entry for 40 CFR 63.10(b)(2)(iv) by changing the ''yes'' in column 4 to a ''no'' in which 40 CFR 63.10(b)(2)(iv) would no longer be applicable beginning 181 days after publication of the final rule in the **Federal Register**. When applicable, the provision requires sources to record actions taken during SSM events when actions were inconsistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required. The requirement previously applicable under 40 CFR 63.10(b)(2)(iv)(B) to record actions to minimize emissions and record corrective actions is now applicable by reference to 40 CFR 63.8693(d)(4) (*i.e.,* the requirement to include this information in each compliance report and keep records pursuant to 63.8694(a)(1)).

We are proposing to revise the General Provisions table to subpart LLLLL (Table 7) entry for 40 CFR 63.10(b)(2)(v) by changing the ''yes'' in column 4 to a ''no'' in which 40 CFR 63.10(b)(2)(v) would no longer be applicable beginning 181 days after publication of the final rule in the **Federal Register**. When applicable, the provision requires sources to record actions taken during SSM events to show that actions taken were consistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required.

We are proposing to make the requirement in 40 CFR 63.8693(d)(4) and at Table 6 to subpart LLLLL of part 63 that deviation records specify whether deviations from a standard occurred during a period of SSM (*i.e.,* the requirement to include this information in each compliance report and keep records pursuant to 40 CFR 63.8694(a)(1)) is no longer applicable beginning 181 days after publication of the final rule in the **Federal Register**. This revision is being proposed due to the proposed removal of the SSM exemption and because, as discussed above in this section, we are proposing that deviation records must specify the cause of each deviation, which could include a malfunction period as a cause. We are also proposing to remove the requirement to report the SSM records in 40 CFR 63.6(e)(3)(iii) through (v) by making 40 CFR 63.8694(a)(2) no longer applicable beginning 181 days after publication of the final rule in the **Federal Register**.

vii. 40 CFR 63.8693 Reporting

We are proposing to revise the General Provisions table to subpart LLLLL (Table 7) entry for 40 CFR 63.10(d)(5) by changing the ''yes'' in column 4 to a ''no'' in which 40 CFR 63.10(d)(5) would no longer be applicable beginning 181 days after publication of the final rule in the **Federal Register**. Section 63.10(d)(5) describes the reporting requirements for startups, shutdowns, and malfunctions. To replace the General Provisions reporting requirement, the EPA is proposing to add reporting requirements to 40 CFR 63.8693. The replacement language differs from the General Provisions requirement in that it eliminates periodic SSM reports as a stand-alone report. We are proposing language that requires sources that fail to meet an applicable standard at any time to report the information concerning such events in the semi-annual compliance report already required under this rule. The rule currently requires reporting of the date and time of each deviation, and a breakdown of the total duration of the deviations by cause. We are clarifying in the rule that the cause of each deviation be reported, and if the cause of a deviation from the standard is unknown, this should be specified in the report. We are also proposing to make a harmonizing change between provisions in the reporting section. In 40 CFR 63.8693(d)(1), (2), and (4), the current rule requires reporting of the ''date and time'' of periods where a source deviates from a standard; whereas 40 CFR 63.8693(d)(3) requires a record of the ''date, time and duration'' of periods where a source deviates from a standard. The EPA is proposing to change the terminology in 40 CFR 63.8693(d)(1), (2), and (4) for periods where a source deviates from a standard, to report the ''start date, start time, and duration'' of the deviation. Note that ''date and time'' carries the same meaning as ''start date, start time, and duration.'' We are proposing that the report must also contain the number of deviations from the standard, a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

Regarding the proposed new requirement discussed above to estimate the quantity of each regulated pollutant emitted over any emission limitation for which the source failed to meet the standard, and a description of the method used to estimate the emissions, examples of such methods would include product-loss calculations, mass balance calculations, measurements when available, or engineering judgment based on known process parameters (*e.g.,* asphalt HAP content and application rates, and control efficiencies). The EPA is proposing this requirement to ensure that there is adequate information to determine compliance, to allow the EPA to determine the severity of the failure to

meet an applicable standard, and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard.

We will no longer require owners or operators to determine whether actions taken to correct a malfunction are consistent with an SSM plan, because plans would no longer be required. The proposed amendments, therefore, eliminate (beginning 181 days after publication of the final rule in the **Federal Register**) the requirement in paragraph 5.d at Table 6 to subpart LLLLL of part 63 and 40 CFR 63.8693(c)(4) that requires reporting of whether the source deviated from its SSM plan, including required actions to communicate with the Administrator, and the cross reference to 40 CFR 63.10(d)(5)(i) that contains the description of the previously required SSM report format and submittal schedule from this section. These specifications are no longer necessary because the events will be reported in otherwise required reports with similar format and submittal requirements.

We are proposing to revise the General Provisions table to subpart LLLLL (Table 7) entry for 40 CFR 63.10(d)(5) by changing the ''yes'' in column 4 to a ''no'' in which 40 CFR 63.10(d)(5) would no longer be applicable beginning 181 days after publication of the final rule in the **Federal Register** and remove the requirement in paragraph 6 at Table 6 to Subpart LLLLL of Part 63 for reasons discussed above; and because 40 CFR 63.10(d)(5)(ii) describes an immediate report for startups, shutdowns, and malfunctions when a source failed to meet an applicable standard but, did not follow the SSM plan. We will no longer require owners and operators to report when actions taken during a startup, shutdown, or malfunction were not consistent with an SSM plan, because plans would no longer be required.

We are proposing to make the requirement in 40 CFR 63.8693(d)(4) that deviation reports specify whether deviation from a standard occurred during a period of SSM no longer applicable beginning 181 days after publication of the final rule in the **Federal Register**. This revision is being proposed due to the proposed removal of the SSM exemption and because, as discussed above in this section, we are proposing that deviation reports must specify the cause of each deviation, which could include a malfunction period as a cause. Further, we are proposing to make the requirement in 40 CFR 63.8693(d)(6) that deviation reports must break down the total duration of deviations into those that are due to ''startup'' and ''shutdown'' causes are no longer applicable beginning 181 days after publication of the final rule in the **Federal Register**. These categories are no longer needed because these periods are proposed to be considered normal operation, as discussed in section IV.E.1.a of this preamble.

2. Electronic Reporting Requirements

Through this proposal, the EPA is proposing that beginning 181 days after publication of the final rule in the **Federal Register**, owners and operators of asphalt processing and asphalt roofing manufacturing facilities submit electronic copies of required performance test reports, performance evaluation reports, compliance reports, and Notification of Compliance Status reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). A description of the electronic data submission process is provided in the memorandum titled *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in Docket ID No. EPA–HQ–OAR–2017–0662. The proposed rule requires that performance test results collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the ERT website [22] at the time of the test be submitted in the format generated through the use of the ERT, and that other performance test results be submitted in portable document format (PDF) using the attachment module of the ERT. Similarly, performance evaluation results of continuous monitoring systems measuring relative accuracy test audit pollutants that are supported by the ERT at the time of the test must be submitted in the format generated through the use of the ERT and other performance evaluation results be submitted in PDF using the attachment module of the ERT.

For compliance reports, the proposed rule requires that owners and operators use the appropriate spreadsheet template to submit information to CEDRI beginning 181 days after publication of the final rule in the **Federal Register**. A draft version of the proposed template for these reports is included in the docket for this rulemaking.[23] The EPA specifically requests comment on the content, layout, and overall design of the template.

Additionally, the EPA has identified two broad circumstances in which electronic reporting extensions may be provided. In both circumstances, the decision to accept the claim of needing additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible. The EPA is providing these potential extensions to protect owners and operators from noncompliance in cases where they cannot successfully submit a report by the reporting deadline for reasons outside of their control. The first situation in which an extension may be warranted is due to outages of the EPA's CDX or CEDRI that precludes an owner or operator from accessing the system and submitting required reports is addressed in 40 CFR 63.8693(h). The second situation is due to a force majeure event, which is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents an owner or operator from complying with the requirement to submit a report electronically as required by this rule is addressed in 40 CFR 63.8693(i). Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazards beyond the control of the facility.

The electronic submittal of the reports addressed in this proposed rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in the protection of public health and the environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements, and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting also eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. Moreover, electronic reporting is

[22] *https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert.*

[23] See *40_CFR_Part_63_Subpart_LLLLL_Asphalt_Processing_and_Asphalt_Roofing_Manufacturing_Semiannual_Spreadsheet_Template_Draft.xlsm,* available at Docket ID No. EPA-HQ-OAR-2017-0662.

consistent with the EPA's plan [24] to implement Executive Order 13563 and is in keeping with the EPA's Agency-wide policy [25] developed in response to the White House's Digital Government Strategy.[26] For more information on the benefits of electronic reporting, see the memorandum titled *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in Docket ID No. EPA–HQ–OAR–2017–0662.

