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The Code of Federal Regulations is sold by the Superintendent of Documents.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2019–0070]

RIN 3150–AK33

List of Approved Spent Fuel Storage Casks: NAC International NAC–UMS® Universal Storage System, Certificate of Compliance No. 1015, Amendment No. 7

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations by revising the NAC International NAC–UMS® Universal Storage System listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 7 to Certificate of Compliance No. 1015. Amendment No. 7 revises the surveillance requirements for technical specifications A3.1.6.1 and A3.1.6.2 to ensure that adequate monitoring of the concrete cask heat removal system is performed. Amendment No. 7 also revises the basis for technical specification A3.1.6 to clarify that the surveillance requirements for technical specification A3.1.6 require a minimum of two outlet air temperature measurements to provide an average outlet temperature.

DATES: This direct final rule is effective July 29, 2019, unless significant adverse comments are received by June 14, 2019. If this direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the **Federal Register**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Comments received on this direct final rule will also be considered to be comments on a companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**.

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–2019–0070. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

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: Bernard H. White, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–6577; email: *Bernard.White@nrc.gov* or Victoria V. Huckabay, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–5183; email: *Victoria.Huckabay@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0070 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–2019–0070.
- *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.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' 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–2019–0070 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions 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. Rulemaking Procedure

This rule is limited to the changes contained in Amendment No. 7 to Certificate of Compliance No. 1015 and does not include other aspects of the NAC–UMS® Universal Storage System design. The NRC is using the direct final rule procedure to issue this amendment because it represents a limited and routine change to an existing certificate of compliance that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The amendment to the rule will become effective on July 29, 2019. However, if the NRC receives significant adverse comments on this direct final rule by June 14, 2019, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC to make a change (other than editorial) to the rule, certificate of compliance, or technical specifications.

For detailed instructions on filing comments, please see the companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**.

III. Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended, requires that ''[t]he Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the Nuclear Waste Policy Act states, in part, that ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under section [218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule which added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on October 19, 2000, that approved the NAC–UMS® Universal Storage System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No. 1015 (65 FR 62581).

IV. Discussion of Changes

On September 18, 2018, NAC International submitted a request to the NRC to amend Certificate of Compliance No. 1015. Amendment No. 7 revises the surveillance requirements for technical specifications A3.1.6.1 and A3.1.6.2 to ensure that adequate monitoring of the concrete cask heat removal system is performed. Amendment No. 7 also revises the basis for technical specification A3.1.6 to clarify that the surveillance requirements for technical specification A3.1.6 require a minimum of two outlet air temperature measurements to provide an average outlet temperature.

As documented in the preliminary safety evaluation report, the NRC performed a safety review of the proposed certificate of compliance amendment request. There are no significant changes to cask design requirements in the proposed certificate of compliance amendment. Considering the specific design requirements for each accident condition, the design of the cask would prevent loss of containment, shielding, and criticality control in the event of an accident. This amendment does not reflect a significant change in the design or fabrication of the cask. In addition, any resulting occupational exposure or offsite dose rates from the implementation of Amendment No. 7 would remain well within the 10 CFR part 20 limits. There will be no significant change in the types or amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for, or consequences from, radiological accidents.

This direct final rule revises the NAC International NAC–UMS® Universal Storage System listing in § 72.214 by adding Amendment No. 7 to Certificate of Compliance No. 1015. The amendment consists of the changes previously described, as set forth in the revised certificate of compliance and technical specifications. The revised technical specifications are identified in the preliminary safety analysis report.

The amended NAC International NAC–UMS® Universal Storage System design, when used under the conditions specified in the certificate of compliance, the technical specifications, and the NRC's regulations, will meet the requirements of 10 CFR part 72; therefore, adequate protection of public health and safety will continue to be ensured. When this direct final rule becomes effective, persons who hold a general license under § 72.210 may load spent nuclear fuel into NAC–UMS® Universal Storage System casks that meet the criteria of Amendment No. 7 to Certificate of Compliance No. 1015 under § 72.214.

V. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC revises the NAC International

NAC–UMS® Universal Storage System design listed in § 72.214, ''List of approved spent fuel storage casks.'' This action does not constitute the establishment of a standard that contains generally applicable requirements.

VI. Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as Compatibility Category ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended, or the provisions of 10 CFR chapter I. Although an Agreement State may not adopt program elements reserved to the NRC, and the Category ''NRC'' does not confer regulatory authority on the State, the State may wish to inform its licensees of certain requirements by means consistent with the particular State's administrative procedure laws.

VII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31885).

VIII. Environmental Assessment and Finding of No Significant Environmental Impact

A. The Action

The action is to amend § 72.214 to revise the NAC International NAC–UMS® Universal Storage System listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 7 to Certificate of Compliance No. 1015. Amendment No. 7 revises the surveillance requirements for technical specifications A3.1.6.1 and A3.1.6.2 to ensure that adequate monitoring of the concrete cask heat removal system is performed. Amendment No. 7 also revises the basis for technical specification A3.1.6 to clarify that the surveillance requirements for technical specification A3.1.6 require a minimum of two outlet air temperature measurements to provide an average outlet temperature.

B. The Need for the Action

This direct final rule amends the entry for the NAC International NAC–UMS® Universal Storage System design within the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. The changes proposed in Amendment No. 7 are needed to specify the minimum number of outlet air temperature measurement required to ensure adequate heat removal and consistency with other NAC International storage systems, and to minimize the potential for human error when more than one NAC International system is used at an independent spent fuel storage installation. Specifically, Amendment No. 7 revises the surveillance requirements for technical specifications A3.1.6.1 and A3.1.6.2 to ensure that adequate monitoring of the concrete cask heat removal system is performed. Amendment No. 7 also revises the basis for technical specification A3.1.6 to clarify that the surveillance requirements for technical specification A3.1.6 require a minimum of two outlet air temperature measurements to provide an average outlet temperature.

C. Environmental Impacts of the Action

On July 18,1990, the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC (55 FR 29181). The potential environmental impact of using NRC-approved storage casks was initially analyzed in the environmental assessment for the 1990 final rule. The environmental assessment for this Amendment No. 7 tiers off of the environmental assessment for the July 18, 1990, final rule. Tiering on past environmental assessments is a standard process under the National Environmental Policy Act of 1969, as amended.

The NAC International NAC–UMS® Universal Storage System is designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-induced events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an independent spent fuel storage installation, the type of facility at which a holder of a power reactor operating license would store spent fuel in casks in accordance with 10 CFR part 72, include tornado winds and tornado-generated missiles, a design basis earthquake, a design basis flood, an accidental cask drop, lightning effects, fire, explosions, and other incidents.

Considering the specific design requirements for each accident condition, the design of the cask would prevent loss of confinement, shielding, and criticality control in the event of an accident. If there is no loss of confinement, shielding, or criticality control, the environmental impacts resulting from an accident would be insignificant. This amendment does not reflect a change in design or fabrication of the cask.

Therefore, any resulting occupational exposure or offsite dose rates from the implementation of Amendment No. 7 would remain well within the 10 CFR part 20 limits. Thus, the proposed changes will not result in any radiological or non-radiological environmental impacts that significantly differ from the environmental impacts evaluated in the environmental assessment supporting the July 18, 1990, final rule. There will be no significant change in the types or significant revisions in the amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for, or consequences from, radiological accidents. The NRC documented its safety findings in the preliminary safety evaluation report.

D. Alternative to the Action

The alternative to this action is to deny approval of Amendment No. 7 and end the direct final rule. Consequently, any 10 CFR part 72 general licensee that seeks to load spent nuclear fuel into the NAC International NAC–UMS® Universal Storage System in accordance with the changes described in proposed Amendment No. 7 would have to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, interested licensees would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee. Therefore, the environmental impacts would be the same as, or more likely greater than, the proposed action.

E. Alternative Use of Resources

Approval of Amendment No. 7 to Certificate of Compliance No. 1015 would result in no irreversible commitment of resources.

F. Agencies and Persons Contacted

No agencies or persons outside the NRC were contacted in connection with the preparation of this environmental assessment.

G. Finding of No Significant Impact

The environmental impacts of the action have been reviewed under the requirements in the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in subpart A of 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.'' Based on the foregoing environmental assessment, the NRC concludes that this direct final rule entitled ''List of Approved Spent Fuel Storage Casks: NAC International NAC–UMS® Universal Storage System, Certificate of Compliance No. 1015, Amendment No. 7,'' will not have a significant effect on the human environment. Therefore, the NRC has determined that an environmental impact statement is not necessary for this direct final rule.

IX. Paperwork Reduction Act Statement

This direct final rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing collections of information were approved by the Office of Management and Budget, approval number 3150–0132.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid Office of Management and Budget control number.

X. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this direct final rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only part 50 and part 52 licensees authorized to possess or operate nuclear power plant reactors under that part, independent spent fuel storage installation general licensees using the NAC International NAC–UMS® Universal Storage System, and NAC International. These entities do not fall within the scope of the definition of small entities set forth in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

XI. Regulatory Analysis

On July 18, 1990, the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC (55 FR 29181). Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, the spent fuel is stored under the conditions specified in the cask's certificate of compliance, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On October 19, 2000, the NRC issued an amendment to 10 CFR part 72 that approved the NAC–UMS® Universal Storage System design by adding it to the list of NRC-approved cask designs in § 72.214 (65 FR 62581).

On September 18, 2018, NAC International submitted a request to the NRC to amend Certificate of Compliance No. 1015 by adding Amendment No. 7. NAC International submitted this application to amend the NAC–UMS® Universal Storage System as described in Section IV, ''Discussion of Changes,'' of this document.

The alternative to this action is to withhold approval of Amendment No. 7 and to require any 10 CFR part 72 general licensee seeking to load spent nuclear fuel into the NAC International NAC–UMS® Universal Storage System under the changes described in Amendment No. 7 to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, each interested 10 CFR part 72 licensee would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee.

Approval of this direct final rule is consistent with previous NRC actions. Further, as documented in the preliminary safety evaluation report and environmental assessment, this direct final rule will have no adverse effect on public health and safety or the environment. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on this regulatory analysis, the NRC concludes that the requirements of this direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and therefore, this action is recommended.

XII. Backfitting and Issue Finality

The NRC has determined that the backfit rule (10 CFR 72.62) does not apply to this direct final rule. Therefore, a backfit analysis is not required. This direct final rule revises the listing in § 72.214, ''List of approved spent fuel storage casks,'' for Certificate of Compliance No. 1015 for the NAC International NAC–UMS® Universal Storage System. The revision changes the surveillance requirements for technical specifications A3.1.6.1 and A3.1.6.2 to ensure that adequate monitoring of the concrete cask heat removal system is performed, and also revises the basis for technical specification A3.1.6 to clarify that the surveillance requirements for technical specification A3.1.6 require a minimum of two outlet air temperature measurements to provide an average outlet temperature.

Amendment No. 7 to Certificate of Compliance No. 1015 for the NAC International NAC–UMS® Universal Storage System was initiated by NAC International and was not submitted in response to new NRC requirements, or an NRC request for amendment. Amendment No. 7 applies only to new casks fabricated and used under Amendment No. 7. These changes do not affect existing users of the NAC International NAC–UMS® Universal Storage System, and the current Amendment No. 6 continues to be effective for existing users. While current users of this storage system may comply with the new requirements in Amendment No. 7, this would be a voluntary decision on the part of current users.

For these reasons, Amendment No. 7 to Certificate of Compliance No. 1015 does not constitute backfitting under § 72.62 or § 50.109(a)(1), or otherwise represent an inconsistency with the issue finality provisions applicable to combined licenses in part 52. Accordingly, the NRC has not prepared a backfit analysis for this rulemaking.

XIII. Congressional Review Act

This direct final rule is not a rule as defined in the Congressional Review Act.

XIV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS accession No.
Letter from NAC International dated September 18, 2018, Submitting Request for Amendment to Certificate of Compliance No. 1015.	ML18264A014

Document	ADAMS accession No.
Proposed Certificate of Compliance No. 1015 Amendment No. 7, Certificate of Compliance for Spent Fuel Storage Casks.	ML19057A267
Proposed Certificate of Compliance No. 1015 Amendment No. 7, Technical Specifications, Appendix A.	ML19057A265
Proposed Certificate of Compliance No. 1015 Amendment No. 7, Technical Specifications, Appendix B.	ML19057A266
Certificate of Compliance No. 1015 Amendment No. 7, Preliminary Safety Evaluation Report.	ML19057A268

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking website at *http://www.regulations.gov* under Docket ID NRC–2019–0070. 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–2019–0070); (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).

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72:

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH–LEVEL RADIOACTIVE WASTE, AND REACTOR–RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

■ 2. In § 72.214, Certificate of Compliance 1015 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1015.

Initial Certificate Effective Date: November 20, 2000.

Amendment Number 1 Effective Date: February 20, 2001.

Amendment Number 2 Effective Date: December 31, 2001.

Amendment Number 3 Effective Date: March 31, 2004.

Amendment Number 4 Effective Date: October 11, 2005.

Amendment Number 5 Effective Date: January 12, 2009.

Amendment Number 6 Effective Date: January 7, 2019.

Amendment Number 7 Effective Date: July 29, 2019.

SAR Submitted by: NAC International, Inc.

SAR Title: Final Safety Analysis Report for the NAC–UMS Universal Storage System.

Docket Number: 72–1015.