3. Operating Limits for Control Devices Used To Comply With the Particulate Standards

As part of the CAA section 114 request (see section II.C of this preamble), the EPA asked companies for suggestions to improve rule implementation or facilitate compliance activities. In lieu of the current requirement for facilities to set operating limits (*i.e.,* the maximum inlet gas temperature and maximum pressure drop across the device) based on levels measured during a performance test for control devices used to comply with the PM standards, several companies requested that the EPA allow facilities to use manufacturers' specifications to establish these site-specific operating limits. These companies pointed out that the EPA allows owners and operators to use manufacturers' specifications in the Asphalt Processing and Asphalt Roofing Manufacturing area source NESHAP at 40 CFR 63.11562(b)(3)(iii) for control devices other than thermal oxidizers. These companies also asserted that PM control devices achieve compliance with the PM standards of the Asphalt Processing and Asphalt Roofing Manufacturing NESHAP across a broad range of temperatures and pressure drops, but it is difficult to schedule testing dates that capture the maximum inlet gas temperature and maximum pressure drop across the device (*i.e.,* to demonstrate compliance across the entirety of the effective ranges) due to their dependence on ambient temperature and operating life of the filter media.

Based on this feedback, the EPA is proposing to add an option at 40 CFR 63.8689(d) and Table 2 to Subpart LLLLL of Part 63 to allow the use of manufacturers' specifications to establish the maximum pressure drop across the control device used to comply with the PM standards. However, although the manufacturers' specification for temperature would normally indicate proper operation of the control device, in this rule PM is acting as a surrogate for organic emissions. The particulate in question is condensed asphalt fumes, and formation of the PM and the emissions of organic compounds are temperature dependent. Therefore, instead of proposing the use of manufacturers' specifications for temperature limits, but to still provide facilities some flexibility with regard to an appropriate temperature range, the EPA is proposing to add a footnote to Table 2 to Subpart LLLLL of Part 63 of the Asphalt Processing and Asphalt Roofing Manufacturing NESHAP to allow owners and operators to use the performance test average inlet temperature and apply an operating margin of +20 percent to determine maximum inlet gas temperature of a control device used to comply with the PM standards. For example, during the three test runs conducted for an owner's or operator's performance test that demonstrated compliance with the emission limit, if the arithmetic average of the device inlet gas temperature recorded was 100 degrees Fahrenheit (°F), then under this proposed option, the owner's or operator's maximum operating limit for this control device would be 120 °F, or +20 percent of 100 °F. The +20 percent buffer addresses the high impact of ambient conditions on the inlet temperature and removes some of the scheduling uncertainty while still accounting for the temperature dependence of emissions.

4. Ongoing Emissions Compliance Demonstrations Using Periodic Performance Testing

As part of an ongoing effort to improve compliance with various federal air emission regulations, the EPA reviewed the compliance demonstration requirements in the Asphalt Processing and Asphalt Roofing Manufacturing NESHAP. Currently, the results of an initial performance test are used to determine compliance with the standards; however, the current NESHAP does not require on-going periodic performance testing.

As mentioned by the Institute of Clean Air Companies (ICAC) in their comments on proposed revisions to the NESHAP General Provisions (72 FR 69, January 3, 2007), ongoing maintenance and checks of control devices are necessary in order to ensure emissions control technology remains effective.[27] To ensure ongoing compliance with the standards, and given these comments from ICAC (suppliers of air pollution control and monitoring technology) on the need for vigilance in maintaining equipment to stem degradation, the EPA is proposing periodic performance testing requirements at 40 CFR 63.8691(e) for each APCD used to comply with the PM, THC, opacity, or visible emission standards, in addition to the current one-time initial performance testing and ongoing operating limit monitoring. We are proposing that the performance tests must be conducted at least once every 5 years.

For PM and THC standards, we are proposing that owners and operators of asphalt processing and asphalt roofing manufacturing facilities would conduct three 1-hour (or longer) test runs to measure emissions according to 40 CFR 63.8687(d), and compliance would be determined based on the average of the three test runs according to 40 CFR 63.7(e)(3). To measure PM, we are proposing at Table 3 to Subpart LLLLL of Part 63 that owners and operators would use EPA Method 5A of appendix A to 40 CFR part 60; and for THC emissions, we are proposing at Table 3 to Subpart LLLLL of Part 63 that owners and operators would use EPA Method 25A of appendix A to 40 CFR part 60 (with EPA Methods 3A and 10 if owners and operators are complying with the combustion efficiency standards or with EPA Methods 1–4 if meeting the THC destruction efficiency standards), which are the methods currently required for the initial compliance demonstration. To measure opacity, we are proposing at Table 3 to Subpart LLLLL of Part 63 that owners and operators would use EPA Method 9 of appendix A to 40 CFR part 60; and for visible emissions, we are proposing at Table 3 to Subpart LLLLL of Part 63 that owners and operators would use EPA Method 22 of appendix A to 40 CFR part 60, which are also the methods currently required for the initial compliance demonstration.

Finally, we recognize some affected sources are used infrequently. Therefore, we are proposing that owners and operators would not be required to

[24] The EPA's *Final Plan for Periodic Retrospective Reviews,* August 2011. Available at: *https://www.regulations.gov/document?D=EPA-HQ-OA-2011-0156-0154.*

[25] *E-Reporting Policy Statement for EPA Regulations,* September 2013. Available at: *https://www.epa.gov/sites/production/files/2016–03/documents/epa-ereporting-policy-statement-2013-09-30.pdf.*

[26] *Digital Government: Building a 21st Century Platform to Better Serve the American People,* May 2012. Available at: *https://obamawhitehouse.archives.gov/sites/default/files/omb/egov/digital-government/digital-government.html.*

[27] See Docket Item No. EPA–HQ–OAR–2004–0094–0173, available at *https://www.regulations.gov.* A copy of the ICAC's comments on the proposed revisions to the General Provisions is also included in the docket for this action.

restart an affected source for the sole purpose of complying with the periodic performance testing. Instead, upon restart of the affected source, we are proposing owners and operators conduct the first periodic performance test within 60 days of achieving normal operating conditions, but no later than 181 days from startup.

See section IV.F of this preamble for a discussion of when we are proposing that the first and subsequent periodic performance tests must be performed.

We estimated a cost for PM performance testing using EPA Test Method 5A to be $16,500 for the first emission point, with an additional cost of $11,100 for each additional emission point at a facility. We estimated a cost for THC performance testing using EPA Test Method 25A to range from $16,200 (if complying with the concentration standard) to $20,750 (if complying with an efficiency standard). We estimated a cost for opacity testing using EPA Test Method 9 to be $1,500. Details of these cost estimates are included in the memorandum titled *Cost Impacts of Asphalt Processing and Asphalt Roofing Manufacturing Risk and Technology Review Proposal* in Docket ID No. EPA–HQ–OAR–2017–0662. We solicit comment on our cost estimates for conducting these tests.

5. Other Corrections

There are several additional revisions that we are proposing to 40 CFR part 63, subpart LLLLL to clarify text or correct typographical errors, grammatical errors, and cross-reference errors. These proposed editorial corrections and clarifications are summarized in Table 4 of this preamble.