Certificate Expiration Date: November 20, 2020.

Model Number: NAC–UMS.

* * * * *

Dated at Rockville, Maryland, this 2nd day of May, 2019.

For the Nuclear Regulatory Commission.

Kim S. West,

Acting, Executive Director for Operations.

[FR Doc. 2019–10017 Filed 5–14–19; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 211

[Docket No. R–1622 and RIN 7100 AF–16]

Regulations H and K: Registration of Mortgage Loan Originators

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is repealing its regulations that incorporated the Secure and Fair Enforcement for Mortgage Licensing Act (the S.A.F.E. Act). Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) transferred rulemaking authority for a number of consumer financial protection laws, including the S.A.F.E. Act, from the Board to the Bureau of Consumer Financial Protection (Bureau). In December 2011, the Bureau published an interim final rule, incorporating the S.A.F.E. Act into its Regulations G and H. In April 2016, the Bureau finalized the interim final rule. Accordingly, the Board is repealing its S.A.F.E. Act regulations.

DATES: The final rule is effective June 14, 2019.

FOR FURTHER INFORMATION CONTACT: Clinton Chen, Senior Attorney, (202) 452–3952, Justyna Bolter, Attorney, (202) 452–2686, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

The S.A.F.E. Act mandates a nationwide licensing and registration system for residential mortgage loan originators.[1] The S.A.F.E. Act requires residential mortgage loan originators employed by depository institutions, subsidiaries that are owned and controlled by a depository institution and regulated by a federal banking agency, and institutions regulated by the Farm Credit Administration (FCA) to register with the Nationwide Mortgage Licensing System and Registry, obtain a unique identifier, and maintain such registration. Originally, the federal registration requirements of the S.A.F.E. Act were implemented through a coordinated rulemaking of the federal banking agencies and the FCA, the agencies with authority over the federal registration requirements under the S.A.F.E. Act (the ''federal registry agencies'').[2] The Board incorporated the S.A.F.E. Act in its Regulation H, 12 CFR part 208, subpart I, and Regulation K, 12 CFR 211.24(k).

Title X of the Dodd-Frank Act amended a number of consumer financial protection laws, including the S.A.F.E. Act.[3] The Dodd-Frank Act

[1] 12 U.S.C. 5101 *et seq.*

[2] 75 FR 44656 (July 28, 2010). The rules were promulgated by the Board; the Office of the Comptroller of the Currency (OCC); the Federal Deposit Insurance Corporation (FDIC); the Office of Thrift Supervision, Treasury (OTS); the FCA; and the National Credit Union Administration (NCUA).

[3] Public Law 111–203, 124 Stat. 1376 (2010).

transferred rulemaking authority for the S.A.F.E. Act from the federal registry agencies to the Bureau, effective July 21, 2011.[4] In connection with the transfer of rulemaking authority for the S.A.F.E. Act to the Bureau, the Bureau published an interim final rule to incorporate the S.A.F.E. Act into its own Regulations G and H, 12 CFR parts 1007 and 1008 (Bureau Interim Final Rule).[5] In April 2016, the Bureau finalized the Bureau Interim Final Rule as part of a larger initiative of finalizing interim final rules.[6] The Bureau's regulations that incorporate the S.A.F.E. Act substantially duplicate the federal registry agencies' coordinated rules and cover the entities that were previously subject to the federal registry agencies' rules. In September 2018, the Board published a proposal to repeal its regulations that incorporated the S.A.F.E. Act (Proposed Rule).[7]

II. Discussion

The Board received two comments on the Proposed Rule. One commenter supported the Proposed Rule, while the other urged the Board to retain the regulations that it proposed to repeal. For reasons discussed below, the Board is finalizing the repeal of its regulations that incorporated the S.A.F.E. Act as proposed.

The commenter that supported the Proposed Rule stated that the registration of mortgage loan originators is burdensome for a small community bank that originates only a handful of mortgage loans each year. The Board notes that, although it is repealing its regulations that incorporated the S.A.F.E. Act, the statutory requirement to register mortgage loan originators still exists in the S.A.F.E. Act, as incorporated into the Bureau's regulations.

The commenter that opposed the Proposed Rule urged the Board to retain its regulations that incorporated the S.A.F.E. Act in order to retain the ability to issue any S.A.F.E. Act rules in the future. The Board's authority to issue rules, however, is determined by statute. If Congress were to amend the S.A.F.E. Act in the future to restore rulemaking authority to the Board, the Board could adopt rules under that authority at that time. Accordingly, the Board is finalizing the repeal of its regulations that incorporated the S.A.F.E. Act as proposed.

III. Final Regulatory Flexibility Analysis

An initial regulatory flexibility analysis (IRFA) was included in the proposal in accordance with section 3(a) of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.* In the IRFA, the Board requested comment on the effect of the Proposed Rule on small entities and on any significant alternatives that would reduce the regulatory burden on small entities. The Board did not receive any comments. The RFA requires an agency to prepare a final regulatory flexibility analysis (FRFA) unless the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. In accordance with section 3(a) of the RFA, the Board has reviewed the final regulation. Based on its analysis, and for the reasons stated below, the Board certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The final rule is intended to reflect Congress's transfer of rulemaking authority for the S.A.F.E. Act from the Board to the Bureau by repealing the Board's regulations that incorporated the S.A.F.E. Act. The repeal does not impose any recordkeeping, reporting, or compliance requirements on any entities. Any entity that is currently covered by the S.A.F.E. Act is subject to the rules issued by the Bureau, located in 12 CFR part 1007 and 1008. Accordingly, the Board does not expect this final rule to have a significant economic impact on a substantial number of small entities.

IV. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Federal Reserve by the Office of Management and Budget (OMB). The final rule contains no collections of information under to the PRA. *See* 44 U.S.C. 3502(3). Accordingly, there is no paperwork burden associated with the final rule.

List of Subjects

12 CFR Part 208

Accounting, Agriculture, Banks, Banking, Confidential business information, Consumer protection, Crime, Currency, Insurance, Investments, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 211

Exports, Foreign banking, Holding companies, Investments, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, chapter II of title 12 of the Code of Federal Regulations is amended as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

■ 1. The authority citation for part 208 continues to read as follows:

Authority: 12 U.S.C. 24, 36, 92a, 93a, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1816, 1818, 1820(d)(9), 1833(j), 1828(o), 1831, 1831o, 1831p–1, 1831r–1, 1831w, 1831x, 1835a, 1882, 2901–2907, 3105, 3310, 3331–3351, 3353, and 3906–3909; 15 U.S.C. 78b, 781(b), 78l(i), 780–4(c)(5), 78q, 78q–1, 78w, 1681s, 1681w, 6801 and 6805, 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104b, 4106, and 4128.