TABLE 4—SUMMARY OF PROPOSED EDITORIAL AND MINOR CORRECTIONS TO 40 CFR PART 63, SUBPART LLLLL

Provision	Proposed revision
40 CFR 63.8681(a) and (f), and 63.8683(c)	Remove duplicative cross-reference to definition of major source and point directly to 40 CFR 63.2.
40 CFR 63.8683(d)	Clarify which paragraphs of 40 CFR 63.9 are applicable to be consistent with the General Provisions table to subpart LLLLL (Table 7).
40 CFR 63.8684	Revise heading to include ''and operating limits'' to clarify content of 40 CFR 63.8684.
40 CFR 63.8686	Revise heading to include ''initial'' to clarify content of 40 CFR 63.8686.
40 CFR 63.8686(a)	Clarify paragraph is applicable to initial performance tests.
40 CFR 63.8688(f) and 63.8688(h)(1)	Clarify which paragraphs of 40 CFR 63.8 are applicable to be consistent with the General Provisions table to subpart LLLLL (Table 7).
40 CFR 63.8688(h)(3)	Clarify which paragraphs of 40 CFR 63.10 are applicable to be consistent with the General Provisions table to subpart LLLLL (Table 7). Also, for consistency, add references to reporting and recordkeeping sections of rule.
40 CFR 63.8691	Revise heading to ''How do I conduct periodic performance tests and demonstrate continuous compliance with the emission limits and operating limits?'' to clarify content of 40 CFR 63.8691.
40 CFR 63.8691(a)	Replace the words ''test methods'' with ''the procedures'' because Table 5 contains procedures not test methods.
40 CFR 63.8692(a)	Delete the word ''of.''
40 CFR 63.8692(e)	Clarify this paragraph is applicable to all compliance demonstrations (not just initial compliance demonstrations).
40 CFR 63.8693(d)	Clarify paragraph applies to compliance reports.
40 CFR 63.8697(b)(1)	Clarify approval of alternatives to the requirements in 40 CFR 63.8684 and 40 CFR 63.8685 are retained by the Administrator of U.S. EPA.
40 CFR 63.8698	Clarify definitions of ''adhesive applicator'' and ''sealant applicator'' that open pan-type applicators were part of the asphalt roofing manufacturing lines that were considered in the original MACT analysis, and, thus, subject to the emission limitations. See Docket Item No. EPA–HQ–OAR–2002–0035–0009 titled *Documentation of Existing and New Source Maximum Achievable Control Technology (MACT) Floors for the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Asphalt Processing and Roofing Manufacturing* for descriptions of adhesive and sealant applicators.
Paragraph 1 of Table 1 to Subpart LLLLL of Part 63.	Remove the duplicative reference to Group 1 asphalt storage tanks at new and reconstructed asphalt roofing manufacturing lines and add the word ''asphalt'' to the phrasing ''roofing manufacturing lines.''
Footnote b of Table 1 to Subpart LLLLL of Part 63.	Correct reference to paragraph 3.a of Table 1 to Subpart LLLLL of Part 63.
Paragraph 4 of Table 2 to Subpart LLLLL of Part 63.	Clarify if owners and operators use other control devices that are neither a combustion device or a control device used to comply with the PM emission standards, then row 4 of Table 2 to Subpart LLLLL of Part 63 applies.
Footnote a of Table 2 to Subpart LLLLL of Part 63.	Correct reference to Table 2 to Subpart LLLLL of Part 63.
Footnote c of Table 2 to Subpart LLLLL of Part 63.	Replace the word ''of'' with ''to.''
Paragraphs 11, 12, and 13 of Table 3 to Subpart LLLLL of Part 63.	Clarify these paragraphs are applicable to all performance testing (not just initial performance testing).
Paragraph 13 of Table 3 to Subpart LLLLL of Part 63.	Clarify if owners and operators use other control devices that are neither a combustion device or a control device used to comply with the PM emission standards, then row 13 of Table 3 to Subpart LLLLL of Part 63 applies.
Footnote a of Table 3 to Subpart LLLLL of Part 63.	Correct reference to alternative option that allows results of a previously-conducted emission test to document conformance with the emission standards and operating limits of this subpart, and clarify this option is only applicable to initial performance testing.
Footnote c of Table 3 to Subpart LLLLL of Part 63.	Replace the word ''of'' with ''to.''

TABLE 4—SUMMARY OF PROPOSED EDITORIAL AND MINOR CORRECTIONS TO 40 CFR PART 63, SUBPART LLLLL—Continued

Provision	Proposed revision
Table 4 to Subpart LLLLL of Part 63	Clarify table is applicable for both initial and continuous compliance. Also, remove the word ''initial'' in last column heading to clarify the requirements in the column are applicable to all performance testing (not just initial performance testing).
Paragraphs 4 and 5 of Table 4 to Subpart LLLLL of Part 63.	Correct reference to 40 CFR 63.8686.
Paragraph 4 of Table 5 to Subpart LLLLL of Part 63.	Clarify if owners and operators use other control devices that are neither a combustion device or a control device used to comply with the PM emission standards, then row 4 of Table 5 to Subpart LLLLL of Part 63 applies.
Footnote a of Table 5 to Subpart LLLLL of Part 63.	Correct references to Tables 2 and 5, and references to 40 CFR 63.8690 and 63.8(g)(1) through (4).
Footnote d of Table 5 to Subpart LLLLL of Part 63.	Replace the word ''of'' with ''to.''
Table 7 to Subpart LLLLL of Part 63	Correct typographical error to show that 40 CFR 63.8(d) does apply. Note, the typographical error is inconsistent with 40 CFR 63.8688(h)(2) which says 40 CFR 63.8(d) applies.

F. What compliance dates are we proposing?

For three of the proposed rule revisions—changes related to removal of the exemption from the requirements to meet the standard during SSM periods, changes related to removal of the requirement to develop and implement an SSM plan, and addition of electronic reporting requirements—we anticipate that facilities would need 180 days to comply. This period of time will allow facilities to read and understand the amended rule requirements, to evaluate their operations to ensure that they can meet the standards during periods of startup and shutdown as defined in the rule and make any necessary adjustments, and to convert reporting mechanisms to install necessary hardware and software. The EPA considers a period of 180 days to be the most expeditious compliance period practicable for these source categories and, thus, we are proposing that all affected sources must comply with the revisions to the SSM provisions and electronic reporting requirements no later than 181 days after the effective date of the final rule, or upon startup, whichever is later. We specifically seek comment on whether 180 days is enough time for owners and operators to comply with these proposed amendments, and if the proposed time window is not adequate, we request the commenter provide an explanation.

Also, we are proposing new requirements to conduct on-going periodic performance testing every 5 years (see section IV.E.4 of this preamble). Establishing a compliance date earlier than 3 years for the first periodic performance test can cause scheduling issues as affected sources compete for a limited number of testing contractors. Considering these scheduling issues, we are proposing that each existing affected source, and each new and reconstructed affected source that commences construction or reconstruction after November 21, 2001, and on or before [date of publication of final rule in the **Federal Register**] that uses an APCD to comply with the standards, must conduct the first periodic performance test on or before [date 3 years after date of publication of final rule in the **Federal Register**] and conduct subsequent periodic performance tests no later than 60 months thereafter following the previous performance test. For each new and reconstructed affected source that commences construction or reconstruction after [date of publication of final rule in the **Federal Register**] that uses an APCD to comply with the standards, we are proposing that owners and operators must conduct the first periodic performance no later than 60 months following the initial performance test required by 40 CFR 63.8689 and conduct subsequent periodic performance tests no later than 60 months thereafter following the previous performance test. If owners and operators used the alternative compliance option specified in 40 CFR 63.8686(b) to comply with the initial performance test, then we are proposing that they must conduct the first periodic performance no later than 60 months following the date they demonstrated to the Administrator that the requirements of 40 CFR 63.8686(b) had been met.

V. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

There are four asphalt processing facilities, plus another four asphalt processing facilities collocated with asphalt roofing manufacturing facilities, currently operating as major sources of HAP. As such, eight facilities will be subject to the proposed amendments. A complete list of facilities that are currently subject to the MACT standards is available in Appendix A of the memorandum titled *Clean Air Act Section 112(d)(6) Review for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories,* in Docket ID No. EPA–HQ–OAR–2017–0662.

B. What are the air quality impacts?

The EPA estimates that annual HAP emissions from the eight asphalt processing and asphalt roofing manufacturing facilities that are subject to the NESHAP are approximately 255 tpy. Because we are not proposing revisions to the emission limits, we do not anticipate any air quality impacts as a result of the proposed amendments.

C. What are the cost impacts?

We estimate that the proposed amendments will result in a nationwide net cost savings of $221,100 over the 5-year period following promulgation of amendments. Because periodic performance testing would be required every 5 years, we estimated and summarized the cost savings over a 5-year period. The EPA believes that the eight asphalt processing and asphalt roofing manufacturing facilities that are known to be subject to the NESHAP can meet the proposed requirements without incurring additional capital costs. Therefore, the costs associated with the proposed amendments are related to recordkeeping and reporting labor costs and periodic performance testing. The proposed requirement for periodic testing of once every 5 years results in an estimated increase in costs of about $92,500 over the 5-year period in addition to an estimated cost of about $3,300 for reviewing the proposed amendments. However, the proposed changes to the monitoring requirements

for PM control devices result in an estimated cost savings of about $316,900 over the 5-year period. Therefore, overall, we estimate a net cost savings of about $221,100 for the 5-year period. The proposed amendments to the monitoring requirements are projected to alleviate some need for asphalt roofing manufacturing facilities to have to retest the PM control device for the sole purpose of reestablishing new temperature and pressure drop operating limits, and to allow facilities to extend filter replacement by 3 months. For further information on the amendments being proposed, see section IV.E of this preamble. For further information on the costs and cost savings associated with the proposed amendments, see the memoranda, *Cost Impacts of Asphalt Processing and Asphalt Roofing Manufacturing Risk and Technology Review Proposal,* and *Economic Impact Analysis for Asphalt Processing and Asphalt Roofing Manufacturing NESHAP RTR Proposal,* which are available in the docket for this action. We solicit comment on these estimated cost impacts.

D. What are the economic impacts?

As noted earlier, we estimated a nationwide cost savings associated with the proposed requirements over the 5-year period following promulgation of these amendments. Therefore, we do not expect the actions in this proposed rulemaking to result in business closures, significant price increases, or substantial profit loss. For further information on the economic impacts associated with the requirements being proposed, see the memorandum, *Economic Impact Analysis for Asphalt Processing and Asphalt Roofing Manufacturing NESHAP RTR Proposal,* which is available in the docket for this action.

E. What are the benefits?

The EPA is not proposing changes to emissions limits, and we estimate the proposed changes (*i.e.,* changes to SSM, recordkeeping, reporting, and monitoring) are not economically significant. Because these proposed amendments are not considered economically significant, as defined by Executive Order 12866, and because no emissions reductions were estimated, we did not estimate any benefits from reducing emissions.