Subpart I—[Removed and Reserved]

■ 2. Subpart I, consisting of §§ 208.101 through 208.105 and appendix A to subpart I, is removed and reserved.

PART 211—INTERNATIONAL BANKING OPERATIONS (REGULATION K)

■ 3. The authority citation for part 211 continues to read as follows:

Authority: 12 U.S.C. 221 *et seq.,* 1818, 1835a, 1841 *et seq.,* 3101 *et seq.,* 3901 *et seq.,* and 5101 *et seq.;* 15 U.S.C. 1681s, 1681w, 6801 and 6805.

§ 211.24 [Amended]

■ 4. In § 211.24, paragraph (k) is removed.

By order of the Board of Governors of the Federal Reserve System, May 9, 2019.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2019–09948 Filed 5–14–19; 8:45 am]

BILLING CODE 6210–01–P

[4] *See* Public Law 111–203, sections 1061 & 1100. The Dodd-Frank Act generally excludes from this transfer of authority, subject to certain exceptions, any rulemaking authority over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both. Public Law 111–203, section 1029. The rulemaking authority retained by the Board under Section 1029 of the Dodd-Frank Act does not extend to residential mortgages. Thus, all rulemaking authority under the S.A.F.E. Act, which pertains only to mortgage loan originator registrations, was transferred to the Bureau.

[5] 76 FR 78483 (Dec. 19, 2011).

[6] 81 FR 25323 (April 28, 2016).

[7] 83 FR 48402 (Sept. 25, 2018).

FARM CREDIT ADMINISTRATION

12 CFR Chapter VI

RIN 3052–AD24

Statement on Regulatory Burden

AGENCY: Farm Credit Administration.

ACTION: Final notice of intent.

SUMMARY: This document is part of the Farm Credit Administration's (FCA, our, or we) initiative to consider the appropriateness of the requirements we impose on Farm Credit System (FCS or System) institutions, including the Federal Agricultural Mortgage Corporation (Farmer Mac). On May 18, 2017, we requested public comments, and this document responds to those comments.

DATES: May 15, 2019.

FOR FURTHER INFORMATION CONTACT: Gaylon J. Dykstra, Senior Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4322, TTY (703) 883–4056; or Mary Alice Donner, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION:

I. Objective

The objective of this final notice is to inform the public of our response to the comments submitted to us regarding our request to identify regulations that they considered burdensome, ineffective, duplicative, or not based on law.

II. Background

On May 18, 2017, we published a document in the **Federal Register** inviting the public to comment on our regulations that may duplicate other requirements, are ineffective, are not based on law, or impose burdens that are greater than the benefits received.[1] We received letters from Farm Credit East, ACA; Capital Farm Credit, ACA; CoBank, ACB; the Farm Credit Council; and the Institute for Policy Integrity at the New York University School of Law. The letters commented on regulations concerning: Governance, lending, capital, investments, borrower rights and other FCA regulations and guidance. In addition, the Institute for Policy Integrity encouraged FCA to stay focused on its mandate to identify outdated, unnecessary, ineffective, or net costly regulations for repeal, replacement, or modification and not to instead prioritize recently promulgated and overwhelmingly cost-benefit justified rules identified by industry commenters.

This document discusses the comments raised about FCA regulations and FCA activities. Many of the comments concern changes that we cannot implement because they are inconsistent with the Farm Credit Act of 1971, as amended (Act), safety and soundness, and/or other FCA guidance or position. Some comments raise issues that are the subject of existing regulatory projects scheduled for consideration by FCA as set forth in our 2019 Regulatory Projects Plan, which is available on the FCA website, and those issues will be addressed in the planned regulatory projects. In other cases, commenters identify issues that need further evaluation before we can consider whether changes are appropriate.

III. Comments That Did Not Result in Regulatory Changes

A. Examinations

Comment: Given the strong financial performance and credit quality of many institutions, the agency should consider lengthening the time between exams for highly rated institutions. This would not only reduce costs at the institution level, but also allow FCA to better leverage its own resources as well as reduce its own costs.

FCA Response: We cannot make the recommended change because it conflicts with statute. Section 5.19 of the Act requires that ''except for Federal land bank associations, each institution of the System shall be examined by Farm Credit Administration examiners at such times as the Board may determine, but in no event less than once during each 18-month period.'' Therefore, we cannot extend the time between examinations to longer than 18 months. However, we would like to note that despite the mandated examination cycle, we very much do leverage our resources, as suggested in the comment. We do this through our risk-based examination approach, wherein resources are allocated based on an institution's risk profile, and our use of off-site, electronic data throughout the examination process.

B. E-Sign Notifications

Comment: We encourage the agency to reconsider the exceptions to ''E-Sign'' notifications, and in particular those in Subpart D of part 617. We note that E-Sign notifications of adverse credit decisions are permitted under ECOA regulations.

FCA Response: The FCA E-Sign Regulations comply with Public Law 106–229—Electronic Signatures in Global and National Commerce Act. This law has not changed since we published the FCA's E-Sign Regulations; therefore, we are unable to make any revisions.

C. Outside Director

Comment: Section 611.220(a)(1) currently precludes an ''outside'' director from serving on the board of an FCA chartered Service Corporation. We believe this provision is more restrictive than is required by the Act (which, as you know, only requires a bank or association to have one outside director). As long as the prospective bank or association director candidate is not a director of another institution at the time of his selection, the Act's requirement is satisfied.

Additionally, the arbitrary prohibition on outside directors serving on service corporations is contrary to the spirit of the Act (creating a ''second class'' of directors), and counterproductive in terms of keeping qualified directors from serving on service corporation boards.

FCA Response: The comment is seeking to allow an outside director to simultaneously serve on two boards of directors—a System institution and a service corporation. We cannot make the recommended change because it conflicts with statute. Section 1.4 of the Act requires that ''at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.'' Section 4.27 of the Act provides that a service organization chartered by FCA is a Farm Credit System institution. We also believe that independence of the outside director is critical. We note that some service corporations are jointly owned by several System institutions, and service on the service corporation board could impair the independence of the outside director of the bank or association.

D. Unincorporated Business Entities (UBE)

Comment: Eliminate the regulatory approval process for formation of UBEs pursuant to § 611.1155 and address compliance through the examination process.

FCA Response: We are not persuaded by the comment that a change is needed. The UBE rule includes a notice-only provision in § 611.1154 to simplify the process and avoid unnecessary administrative burdens and costs when investing in UBEs whose activities we have experience in overseeing. For investments in any other UBEs, we continue to believe that it is prudent to

[1] *See* 82 FR 22762.

have System institutions get our pre-approval to avoid the burden and cost associated with reversing investments that we later deem to be inappropriate, unsafe or unsound, or contrary to law through the examination process. FCA will, however, consider whether additional categories of UBE investments could be included in the notice-only provisions to reduce burden on System institutions.

E. Aquatic Related Businesses Industry

Comment: Farm Credit may currently finance ''farm related businesses'' as eligible entities in the agriculture sector, and should also be permitted to finance related businesses which support the commercial fishing industry. Commercial fishing is the economic backbone of many rural communities in some parts of the nation, and producers and harvesters of seafood are themselves very dependent on many types of infrastructure for their long-term viability. FCA regulations that address ''related businesses'' should be modified to match overall lending authorities (for Farmers, Ranchers and Aquatic Producers and Harvesters) so that financing for ''fishing related businesses'' is specifically permitted.

FCA Response: We responded to this comment in past Regulatory Burden Notices. Our latest response was ''[w]ith respect to aquatic-related services, sections 1.9(2), 1.11(c)(1), and 2.4(a)(3) of the Act authorize title I and II System lenders to extend credit to businesses that furnish farm-related services to farmers and ranchers directly related to their on-farm operation needs. The Act does not reference financing businesses that furnish aquatic-related services to aquatic producers and harvesters. We are closely following this topic.'' [2] Although our position on this issue remains unchanged, we continue to follow any interest or developments on this topic.

F. Other Financing Institutions (OFI)

Comment: Modify § 614.4120 to allow System banks and individual OFI customers to develop financing agreements that are independent of the Agricultural Credit Association financing structure and allows them to have a general financing agreement that meets the unique needs and varying organizational structures of OFIs. Additionally, § 614.4130(b) should be modified to allow for the delivery to the FCA of all documents related to the GFA within 30 days of execution.

FCA Response: We are not persuaded by the comment that a change is needed. FCA regulation 614.4120 requires the board of directors of each System bank to adopt policies and procedures governing the making of direct loans for direct lender associations and OFIs. While the term general financing agreement is the same term used for both direct lending associations and OFIs, the regulations do not require that they be the same or similar, only that the adopted policies and procedures prescribe lending policies and loan underwriting standards that are consistent with sound financial and credit practices.

The request in the comment to increase the document delivery deadline to 30 days lacks any justification or support. The deadline in § 614.4130(b) currently is 10 business days after execution of the documents. The need for the requested change is not readily apparent, especially given that the documents could easily be submitted to FCA electronically. Nonetheless, while we are not making any change at this time, we may consider the request as part of a future regulatory project.

G. Updated Financial Information

Comment: Section 614.4150 does not specifically direct institutions to annually request updated financial information from customers. However, anecdotal evidence suggests that this is a requirement from the Office of Examination. This issue dates back to the credit crisis of the 1980s. Hopefully, we are past the time when this requirement is appropriate on any kind of an ''across the board'' basis.

FCA Response: We agree with the comment that an ''across the board'' basis for updating financial information is not appropriate. In fact, we took this position in 1997 when we removed the requirement for annual updating of financial information from the regulations. Instead, current regulations require that System institution boards and management adopt written policies and procedures that set the standards for updating borrower financial information. These standards, along with their implementation, are then the basis for evaluating how well the board and management is managing the institution.

We further address this issue in an Informational Memorandum dated, March 29, 2011, Loan Underwriting Standards—Borrower Financial Information. In this memorandum, we convey our expectations regarding the collection of borrower financial information and the impact of this information on loan underwriting standards. This Informational Memorandum is available on our website, *www.fca.gov,* under the 'Laws and regulations' heading.

H. Loan Participation

Comment: The requirements for evidencing an independent credit judgement by a purchaser of a loan participation from another System institution are unduly burdensome. Of course, each institution needs to be accountable for the loans, including purchases of participations, in their portfolio. Some form of simplified credit summary, or other analysis by a credit officer of the purchasing institution should be adequate to satisfy the requirements for an independent decision.

FCA Response: This issue was thoroughly studied when we finalized this regulation, and our analysis has not changed.[3] In fact, one of the points we made in the preamble was that ''Section 614.4325(e) does not require the participating institution to prepare a lengthy analysis or to compile separate documentation from the originating or lead lender. However, § 614.4325(e) requires the purchasing institution to perform an objective, independent, and thorough analysis when it makes a loan decision.'' An institution cannot delegate its independent credit decision. However, we continue to believe that this regulation provides flexibility for an institution to streamline the decision-making process and documentation of the decision, while ensuring that it fulfills its duty to protect institution assets.

I. Purchase of Whole Loans

Comment: We again urge FCA to reconsider its prohibition on the purchase of whole loans by System institutions. Several years ago, FCA took the step to recognize the purchase of 100% participations in loans. Allowing System institutions to purchase whole loans would be of real benefit to farmers and ranchers in their financial planning, without increasing the credit exposure to the System over that created by the purchase of participations.

FCA Response: We plan to address this issue in part through a notice of proposed rulemaking regarding those portions of commercial bank loans with unconditional guarantees by the U.S. Department of Agriculture. Depending upon the outcome of that regulatory project, those transactions may be considered investments due to the way in which they are offered for sale and resale.

[2] *See* 79 FR 42238 (July 21, 2014).

[3] *See* 57 FR 38237 (Aug. 24, 1992).

For whole loans that cannot be considered investments, we are not considering a change. Section 614.4325(b) prohibits a FCS institution from purchasing any interest in a loan from an institution that is not a FCS institution except to pool or securitize loans, purchase a participation interest under its lending authority and purchase loans from the FDIC.

J. Public Disclosure About OFIs

Comment: FCA Regulation § 614.4595 requires the banks to receive written approval from the OFI before publicly disclosing its name, address, and internet address. It also requires a bank to adopt and maintain policies and procedures relating to OFI public disclosures. This requirement is unnecessary, excessively prescriptive, not required in law and burdens banks to maintain a policy that detracts from meaningful board oversight. Disclosure of name, address and internet address is not a regulatory matter and it is better left to the banks and OFIs to decide within the lending relationship.

FCA Response: We are not persuaded by the comment that a change is needed. The regulation provides that a Farm Credit Bank or agricultural credit bank may disclose to members of the public the name, address, telephone number, and internet website of an OFI only if the OFI consents in writing. We continue to believe the regulation is necessary to deal with this issue and is not unduly burdensome. In addition, we continue to believe that the OFI, and not the FCS bank, should be the party to decide whether its information is made public as designed in the regulation.

K. Special Collateral Requirements

Comment: The Special Collateral Requirements for post-closing certification, after the issuance of a standard title insurance policy and compliance with customary loan closing procedures, are duplicative and unnecessary. With this requirement, the System institution is being asked to effectively ''re-certify'' the work that the title insurance company has been paid to perform. The title insurance company has agreed to insure the risks that this regulation is designed to mitigate, which makes this requirement burdensome.