VI. Request for Comments

We solicit comments on this proposed action. In addition to general comments on this proposed action, we are also interested in additional data that may improve the risk assessments and other analyses. We are specifically interested in receiving any improvements to the data used in the site-specific emissions profiles used for risk modeling. Such data should include supporting documentation in sufficient detail to allow characterization of the quality and representativeness of the data or information. Section VII of this preamble provides more information on submitting data.

VII. Submitting Data Corrections

The site-specific emissions profiles used in the source categories risk and demographic analyses and instructions are available for download on the RTR website at *https://www3.epa.gov/ttn/atw/rrisk/rtrpg.html.* The data files include detailed information for each HAP emissions release point for the facilities in the source categories.

If you believe that the data are not representative or are inaccurate, please identify the data in question, provide your reason for concern, and provide any ''improved'' data that you have, if available. When you submit data, we request that you provide documentation of the basis for the revised values to support your suggested changes. To submit comments on the data downloaded from the RTR website, complete the following steps:

1. Within the downloaded file, enter suggested revisions to the data fields appropriate for that information.

2. Fill in the commenter information fields for each suggested revision (*i.e.,* commenter name, commenter organization, commenter email address, commenter phone number, and revision comments).

3. Gather documentation for any suggested emissions revisions (*e.g.,* performance test reports, material balance calculations).

4. Send the entire downloaded file with suggested revisions in Microsoft® Access format and all accompanying documentation to Docket ID No. EPA–HQ–OAR–2017–0662 (through the method described in the **ADDRESSES** section of this preamble).

5. If you are providing comments on a single facility or multiple facilities, you need only submit one file for all facilities. The file should contain all suggested changes for all sources at that facility (or facilities). We request that all data revision comments be submitted in the form of updated Microsoft® Excel files that are generated by the Microsoft® Access file. These files are provided on the RTR website at *https://www3.epa.gov/ttn/atw/rrisk/rtrpg.html.*

VIII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to OMB for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to OMB under the PRA. The information collection request (ICR) document that the EPA prepared has been assigned EPA ICR number 2029.07. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

We are proposing amendments that require periodic performance testing, require electronic reporting, remove the malfunction exemption, and impose other revisions that affect reporting and recordkeeping for asphalt processing facilities and asphalt roofing manufacturing facilities. This information would be collected to assure compliance with 40 CFR part 63, subpart LLLLL.

Respondents/affected entities: Owners or operators of asphalt processing facilities and asphalt roofing manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart LLLLL).

Estimated number of respondents: Eight (total).

Frequency of response: Initial, semiannual, and annual.

Total estimated burden: 69 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $53,800 (per year), which includes $46,300 annualized capital and operation and maintenance costs.

The estimated costs described in this section of the preamble are entirely offset by cost savings that are projected to alleviate some need for asphalt roofing manufacturing facilities to have to retest a PM control device for the sole purpose of reestablishing new

temperature and pressure drop operating limits; and allow facilities to extend filter replacement by 3 months (see section V.C of this preamble for details). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *OIRA_submission@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than June 3, 2019. The EPA will respond to any ICR-related comments in the final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. There are no small entities affected in this regulated industry. See the document, *Economic Impact Analysis for Asphalt Processing and Asphalt Roofing Manufacturing NESHAP RTR Proposal,* available in the docket for this action.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. None of the eight asphalt processing and asphalt roofing manufacturing facilities that have been identified as being affected by this proposed action are owned or operated by tribal governments or located within tribal lands. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections III.A and C and sections IV.A and B of this preamble, and are further documented in the risk report, *Residual Risk Assessment for the Asphalt Processing and Asphalt Roofing Manufacturing Source Categories in Support of the 2018 Risk and Technology Review Proposed Rule,* available in the docket for this action.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This rulemaking involves technical standards. Therefore, the EPA conducted searches for the Asphalt Processing and Asphalt Roofing Manufacturing NESHAP through the Enhanced National Standards Systems Network Database managed by the American National Standards Institute (ANSI). We also contacted voluntary consensus standards (VCS) organizations and accessed and searched their databases. We conducted searches for EPA Methods 3A, 5A, 9, 10, 22, and 25A of 40 CFR part 60, appendix A. During the EPA's VCS search, if the title or abstract (if provided) of the VCS described technical sampling and analytical procedures that are similar to the EPA's reference method, the EPA reviewed it as a potential equivalent method. We reviewed all potential standards to determine the practicality of the VCS for this rule. This review requires significant method validation data that meet the requirements of EPA Method 301 for accepting alternative methods or scientific, engineering and policy equivalence to procedures in the EPA reference methods. The EPA may reconsider determinations of impracticality when additional information is available for particular VCS.

No applicable VCS were identified for EPA Methods 5A and 22. The following VCS were identified as acceptable alternatives to the EPA test methods for the purpose of this rule.

The EPA proposes to incorporate by reference the VCS ASTM D7520–2013 ''Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere'' as an acceptable alternative to EPA Method 9 with conditions. During the digital camera opacity technique (DCOT) certification procedure outlined in Section 9.2 of ASTM D7520–2013, you or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand). You must also have standard operating procedures in place, including daily or other frequency quality checks, to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520–2013. You must follow the recordkeeping procedures outlined in 40 CFR 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEG formatted images used for opacity and certification determination. You or the DCOT vendor must have a minimum of four (4) independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15-percent opacity of any one reading, and the average error must not exceed 7.5-percent opacity. This approval does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software, and operator in accordance with ASTM D7520–2013 and this letter is on the facility, DCOT operator, and DCOT vendor. This method is available at ASTM International, 1850 M Street NW, Suite 1030, Washington, DC 20036. See *https://www.astm.org/.*

Finally, the search identified 11 other VCS that were potentially applicable for this rule in lieu of the EPA reference methods. After reviewing the available standards, the EPA determined that 11 candidate VCS identified for measuring emissions of pollutants or their surrogates subject to emission standards in the rule would not be practical due to lack of equivalency, documentation, validation data, and other important technical and policy considerations. Additional information for the VCS search and determinations can be found in the memorandum, *Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants for Asphalt Processing and Asphalt Roofing Manufacturing,* which is available in the docket for this action.

The EPA welcomes comments on this aspect of the proposed rulemaking, and, specifically, invites the public to identify potentially applicable VCS, and to explain why the EPA should use such standards in this regulation.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

The documentation for this decision is contained in section IV.A of this preamble and in the technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Asphalt Processing and Asphalt Roofing Manufacturing Source Categories Operations,* available in the docket for this action.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: April 16, 2019.

Andrew R. Wheeler,

Administrator.

For the reasons stated in the preamble, the EPA proposes to amend title 40, chapter I, part 63 of the Code of Federal Regulations as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart A—[Amended]

■ 2. Section 63.14 is amended by revising paragraph (h)(95) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(h) * * *

(95) ASTM D7520–13, Standard Test Method for Determining the Opacity of a Plume in an Outdoor Ambient Atmosphere, approved December 1, 2013. IBR approved for §§ 63.1510(f), 63.1511(d), 63.1512(a), 63.1517(b) and 63.1625(b), and table 3 to subpart LLLLL.

* * * * *

Subpart LLLLL—[Amended]

■ 3. Section 63.8681 is amended by revising paragraph (a) and removing and reserving paragraph (f) to read as follows:

§ 63.8681 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate an asphalt processing facility or an asphalt roofing manufacturing facility, as defined in § 63.8698, that is a major source as defined in § 63.2, or is located at, or is part of a major source as defined in § 63.2.

* * * * *

■ 4. Section 63.8683 is amended by revising paragraphs (c) and (d) to read as follows:

§ 63.8683 When must I comply with this subpart?

* * * * *

(c) If you have an area source that increases its emissions or its potential to emit such that it becomes a (or part of a) major source as defined in § 63.2, then the following requirements apply.

(d) You must meet the notification requirements in § 63.8692 according to the schedules in §§ 63.8692 and 63.9(a) through (f) and (h). Some of the notifications must be submitted before you are required to comply with the emission limitations in this subpart.

■ 5. Section 63.8684 is amended by revising the section heading to read as follows:

§ 63.8684 What emission limitations and operating limits must I meet?

■ 6. Section 63.8685 is amended by revising paragraphs (a) through (c) to read as follows:

§ 63.8685 What are my general requirements for complying with this subpart?

(a) Before [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], you must be in compliance with the emission limitations (including operating limits) in this subpart at all times, except during periods of startup, shutdown, and malfunction. On and after [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], you must be in compliance with the emission limitations (including operating limits) in this subpart at all times, except during periods of nonoperation of the affected source (or specific portion thereof) resulting in cessation of the emissions to which this subpart applies.

(b) Before [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], you must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i). On and after [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], at all times, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require you to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator that may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the affected source.

(c) Before [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], you must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3). On and after [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal**

Register], a startup, shutdown, and malfunction plan is not required.

* * * * *

■ 7. Section 63.8686 is amended by:

■ a. Revising the section heading;

■ b. Revising paragraphs (a) and (b)(3); and

■ c. Adding paragraph (b)(4).