FCA Response: We are not persuaded by the comment that a change is needed. The Act requires that long-term mortgage loans be secured by first liens on real estate as may be prescribed by regulations of the FCA. Section 615.5060 provides institutions one of two methods to validate the institution's first lien position: Attorney lien certification or title insurance policy. Choosing to use a title insurance policy creates obvious additional fiduciary responsibilities for the institution such as: Ensuring that the title insurance company is licensed, ensuring that the final policy meets the institution's specifications, and ensuring that the insured amount at least equals the outstanding loan balance. We do not view verifying that a policy is valid, adequate, and proper as ''re-certifying'' the work of the title insurance company, but simply good business practice to ensure compliance with the first lien requirement of the Act.

L. Public-Private Partnership Investments

Comment: The approval process for public-private partnership investments, such as community health care facilities, would better serve rural America if it were streamlined. The current case-by-case approval process significantly hinders the development of critical projects in rural communities. The commenters recommend that FCA streamline the approval process for investments in public-private partnerships that benefit rural communities and modify the regulation to specifically allow the purchase of community facility bonds as mission-related investments.

FCA Response: FCA has developed a process to expedite and streamline case-by-case requests that meet certain criteria. Many requests for community health care facilities are handled on an expedited basis. We continue to consider other ways to streamline the process for FCA consideration of case-by-case investment requests.

M. Interest Rate Disclosures

Comment: The regulations require System Institutions to disclose rate changes when the rates are tied to a widely published external index (*i.e.,* prime rate or LIBOR); however, the intent of permitting such interest rates is transparency. Borrowers can determine their rate by numerous published sources. To require notification by System institutions of rate changes as outlined by the regulation is unnecessary and burdensome.

FCA Response: We cannot make the recommended change because it conflicts with statute. Section 4.13(a)(4) of the Act requires qualified lenders to provide borrowers, for all loans not subject to the Truth in Lending Act (15 U.S.C. 1601 *et seq.*), ''meaningful and timely disclosure'' of any change in the interest rate applicable to the borrower's loan within a ''reasonable time after the effective date'' of a change. Given that notification of a change in interest rate is a statutory requirement, removing the regulation is not an option. Nevertheless, we believe the regulation provides for significant flexibility by allowing for notifications to be made ''as part of the borrower's first regularly scheduled billing statement affected by the rate change.'' In other words, only the billing statements need to reflect the rate changes that occurred during the billing period and a separate notice is not required. Further, the status of LIBOR continuing as an index for loans is uncertain, and loans may need to be indexed to a replacement. Given uncertainty over the replacement, including whether it will be as widely published and available as LIBOR, we do not believe that this would be an appropriate time to consider any lessening of disclosure requirements for indexed loans.

N. Purchase of Insurance

Comment: Section 4.29 of the Act requires a written notice to customers that the purchase of insurance (when required as condition to obtain the loan) through the lender is optional. Section 618.8040(b) should be revised to eliminate the requirement for a separate, written statement.

FCA Response: We are not persuaded by the comment that a change is needed. We continue to believe that a written notice that is separately signed by the member or borrower is necessary to carry out Congressional intent. We also continue to believe that our position outlined in the preamble to the existing regulation continues to be appropriate: ''provide documentation to refute any potential allegations that borrowers were coerced into purchasing insurance offered by banks or associations.''

O. Human Capital and Marketing Plans

Comment: The requirements of §§ 618.8440(b)(7) and (b)(8) pertaining to human capital and marketing plans are excessively prescriptive and detailed without any corresponding benefit to the institutions or mission achievement. Specifically, the regulations required significant detail in both the human capital and marketing plans that goes beyond what is appropriate for inclusion, even at a summary level, in a business plan. To reduce burden and requirements that are duplicative in nature, the FCA should generalize the human capital and marketing plan requirements.

FCA Response: We are not persuaded by the comment that a change is needed. These two regulatory sections were specifically written to minimize any

regulatory burden and require the minimum strategies and actions needed to develop these sections of the business plan. We do not believe that these requirements rise to the level of ''significant detail'' and that they go ''beyond what is appropriate for inclusion in a business plan.''

We continue to believe that these human capital and marketing planning regulatory requirements are critical to institution operations. Human capital and marketing plans are opportunities to lay out the institution's demographics and address strategies to make progress in diversity and inclusion as a vital component of its corporate culture and being more responsive to the credit needs of all eligible and creditworthy agricultural producers and other eligible persons.

P. Syndications and Participations Study

Comment: The reporting requirements for the syndication and participations study are burdensome and manually intensive, time consuming, and do not augment internal management's tools. FCA should evaluate the data gathered to date for the syndication and participations study and determine the usefulness of gathering additional data in the future.

FCA Response: We agree that less reporting is now adequate compared to what we originally required. Consequently, we reduced the reporting from quarterly to annually beginning in 2018. We are also evaluating more streamlined ways in which the annual data could be provided to FCA. However, we continue to believe that collecting the data is necessary for the analysis of the complex issues being considered through the loan syndication study.

Q. Voting Requirements

Comment: Proxy voting requirements should be removed when using mail ballots. The use of digital processes are more efficient, and the proxy method required is cumbersome to stockholders, which encourages them not to vote.

FCA Response: A proxy authorizes someone to attend a meeting instead of the voting stockholder and take actions, including casting a vote if there will be in-person voting, with the same authority as the stockholder granting the proxy. Our existing regulations in part 609 and 611 allow proxies to be delivered electronically to those individual shareholders who have consented to e-commerce for voting events. However, electronic communications in voting events, including proxies, must satisfy the same confidentiality and security requirements when paper, and not electronics, are used.

R. Floor Nominations

Comment: Section 611.326 specifies the procedures to use for allowing floor nominations at association annual meetings. The System recognizes that floor nominations are required in accord with the Farm Credit Act. However, the current procedures are unwieldy, cumbersome, time-consuming and costly. Moreover, they actually undermine the existing nomination committee process, and FCA guidance and can impede the ability of stockholders to make an informed voting decision. They make compliance with disclosure requirements difficult for both the institution and the nominee. Associations should have increased flexibility to adopt procedures that maintain the ability for floor nominations, while facilitating compliance with disclosure and voting procedures.

FCA Response: We are not persuaded by the comment that a change is needed. This issue was thoroughly studied when we finalized this regulation, and our analysis has not changed.[4] We believe that the procedures outlined in the rule are consistent with the statutory requirement and that the comment raises issues that we considered in the rulemaking.

IV. Comments That We Will Address in Existing Regulatory Projects

A. E-Commerce

Comment: FCA should revise its E-commerce definition to be consistent with the definition used generally in the marketplace. The current application of the FCA regulatory definition is overly broad and results in an expansive application by examiners, application beyond what is required by E-commerce laws, and creates an unnecessary burden on FCS institutions.

FCA Response: Our Cybersecurity Workgroup is reviewing the E-commerce regulations, including whether the term ''E-Commerce'' is outdated. The Workgroup is considering whether the terminology of ''E-Commerce'' should be removed from FCA Regulations and replaced with the word ''Information Technology''.

B. Criminal Referral Form

Comment: FCA requires reports of known or suspicious criminal activity through the use of FCA's Criminal Referral Form (CRF). This referral form is unique to FCA and not integrated with FinCEN's Suspicious Activity Reporting (SAR) system that is used by law enforcement and Federal prosecutors to fight financial crimes. CoBank voluntarily complies with SAR filing requirements. As a result, FCA's requirement to use an FCA CRF is burdensome and confusing to criminal enforcement authorities in those situations when CoBank files a SAR and is required by FCA to also file an FCA CRF. Importantly, the SAR form provides effectively and efficiently the same information contained in the FCA CRF for use by law enforcement. FCA should eliminate this burden and accept the SAR form instead of the FCA CRF in those instances where reporting is provided under FinCEN filing requirements.

FCA Response: Our Criminal Referral Workgroup is considering whether FCA should issue guidance to provide clarification on this issue.

C. Criminal Referral Form Threshold

Comment: FCA requires the reporting of ''Any known or suspected criminal activity involving a financial transaction in which the institution was used as a conduit for such criminal activity (such as money laundering/structuring schemes)'' without any threshold or test for substance. To provide consistency in requirements applicable to commercial banks for the filing of SARs, the FCA should implement a $5,000 threshold for filing an FCA CFR when the suspect is known and $25,000 when the suspect is unknown.

FCA Response: Our Criminal Referral Workgroup is considering whether we should provide guidance to clarify this issue.

D. Amortization Limits

Comment: Production credit association and agricultural credit association loan authorities should be updated to reflect current System structure. There is no statutory basis to maintain restrictions on production credit association real estate lending, or that loans amortize within a period of 15 years, or whether the customer already owns the land or is purchasing it. Amortization and repayment should be a matter of appropriate credit administration, not regulation.

FCA Response: We plan to address this comment in conjunction with the amortization limits project that is listed on our Regulatory Projects Plan and Unified Agenda. The project will address the amortization limits for loans made under the production credit association authority.

[4] *See* 75 FR 18726 (Apr. 12, 2010).

E. Liquidity Reserves

Comment: Section 615.5134(d) describes specific, extensive requirements for each System bank to maintain its liquidity reserve. All System banks maintain liquidity reserves well in excess of regulatory requirements. The imposition of an additional ''marketability study'' for each bank is unduly burdensome and ignores the facts and circumstances of each bank's portfolio. FCA should look at both the quantity and quality of the bank's liquidity reserve, as well as its actual experience with execution of transactions to decide whether a study is necessary, rather than imposing an arbitrary requirement to conduct a study that is both costly and of little, if any, value.

FCA Response: We incorporated this comment into our study of the Liquidity Coverage Ratio.

F. Borrower Rights

Comment: The requirements for adverse action should be amended to use the same terminology as that used in Regulation B.

FCA Response: We plan to address this comment in conjunction with the borrower rights project that is listed on our Regulatory Projects Plan and Unified Agenda. As part of this project, we will study the similarities and differences between the Regulation B requirements and our adverse action regulations.

V. Comments That Need Further Evaluation

As noted above, some of the regulatory burden issues raised need further evaluation before we can consider whether changes are appropriate.

A. Scope of Lending

Comment: The Agency has not updated the Scope of Lending regulation, § 613.3005, since 1997. Farming and who is considered a full-time farmer have continued to evolve over this time. Many farmers, regardless of the size of the farming operation, have multiple sources of off-farm income, but still devote a significant amount of time to farming. This is particularly true with the Young, Beginning and Small Farmer segment, which the System is directed to serve. FCA guidance in regard to financing of legal entities with 100% ownership by eligible farmers needs to be updated to reflect the variety of modern legal structures used in agricultural production.

FCA Response: The comment correctly points out that the FCA has not recently updated this regulation. However, further evaluation is needed before we can consider whether the recommended changes are appropriate. We will consider this recommendation in any future review of this regulation.

B. Release of Borrower Names and Addresses

Comment: Section 618.8310 should be omitted. With security and privacy of borrower information heightened, releasing borrowers' names and addresses conflicts with current practices and standards.

FCA Response: Section 4.12A of the Act requires a System bank or association to provide to a stockholder of the bank or association a current list of stockholders of the bank or association not later than 7 calendar days after the date on which the bank or association receives a written request for the stockholder list from the stockholder. This provision has been slightly revised in the most recent Farm Bill, and although we are not currently reviewing this regulation, we may consider reviewing this provision in the future.

C. Electric and Telecommunication Lending

Comment: Make changes to § 613.3100(c)(2) to reflect changes to the Rural Electrification Act, as amended (REA), since CoBank's lending authorities for electric and telecommunication borrowers are derived from the REA.

FCA Response: Changes to FCA regulations in this area are not necessary for CoBank to implement the 2018 Farm Bill. Further evaluation is needed before we can consider whether regulatory changes are appropriate. We will consider this recommendation in any future review of this regulation.

D. Multiple Title Insurance Policy Ratio Amounts

Comment: FCA regulation § 615.5060(a)(2)(iii) establishing multiple title policy ratio amounts should be deleted. It has no legal validity, it does not always represent the risk profile of collateral and title issuers have different opinions/requirements.

FCA Response: Further evaluation is needed before we can consider whether the recommended change is appropriate. We will consider this recommendation in any future review.

E. Annual Report to Shareholders

Comment: Eliminate the requirement for distribution of the annual report in accordance with § 620.4. Electronic access should be adequate. There is no need to mail copies of the annual report.

Comment: The requirements of § 620.6, in particular the provisions relating to retirement account information and travel reimbursement policies, are unduly burdensome and also confusing or even misleading to stockholders. We believe this is an area where the quality of the disclosures can be improved, while reducing paperwork and costs.

FCA Response: Further evaluation is needed before we can consider whether the recommended changes are appropriate. We will consider this recommendation in any future review.

F. Disclosure Requirements for Sale of Borrower Stock

Comment: Delivering a copy of the quarterly report along with annual report is burdensome and produces minimal value to stockholder. The same could be achieved by referencing location of both reports on website.

FCA Response: As outlined in § 615.5250, a System institution must provide a prospective borrower with several documents related to borrower stock in conjunction with obtaining a loan. We believe that including the annual report and most recent quarterly report in with the other documents is not a burden and that the benefit in helping to attract a prospective borrower outweighs any burden that may exist. Nonetheless, there may be room for modifications, but further evaluation is needed before we can consider whether the recommended change is appropriate. We will consider this recommendation in any future review.