The revisions and addition read as follows:

§ 63.8686 By what date must I conduct initial performance tests or other initial compliance demonstrations?

(a) For existing affected sources, you must conduct initial performance tests no later than 180 days after the compliance date that is specified for your source in § 63.8683 and according to the provisions in § 63.7(a)(2).

(b) As an alternative to the requirement specified in paragraph (a) of this section, you may use the results of a previously-conducted emission test to demonstrate compliance with the emission limitations in this subpart if you demonstrate to the Administrator's satisfaction that:

(1) * * *

(2) * * *

(3) The control device and process parameter values established during the previously-conducted emission test are used to demonstrate continuous compliance with this subpart; and

(4) The previously-conducted emission test was completed within the last 5 years.

* * * * *

■ 8. Section 63.8687 is amended by revising paragraph (b) and removing and reserving paragraph (c) to read as follows:

§ 63.8687 What performance tests, design evaluations, and other procedures must I use?

* * * * *

(b) Each performance test must be conducted under normal operating conditions and under the conditions specified in Table 3 to this subpart. Operations during periods of startup, shutdown, or nonoperation do not constitute representative conditions for purposes of conducting a performance test. You may not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and explain why the conditions represent normal operation. Upon request, you must make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

■ 9. Section 63.8688 is amended by revising paragraphs (f) and (h) to read as follows:

§ 63.8688 What are my monitoring installation, operation, and maintenance requirements?

* * * * *

(f) As an option to installing the CPMS specified in paragraph (a) of this section, you may install a continuous emissions monitoring system (CEMS) or a continuous opacity monitoring system (COMS) that meets the applicable requirements in § 63.8 according to Table 7 to this subpart and the applicable performance specifications of 40 CFR part 60, appendix B.

* * * * *

(h) In your site-specific monitoring plan, you must also address the following:

(1) Ongoing operation and maintenance procedures in accordance with the general requirements of § 63.8(c)(1)(ii), (c)(3), (c)(4)(ii), (c)(7), and (c)(8);

(2) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d); and

(3) Ongoing recordkeeping and reporting procedures in accordance with §§ 63.8693, 63.8694, and the general requirements of § 63.10(e)(1) and (e)(2)(i).

* * * * *

■ 10. Section 63.8689 is amended by revising paragraph (b) and adding paragraph (d) to read as follows:

§ 63.8689 How do I demonstrate initial compliance with the emission limitations?

* * * * *

(b) Except as specified in paragraph (d) of this section, you must establish each site-specific operating limit in Table 2 to this subpart that applies to you according to the requirements in § 63.8687 and Table 3 to this subpart.

* * * * *

(d) For control devices used to comply with the particulate matter standards, you may establish the pressure drop across the control device operating limit using manufacturers' specifications in lieu of complying with paragraph (b) of this section.

■ 11. Section 63.8690 is amended by revising paragraph (b) to read as follows:

§ 63.8690 How do I monitor and collect data to demonstrate continuous compliance?

* * * * *

(b) Before [DATE 181 DAYS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**], except for monitor malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times that the affected source is operating including periods of startup, shutdown, and malfunction when the affected source is operating. On and after [DATE 181 DAYS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**], you must monitor and collect data at all times in accordance with § 63.8685(b), except during periods of nonoperation of the affected source (or specific portion thereof) resulting in cessation of the emissions to which this subpart applies.

* * * * *

■ 12. Section 63.8691 is amended by:

■ a. Revising the section heading;

■ b. Revising paragraphs (a), (b), and (d); and

■ c. Adding paragraph (e).

The revisions and addition read as follows:

§ 63.8691 How do I conduct periodic performance tests and demonstrate continuous compliance with the emission limitations and operating limits?

(a) You must demonstrate continuous compliance with each operating limit in Table 2 to this subpart that applies to you according to the procedures specified in Table 5 to this subpart, and you must conduct performance tests as specified in paragraph (e) of this section.

(b) Before [DATE 181 DAYS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**], you must report each instance in which you did not meet each operating limit in Table 5 to this subpart that applies to you. This includes periods of startup, shutdown, and malfunction. These instances are deviations from the emission limitations in this subpart. These deviations must be reported according to the requirements in § 63.8693. On and after [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], you must report each instance in which you did not meet each operating limit in Table 5 to this subpart that applies to you, except during periods of nonoperation of the affected source (or specific portion thereof) resulting in cessation of the emissions to which this subpart applies.

* * * * *

(d) Before [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the

Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e). On and after [date 181 days after date of publication of final rule in the **Federal Register**], this paragraph no longer applies.

(e) For each control device used to comply with the PM, THC, opacity, or visible emission standards of this subpart, you must conduct periodic performance tests using the applicable procedures specified in § 63.8687 and Table 4 to this subpart to demonstrate compliance with § 63.8684(a), and to confirm or reestablish the operating limits required by § 63.8684(b). You must conduct periodic performance tests according to the schedule specified in paragraphs (e)(1) through (3) of this section.

(1) Except as specified in paragraph (e)(3) of this section, for each existing affected source, and for each new and reconstructed affected source that commences construction or reconstruction after November 21, 2001 and on or before [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], you must conduct the first periodic performance test on or before [DATE 3 YEARS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**] and conduct subsequent periodic performance tests no later than 60 months thereafter following the previous performance test.

(2) Except as specified in paragraph (e)(3) of this section, for each new and reconstructed affected source that commences construction or reconstruction after [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], you must conduct the first periodic performance no later than 60 months following the initial performance test required by § 63.8689 and conduct subsequent periodic performance tests no later than 60 months thereafter following the previous performance test. If you used the alternative compliance option specified in § 63.8686(b) to comply with the initial performance test, then you must conduct the first periodic performance no later than 60 months following the date you demonstrated to the Administrator that the requirements of § 63.8686(b) had been met.

(3) If an affected source is not operating on the dates the periodic performance test is required to be conducted as specified in paragraph (e)(1) or (2) of this section, then you are not required to restart the affected source for the sole purpose of complying with paragraph (e)(1) or (2) of this section. Instead, upon restart of the affected source, you must conduct the first periodic performance test within 60 days of achieving normal operating conditions but no later than 180 days from startup. You must conduct subsequent periodic performance tests no later than 60 months thereafter following the previous performance test.

■ 13. Section 63.8692 is amended by revising paragraphs (a), (e), and (f) to read as follows:

§ 63.8692 What notifications must I submit and when?

(a) You must submit all the notifications in §§ 63.6(h)(4) and (5), 63.7(b) and (c), 63.8(f), and 63.9(b) through (f) and (h) that apply to you by the dates specified.

* * * * *

(e) If you are required to conduct a performance test, design evaluation, opacity observation, visible emission observation, or other compliance demonstration as specified in Table 3 or 4 to this subpart, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii). You must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2). On and after [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], you must submit all subsequent Notification of Compliance Status reports to EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). If you claim some of the information required to be submitted via CEDRI is confidential business information (CBI), then submit a complete report, including information claimed to be CBI, to EPA. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to EPA via EPA's CDX as described earlier in this paragraph. You may assert a claim of EPA system outage or force majeure for failure to timely comply with this reporting requirement provided you meet the requirements outlined in §§ 63.8693(h) or (i), as applicable.

(f) If you are using data from a previously-conducted emission test to serve as documentation of conformance with the emission standards and operating limits of this subpart as specified in § 63.8686(b), you must submit the test data in lieu of the initial performance test results with the Notification of Compliance Status required under paragraph (e) of this section.

■ 14. Section 63.8693 is amended by:
■ a. Adding paragraph (b)(6);
■ b. Revising paragraphs (c)(4) and (c)(5), (d)(1) through (d)(4), and (d)(6);
■ c. Adding paragraph (d)(13);
■ d. Revising paragraph (f); and
■ e. Adding paragraphs (g) through (i).

The revisions and additions read as follows:

§ 63.8693 What reports must I submit and when?

* * * * *

(b) * * *

(6) On and after [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], you must submit all compliance reports to EPA via the CEDRI, which can be accessed through EPA's CDX (*https://cdx.epa.gov/*). You must use the appropriate electronic report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*) for this subpart. The date report templates become available will be listed on the CEDRI website. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. If you claim some of the information required to be submitted via CEDRI is CBI, submit a complete report, including information claimed to be CBI, to EPA. The report must be generated using the appropriate form on the CEDRI website or an alternate electronic file consistent with the extensible markup language (XML) schema listed on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to EPA via EPA's CDX as described earlier in this paragraph. You may assert a claim of EPA system outage or force majeure for failure to timely comply with this reporting requirement

provided you meet the requirements outlined in §§ 63.8693(h) or (i), as applicable.

(c) * * *

(4) Before [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], if you had a startup, shutdown or malfunction during the reporting period and you took actions consistent with your SSMP, the compliance report must include the information in § 63.10(d)(5)(i). On and after [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], this paragraph no longer applies.

(5) For each reporting period, you must include in the compliance report the total number of deviations that occurred during the reporting period. If there are no deviations from any emission limitations (emission limit, operating limit, opacity limit, and visible emission limit) that apply to you, then you must include a statement that there were no deviations from the emission limitations during the reporting period.

(d) * * *

(1) The start date, start time, and duration of each malfunction.

(2) For each instance that the CPMS, CEMS, or COMS was inoperative, except for zero (low-level) and high-level checks, the start date, start time, and duration that the CPMS, CEMS, or COMS was inoperative; the cause (including unknown cause) for the CPMS, CEMS, or COMS being inoperative; and descriptions of corrective actions taken.

(3) For each instance that the CPMS, CEMS, or COMS was out-of-control as specified in § 63.8(c)(7), the start date, start time, and duration that the CPMS, CEMS, or COMS was out-of-control, including the information in § 63.8(c)(8).

(4) Before [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], the start date, start time, and duration of the deviation, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period. On and after [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], the start date, start time, and duration of the deviation including a description of the deviation and the actions you took to minimize emissions in accordance with § 63.8685(b). You must also include:

(i) A list of the affected sources or equipment for which the deviation occurred;

(ii) The cause of the deviation (including unknown cause, if applicable); and

(iii) Any corrective actions taken to return the affected unit to its normal or usual manner of operation.

* * * * *

(6) Before [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], a breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes. On and after [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], a breakdown of the total duration of the deviations during the reporting period into those that are due to control equipment problems, process problems, other known causes, and other unknown causes.

* * * * *

(13) On and after [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], for each deviation from an emission limitation in § 63.8684, you must include an estimate of the quantity of each regulated pollutant emitted over any emission limitation in § 63.8684, and a description of the method used to estimate the emissions.

* * * * *

(f) On and after [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (f)(1) through (3) of this section.

(1) *Data collected using test methods supported by EPA's Electronic Reporting Tool (ERT) as listed on EPA's ERT website* (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test. Submit the results of the performance test to EPA via the CEDRI, which can be accessed through EPA's CDX (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on EPA's ERT website.

(2) *Data collected using test methods that are not supported by EPA's ERT as listed on EPA's ERT website at the time of the test.* The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on EPA's ERT website. Submit the ERT generated package or alternative file to EPA via CEDRI.

(3) *CBI.* If you claim some of the information submitted under paragraph (a)(1) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to EPA. The file must be generated through the use of EPA's ERT or an alternate electronic file consistent with the XML schema listed on EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to EPA via EPA's CDX as described in paragraph (f)(1) of this section.

(g) On and after [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], within 60 days after the date of completing each continuous monitoring system (CMS) performance evaluation (as defined in § 63.2) as specified in your site-specific monitoring plan, you must submit the results of the performance evaluation following the procedures specified in paragraphs (g)(1) through (3) of this section.

(1) *Performance evaluations of CMS measuring relative accuracy test audit (RATA) pollutants that are supported by EPA's ERT as listed on EPA's ERT website at the time of the evaluation.* Submit the results of the performance evaluation to EPA via CEDRI, which can be accessed through EPA's CDX. The data must be submitted in a file format generated through the use of EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on EPA's ERT website.

(2) *Performance evaluations of CMS measuring RATA pollutants that are not supported by EPA's ERT as listed on EPA's ERT website at the time of the evaluation.* The results of the performance evaluation must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on EPA's ERT website. Submit the ERT generated package or alternative file to EPA via CEDRI.

(3) *CBI.* If you claim some of the information submitted under paragraph (g)(1) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to EPA. The file must be generated through the use of EPA's ERT or an alternate

electronic file consistent with the XML schema listed on EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to EPA via EPA's CDX as described in paragraph (g)(1) of this section.

(h) If you are required to electronically submit a report through CEDRI in EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (h)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(i) If you are required to electronically submit a report through CEDRI in EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the reporting requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (i)(1) through (5) of this section.

(1) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the force majeure event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

■ 15. Section 63.8694 is amended by revising paragraph (a)(2) and adding paragraph (e) to read as follows:

§ 63.8694 What records must I keep?

(a) * * *

(2) Before [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], the records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction. On and after [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], this paragraph no longer applies.

* * * * *

(e) Any records required to be maintained by this part that are submitted electronically via EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or EPA as part of an on-site compliance evaluation.

■ 16. Section 63.8697 is amended by revising paragraph (b)(1) to read as follows:

§ 63.8697 Who implements and enforces this subpart?

* * * * *

(b) * * *

(1) Approval of alternatives to the requirements in § § 63.8681, 63.8682, 63.8683, 63.8684, 63.8685, 63.8686, 63.8687, 63.8688, 63.8689, 63.8690, and 63.8691.

* * * * *

■ 17. Section 63.8698 is amended by revising the definitions of ''Adhesive applicator,'' ''Deviation,'' and ''Sealant applicator'' to read as follows:

§ 63.8698 What definitions apply to this subpart?

* * * * *

Adhesive applicator means the equipment that uses open pan-type application (*e.g.,* a roller partially submerged in an open pan of adhesive) to apply adhesive to roofing shingles for producing laminated or dimensional roofing shingles.

* * * * *

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart including, but not limited to, any emission limitation (including any operating limit), or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart, and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Before [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], fails to meet any emission limitation (including any operating limit) or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart. On and after [DATE 181

DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], this paragraph no longer applies.

* * * * *

Sealant applicator means the equipment that uses open pan-type application (*e.g.,* a roller partially submerged in an open pan of sealant) to apply a sealant strip to a roofing product. The sealant strip is used to seal overlapping pieces of roofing product after they have been applied.

* * * * *

■ 18. Table 1 to Subpart LLLLL of Part 63 is amended by revising row 1 and footnote b to read as follows:

TABLE 1 TO SUBPART LLLLL OF PART 63—EMISSION LIMITATIONS

For—	You must meet the following emission limitation—
1. Each blowing still, Group 1 asphalt loading rack, and Group 1 asphalt storage tank at existing, new, and reconstructed asphalt processing facilities; and each Group 1 asphalt storage tank at existing, new, and reconstructed asphalt roofing manufacturing lines; and each coating mixer, saturator (including wet looper), coater, sealant applicator, and adhesive applicator at new and reconstructed asphalt roofing manufacturing lines.	a. Reduce total hydrocarbon mass emissions by 95 percent, or to a concentration of 20 ppmv, on a dry basis corrected to 3 percent oxygen; b. Route the emissions to a combustion device achieving a combustion efficiency of 99.5 percent; c. Route the emissions to a combustion device that does not use auxiliary fuel achieving a total hydrocarbon (THC) destruction efficiency of 95.8 percent; d. Route the emissions to a boiler or process heater with a design heat input capacity of 44 megawatts (MW) or greater; e. Introduce the emissions into the flame zone of a boiler or process heater; or f. Route emissions to a flare meeting the requirements of § 63.11(b).
* * * * * * *	

* * * * * * *

[b] The opacity limit can be exceeded for one consecutive 15-minute period in any 24-hour period when the storage tank transfer lines are being cleared. During this 15-minute period, the control device must not be bypassed. If the emissions from the asphalt storage tank are ducted to the saturator control device, the combined emissions from the saturator and storage tank must meet the 20 percent opacity limit (specified in 3.a of Table 1 to this subpart) during this 15-minute period. At any other time, the opacity limit applies to Group 2 asphalt storage tanks.

■ 19. Table 2 to Subpart LLLLL of Part 63 is amended by:

■ a. Revising rows 3 and 4;

■ b. Revising footnotes a and c; and

■ c. Adding footnote d.

The revisions and addition read as follows:

TABLE 2 TO SUBPART LLLLL OF PART 63—OPERATING LIMITS

For—	You must [a]—
* * * * * * *	
3. Control devices used to comply with the particulate matter standards	a. Maintain the 3-hour average [b] inlet gas temperature at or below the operating limit established during the performance test; [d] and b. Maintain the 3-hour average [b] pressure drop across the device [c] at or below either the operating limit established during the performance test, or as an alternative, according to manufacturer's specifications.
4. Other control devices that are neither a combustion device or a control device used to comply with the particulate matter emission standards.	Maintain the approved monitoring parameters within the operating limits established during the performance test.

[a] The operating limits specified in Table 2 to this subpart are applicable if you are monitoring control device operating parameters to demonstrate continuous compliance. If you are using a CEMS or COMS, you must maintain emissions below the value established during the initial performance test.

* * * * * * *

[c] As an alternative to monitoring the pressure drop across the control device, owners or operators using an ESP to achieve compliance with the emission limits specified in Table 1 to this subpart can monitor the voltage to the ESP. If this option is selected, the ESP voltage must be maintained at or above the operating limit established during the performance test.

[d] The inlet gas temperature operating limit is set at +20 percent of the test run average inlet gas temperature measured during the performance test.

■ 20. Table 3 to Subpart LLLLL of Part 63 is amended by:

■ a. Revising rows 1, 7, and 11 through 13;

■ b. Revising footnotes a and c; and

■ c. Adding footnote d.

The revisions and addition read as follows:

TABLE 3 TO SUBPART LLLLL OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS [a] [b]

For—	You must—	Using—	According to the following requirements—
1. All particulate matter, total hydrocarbon, carbon monoxide, and carbon dioxide emission tests.	a. Select sampling port's location and the number of traverse points.	i. EPA test method 1 or 1A in appendix A to part 60 of this chapter.	A. For demonstrating compliance with the total hydrocarbon percent reduction standard, the sampling sites must be located at the inlet and outlet of the control device prior to any releases to the atmosphere. B. For demonstrating compliance with the particulate matter mass emission rate, THC destruction efficiency, THC outlet concentration, or combustion efficiency standards, the sampling sites must be located at the outlet of the control device prior to any releases to the atmosphere.
*	* *	*	* * *
7. All opacity tests	Conduct opacity observations.	EPA test method 9 in appendix A to part 60 of this chapter, or ASTM D7520–2013 (incorporated by reference, see § 63.14) [d].	Conduct opacity observations for at least 3 hours and obtain 30, 6-minute averages.
*	* *	*	* * *
11. Each combustion device.	Establish a site-specific combustion zone temperature limit.	Data from the CPMS and the applicable performance test method(s).	You must collect combustion zone temperature data every 15 minutes during the entire period of the 3-hour performance test, and determine the average combustion zone temperature over the 3-hour performance test by computing the average of all of the 15-minute readings.
12. Each control device used to comply with the particulate matter emission standards.	Establish a site-specific inlet gas temperature limit; and establish a site-specific limit for the pressure drop across the device.	Data from the CPMS and the applicable performance test method(s).	You must collect the inlet gas temperature and pressure drop [b] data every 15 minutes during the entire period of the 3-hour performance test, and determine the average inlet gas temperature and pressure drop [c] over the 3-hour performance test by computing the average of all of the 15-minute readings.
13. Each control device that is neither a combustion device nor a control device used to comply with the particulate matter emission standards.	Establish site-specific monitoring parameters.	Process data and data from the CPMS and the applicable performance test method(s).	You must collect monitoring parameter data every 15 minutes during the entire period of the 3-hour performance test, and determine the average monitoring parameter values over the 3-hour performance test by computing the average of all of the 15-minute readings.
*	* *	*	* * *

[a] For initial performance tests, as specified in § 63.8686(b), you may request that data from a previously-conducted emission test serve as documentation of conformance with the emission standards and operating limits of this subpart.

* * * * * * *

[c] As an alternative to monitoring the pressure drop across the control device, owners or operators using an ESP to achieve compliance with the emission limits specified in Table 1 to this subpart can monitor the voltage to the ESP.

[d] If you use ASTM D7520–2013 in lieu of EPA test method 9, then you must comply with the conditions specified in this paragraph. During the digital camera opacity technique (DCOT) certification procedure outlined in Section 9.2 of ASTM D7520–2013, you or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand). You must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520–2013. You must follow the record keeping procedures outlined in § 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination. You or the DCOT vendor must have a minimum of four (4) independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15% opacity of any one reading and the average error must not exceed 7.5% opacity. This approval does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software and operator in accordance with ASTM D7520–2013 and this letter is on the facility, DCOT operator, and DCOT vendor.

■ 21. Table 4 to Subpart LLLLL of Part 63 is amended by:

■ a. Revising the table title;

■ b. Revising the fourth column heading; and

■ c. Revising rows 4 and 5.

The revisions read as follows:

TABLE 4 TO SUBPART LLLLL OF PART 63—INITIAL AND CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS

For—	For the following emission limitation—	You have demonstrated compliance if—
* *	* * *	* *
4. Each saturator (including wet looper) and coater at an existing, new, or reconstructed asphalt roofing manufacturing line.	a. Limit visible emissions from the emissions capture system to 20 percent of any period of consecutive valid observations totaling 60 minutes.	The visible emissions, measured using EPA test method 22, for any period of consecutive valid observations totaling 60 minutes during the initial compliance period described in § 63.8686 do not exceed 20 percent.
	b. Limit opacity emissions to 20 percent	The opacity, measured using EPA test method 9, for each of the first 30 6-minute averages during the initial compliance period described in § 63.8686 does not exceed 20 percent.
5. Each Group 2 asphalt storage tank at existing, new, and reconstructed asphalt processing facilities and asphalt roofing manufacturing lines.	Limit exhaust gases to 0 percent opacity	The opacity, measured using EPA test method 9, for each of the first 30 6-minute averages during the initial compliance period described in § 63.8686 does not exceed 0 percent.

* * * * *

■ 22. Table 5 to Subpart LLLLL of Part 63 is amended by revising rows 3 and 4 and revising footnotes a and d to read as follows:

TABLE 5 TO SUBPART LLLLL OF PART 63—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS [a]

For—	For the following operating limit—	You must demonstrate continuous compliance by—
* *	* * *	* *
3. Control devices used to comply with the particulate matter emission standards.	a. Maintain the 3-hour [c] average inlet gas temperature and pressure drop across device [d] at or below the operating limits established during the performance test.	i. Passing the emissions through the control device; and ii. Collecting the inlet gas temperature and pressure drop [d] data according to § 63.8688(b) and (c); and iii. Reducing inlet gas temperature and pressure drop [d] data to 3-hour [c] averages according to calculations in Table 3 to this subpart; and iv. Maintaining the 3-hour [c] average inlet gas temperature and pressure drop [d] within the level established during the performance test.
4. Other control devices that are neither a combustion device nor a control device used to comply with the particulate matter emission standards.	a. Maintain the monitoring parameters within the operating limits established during the performance test.	i. Passing the emissions through the devices; ii. Collecting the monitoring parameter data according to § 63.8688(d); and iii. Reducing the monitoring parameter data to 3-hour [c] averages according to calculations in Table 3 to this subpart; and iv. Maintaining the monitoring parameters within the level established during the performance test.

[a] The operating limits specified in Table 2 to this subpart and the requirements specified in Table 5 to this subpart are applicable if you are monitoring control device operating parameters to demonstrate continuous compliance. If you use a CEMS or COMS to demonstrate compliance with the emission limits, you are not required to record control device operating parameters. However, you must maintain emissions below the value established during the initial performance test. Data from the CEMS and COMS must be reduced as specified in § § 63.8690 and 63.8(g)(1) through (4).

* * * * * * *

[d] As an alternative to monitoring the pressure drop across the control device, owners or operators using an ESP to achieve compliance with the emission limits specified in Table 1 to this subpart can monitor the voltage to the ESP. If this option is selected, the ESP voltage must be maintained at or above the operating limit established during the performance test.

■ 23. Table 6 to Subpart LLLLL of Part 63 is amended by revising rows 4, 5, and 6 and adding row 7 to read as follows:

TABLE 6 TO SUBPART LLLLL OF PART 63—REQUIREMENTS FOR REPORTS

You must submit—	The report must contain—	You must submit the report—
* *	* * *	* *
4. Notification of compliance status	The information in § 63.9(h)(2) through (5), as applicable.	According to the requirements in §§ 63.8692(e) and 63.9(h)(2) through (5), as applicable.
5. A compliance report	a. A statement that there were no deviations from the emission limitations during the reporting period, if there are no deviations from any emission limitations (emission limit, operating limit, opacity limit, and visible emission limit) that apply to you.	Semiannually according to the requirements in § 63.8693(b).
	b. If there were no periods during which the CPMS, CEMS, or COMS was out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which the CPMS, CEMS, or COMS was out-of-control during the reporting period.	Semiannually according to the requirements in § 63.8693(b).
	c. If you have a deviation from any emission limitation (emission limit, operating limit, opacity limit, and visible emission limit), the report must contain the information in § 63.8693(c) and (d).	Semiannually according to the requirements in § 63.8693(b).
	d. Before [date 181 days after date of publication of final rule in the **Federal Register**], if you had a startup, shutdown or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i). On and after [date 181 days after date of publication of final rule in the **Federal Register**], this paragraph no longer applies.	Semiannually according to the requirements in § 63.8693(b).
6. An immediate startup, shutdown, and malfunction report if you have a startup, shutdown, or malfunction during the reporting period before [date 181 days after date of publication of final rule in the **Federal Register**], and actions taken were not consistent with your startup, shutdown, and malfunction plan. On and after [date 181 days after date of publication of final rule in the **Federal Register**], this paragraph no longer applies.	The information in § 63.10(d)(5)(ii)	By fax or telephone within 2 working days after starting actions inconsistent with the plan followed by a letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority.
7. Performance test report	The information in § 63.7	Within 60 days after completion of the performance test according to the requirements in § 63.8693(f).

■ 24. Table 7 to Subpart LLLLL of Part 63 is amended by:

■ a. Revising the rows for §§ 63.6(e)(1)(i), 63.6(e)(3), 63.6(f)(1), 63.6(h)(1), 63.7(e)(1), 63.8(c)(1)(i), 63.8(c)(1)(ii), 63.8(c)(1)(iii), 63.8(d), 63.10(b)(2)(i), and 63.10(d)(5);

■ b. Adding rows for §§ 63.6(e)(1)(ii) and (iii), 63.7(e)(4), 63.10(b)(2)(ii), 63.10(b)(2)(iii), 63.10(b)(2)(iv), and 63.10(b)(2)(v); and

■ c. Removing the row for § 63.8(c)(1).

The revisions and additions read as follows:

TABLE 7 TO SUBPART LLLLL OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART LLLLL

Citation	Subject	Brief description	Applies to subpart LLLLL
* *	* *	*	* *
§ 63.6(e)(1)(i)	Operation & Maintenance	Operate to minimize emissions at all times.	Yes before [date 181 days after date of publication of final rule in the **Federal Register**]. No on and after [date 181 days after date of publication of final rule in the **Federal Register**]. See § 63.8685(b) for general duty requirement.

TABLE 7 TO SUBPART LLLLL OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART LLLLL—Continued

Citation	Subject	Brief description	Applies to subpart LLLLL
§ 63.6(e)(1)(ii)	Operation & Maintenance	Correct malfunctions as soon as practicable.	Yes before [date 181 days after date of publication of final rule in the **Federal Register**]. No on and after [date 181 days after date of publication of final rule in the **Federal Register**].
§ 63.6(e)(1)(iii)	Operation & Maintenance	Operation and maintenance requirements independently enforceable; information Administrator will use to determine if operation and maintenance requirements were met.	Yes.
* *	* *	*	* *
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction (SSM) Plan (SSMP).	1. Requirement for SSM and startup, shutdown, malfunction plan. 2. Content of SSMP.	Yes before [date 181 days after date of publication of final rule in the **Federal Register**]. No on and after [date 181 days after date of publication of final rule in the **Federal Register**].
§ 63.6(f)(1)	Compliance Except During SSM	You must comply with emission standards at all times except during SSM.	Yes before [date 181 days after date of publication of final rule in the **Federal Register**]. No on and after [date 181 days after date of publication of final rule in the **Federal Register**].
* *	* *	*	* *
§ 63.6(h)(1)	Compliance with Opacity/VE Standards.	You must comply with opacity/VE emission limitations at all times except during SSM.	Yes before [date 181 days after date of publication of final rule in the **Federal Register**]. No on and after [date 181 days after date of publication of final rule in the **Federal Register**].
§ 63.7(e)(1)	Conditions for Conducting Performance Tests.	1. Performance tests must be conducted under representative conditions. Cannot conduct performance tests during SSM. 2. Not a violation to exceed standard during SSM.	Yes. before [date 181 days after date of publication of final rule in the **Federal Register**]. No on and after [date 181 days after date of publication of final rule in the **Federal Register**]. See § 63.8687.
* *	* *	*	* *
§ 63.7(e)(4)	Conduct of performance tests	Administrator's authority to require testing under section 114 of the Act.	Yes.
* *	* *	*	* *
§ 63.8(c)(1)(i)	Routine and predictable CMS malfunction.	1. Keep parts for routine repairs readily available. 2. Reporting requirements for CMS malfunction when action is described in SSM plan.	Yes before [date 181 days after date of publication of final rule in the **Federal Register**]. No on and after [date 181 days after date of publication of final rule in the **Federal Register**].
§ 63.8(c)(1)(ii)	CMS malfunction not in SSP plan	Keep the necessary parts for routine repairs if CMS.	Yes.
§ 63.8(c)(1)(iii)	Compliance with Operation and Maintenance Requirements.	Develop a written startup, shutdown, and malfunction plan for CMS.	Yes before [date 181 days after date of publication of final rule in the **Federal Register**]. No on and after [date 181 days after date of publication of final rule in the **Federal Register**].
* *	* *	*	* *
§ 63.8(d)	CMS Quality Control	1. Requirements for CMS quality control, including calibration, etc. 2. Must keep quality control plan on record for the life of the affected source 3. Keep old versions for 5 years after revisions	Yes.

TABLE 7 TO SUBPART LLLLL OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART LLLLL—Continued

Citation	Subject	Brief description	Applies to subpart LLLLL
* *	*	* *	* *
§ 63.10(b)(2)(i)	Records related to Startup and Shutdown.	Occurrence of each of operation (process equipment).	Yes before [date 181 days after date of publication of final rule in the **Federal Register**]. No on and after [date 181 days after date of publication of final rule in the **Federal Register**].
§ 63.10(b)(2)(ii)	Recordkeeping Relevant to Malfunction Periods and CMS.	Occurrence of each malfunction of air pollution equipment.	Yes before [date 181 days after date of publication of final rule in the **Federal Register**]. No on and after [date 181 days after date of publication of final rule in the **Federal Register**].
§ 63.10(b)(2)(iii)	Recordkeeping Relevant to Maintenance of Air Pollution Control and Monitoring Equipment.	Maintenance on air pollution control equipment.	Yes.
§ 63.10(b)(2)(iv)	Recordkeeping Relevant to Start-up, Shutdown, and Malfunction Periods and CMS.	Actions during startup, shutdown, and malfunction.	Yes before [date 181 days after date of publication of final rule in the **Federal Register**]. No on and after [date 181 days after date of publication of final rule in the **Federal Register**].
§ 63.10(b)(2)(v)	Recordkeeping Relevant to Start-up, Shutdown, and Malfunction Periods and CMS.	Actions during startup, shutdown, and malfunction.	Yes before [date 181 days after date of publication of final rule in the **Federal Register**]. No on and after [date 181 days after date of publication of final rule in the **Federal Register**].
* *	*	* *	* *
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports.	Contents and submission	Yes before [date 181 days after date of publication of final rule in the **Federal Register**]. No on and after [date 181 days after date of publication of final rule in the **Federal Register**].
* *	*	* *	* *

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No. 85 May 2, 2019

Part III

The President

Proclamation 9866—Days of Remembrance of Victims of the Holocaust, 2019

Federal Register
Vol. 84, No. 85
Thursday, May 2, 2019

Presidential Documents

Title 3—

The President

Proclamation 9866 of April 26, 2019

Days of Remembrance of Victims of the Holocaust, 2019

By the President of the United States of America

A Proclamation

On Yom HaShoah, Holocaust Remembrance Day, and during this week of solemn remembrance, we honor the six million Jewish men, women, and children who were brutally murdered by the Nazi regime. We also remember the Roma and Sinti, persons with disabilities, Poles and Slavic ethnic groups, Soviet prisoners of war, Jehovah's Witnesses, and persons who were targeted based on their sexual orientation, all of whom were targeted and killed by the Nazis and their collaborators.

The Holocaust will forever haunt the conscience of humanity. Unchecked evil and hatred led to unprecedented depravity and destruction. The Nazi regime sought to exterminate entire populations of those they deemed undesirable. Millions of Jewish people were forced into ghettoes and slave-labor camps in which starvation, widespread disease, and senseless brutality took a devastating toll. Many of those who survived were sent to concentration and death camps, in which millions of Jews were murdered in gas chambers and other facilities built for daily human massacre.

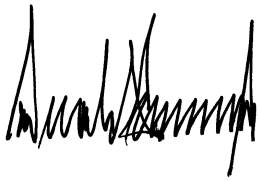
In Hebrew, the day commemorating victims of the Holocaust is called ''Yom HaShoah Ve-Hagevurah,'' which means the ''Day of (Remembrance of) the Holocaust and the Heroism.'' As we honor the victims of the Holocaust, we also celebrate the survivors and daring rescuers who overcame horrific injustices, endless nights of darkness, and daunting odds. Survivors of the Holocaust endured firsthand hatred and evil that sought to extinguish human life, dignity, and freedom. When the heroic American and Allied forces liberated them, the survivors had every right to sorrow and bitterness, but instead, they inspired all of humanity with their unbreakable spirit and the prevailing power of hope and forgiveness over horror and hatred.

Simon Wiesenthal, a Jewish-Austrian Holocaust survivor who endured five different labor and concentration camps to live to the age of 96, spent his life showing the world the depravity of the Nazis so that the haunting truths of the Holocaust would never fade. In his memoirs, he recounted being told by a Nazi guard that it was worthless to tell the story of the Holocaust because no one would ever believe such things were possible.

On Yom HaShoah, and during this week of remembrance, we join Simon Wiesenthal in refuting his captor and strongly reaffirm our everlasting commitment to honor the victims and survivors of the Holocaust, who through their courageous testimony, fulfill the righteous duty never to forget. We vow never to remain silent or indifferent in the face of evil. With absolute devotion, we will continue to advance human rights, combat anti-Semitism, and dispel all forms of hatred in every part of the world.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, do hereby ask the people of the United States to observe the Days of Remembrance of Victims of the Holocaust, April 28 through May 5, 2019, and the solemn anniversary of the liberation of Nazi death camps, with appropriate study, prayers and commemoration, and to honor the memory of the victims of the Holocaust and Nazi persecution by remembering the lessons of this atrocity so that it is never repeated.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth 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.



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