G. Loan Data Reporting

Comment: FCA has increased the amount of loan data required to be submitted to the agency. There is a material administrative cost to System institutions to update and maintain the systems to collect and report that information. FCA should consider the costs and benefits of those requirements on an institution specific basis.

FCA Response: Further evaluation is needed before we can consider whether the recommended change is appropriate. We will consider this recommendation in any future review.

V. Future Efforts To Reduce Regulatory Burden on System Institutions

For over 25 years, we have been making a concerted effort to remove regulatory burden whenever possible and will continue to do so into the future. However, we will maintain those regulations that are necessary to implement the Act and are critical for

the safety and soundness of the System. Our approach is intended to enable the System to continue to provide credit to America's farmers, ranchers, aquatic producers, their cooperatives and other rural residents.

Dated: May 9, 2019.

Dale Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2019–09960 Filed 5–14–19; 8:45 am]

BILLING CODE 6705–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulation on Benefits Payable in Terminated Single-Employer Plans to prescribe certain interest assumptions under the regulation for plans with valuation dates in June 2019. These interest assumptions are used for paying certain benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective June 1, 2019.

FOR FURTHER INFORMATION CONTACT: Gregory Katz (*katz.gregory@pbgc.gov*), Attorney, Regulatory Affairs Division, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005, 202–326–4400 ext. 3829. (TTY users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4400, ext. 3829.)

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

PBGC uses the interest assumptions in appendix B to part 4022 (''Lump Sum Interest Rates for PBGC Payments'') to determine whether a benefit is payable as a lump sum and to determine the amount to pay. Because some private-sector pension plans use these interest rates to determine lump sum amounts payable to plan participants (if the resulting lump sum is larger than the amount required under section 417(e)(3) of the Internal Revenue Code and section 205(g)(3) of ERISA), these rates are also provided in appendix C to part 4022 (''Lump Sum Interest Rates for Private-Sector Payments'').

This final rule updates appendices B and C of the benefits payment regulation to provide the rates for June 2019 measurement dates.

The June 2019 lump sum interest assumptions will be 1.00 percent for the period during which a benefit is (or is assumed to be) in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for May 2019, these assumptions represent no change in the immediate rate and are otherwise unchanged.

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

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

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

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

List of Subjects in 29 CFR Part 4022

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

In consideration of the foregoing, 29 CFR part 4022 is amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE–EMPLOYER PLANS

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

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

■ 2. In appendix B to part 4022, rate set 308 is added at the end of the table to read as follows:

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

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	
308	6–1–19	7–1–19	1.00	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, rate set 308 is added at the end of the table to read as follows:

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

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	
308	6–1–19	7–1–19	1.00	4.00	4.00	4.00	7	8

Issued in Washington, DC.

Hilary Duke,

Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2019–09748 Filed 5–14–19; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2019–0271]

RIN 1625–AA08

Special Local Regulations; Low Country Splash, Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on the waters of the Wando River, Cooper River, and Charleston Harbor in Charleston, SC. This action is necessary to provide for the safety of life on navigable waters during the Low Country Splash Swim on June 1, 2019. This rulemaking would restrict persons and vessels from entering certain waters of the Wando River, Cooper River, and Charleston Harbor, unless authorized by Sector Charleston Captain of the Port or a designated representative.

DATES: This rule is effective on June 1, 2019 from 7 a.m. to 10 a.m.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0271 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 Lieutenant Justin Heck, Sector Charleston Waterways Management Division, Coast Guard; telephone (843) 740–3184, email *Justin.C.Heck@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard did not receive necessary information from the event sponsor with enough time to publish a NPRM. Additionally, the Coast Guard has published a special local regulation for this event in 33 CFR 100.701, Table to § 100.701, Section (g) Line 2; however, the existing special location regulation is dated for the first week of May.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because the event is taking place on June 1, 2019 and immediate action is needed to respond to the potential safety hazards associated with this event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041 (previously 33 U.S.C. 1233). The Captain of the Port Charleston (COTP) has determined that potential hazards associated with the Low Country Splash Open Swim event present a safety concern for anyone in the vicinity of the regulated area during the event. This rule is needed to protect participants, spectators, and the general public in the navigable waters within the regulated area during the Low Country Splash Open Swim event.

IV. Discussion of the Rule

This rule establishes a special local regulation from 7 a.m. to 10 a.m. on June 1, 2019. The special local regulation would cover all navigable waters within a moving zone, beginning at Daniel Island Pier, then moving south along the coast of Daniel Island, then across the Wando River to Hobcaw Yacht Club, then south along the coast of Mt. Pleasant, S.C., to Charleston Harbor Resort Marina. The duration of the special local regulation is intended to ensure the safety of participants, spectators, vessels and these navigable waters before, during, and after the scheduled event. No vessel or person will be permitted to enter the regulated area without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on: (1) Non-participant persons and vessels may enter, transit through,

anchor in, or remain within the regulated area during the enforcement periods if authorized by the COTP or a designated representative; (2) vessels not able to enter, transit through, anchor in, or remain within the regulated area without authorization from the COTP or a designated representative may operate in the surrounding areas during the enforcement period; (3) the Coast Guard will provide advance notification of the special local regulation to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners; and (4) the regulated area will impact small designated areas of Wando River, Cooper River, and Charleston Harbor for only 3 hours and thus is limited in time and scope.

B. Impact on Small Entities

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

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

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this 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 proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule a special local regulation lasting 3 hours, restricting persons and vessels from entering certain waters of the Wando River, Cooper River, and Charleston Harbor. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

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

■ 2. Add § 100.T07–0271 to read as follows:

§ 100.T07–0271 Special Local Regulation; Low Country Splash, Charleston, SC.

(a) *Location.* This section establishes a temporary special local regulation. All waters within a moving zone, beginning at Daniel Island Pier in approximate position 32°51′20″ N, 079°54′06″ W, south along the coast of Daniel Island, across the Wando River to Hobcaw Yacht Club, in approximate position 32°49′20″ N, 079°53′49″ W, south along the coast of Mt. Pleasant, S.C., to Charleston Harbor Resort Marina, in

approximate position 32°47′20″ N, 079°54′39″ W.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port (COTP) Charleston in the enforcement of the regulated areas.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the COTP Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the COTP Charleston by telephone at 843–740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the COTP Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from 7 a.m. until 10 a.m. on June 1, 2019.

Dated: May 9, 2019.

J.W. Reed,

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

[FR Doc. 2019–10041 Filed 5–14–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0283]

RIN 1625–AA00

Safety Zone; Fireworks Displays, Little Egg Harbor, Beach Haven, NJ

AGENCY: Coast Guard, DHS.

ACTION: Interim final rule and request for comments.

SUMMARY: The Coast Guard is establishing a temporary safety zone on a portion of Little Egg Harbor in Beach Haven, NJ. This action is necessary to protect the surrounding public and vessels on these navigable waters during a series of fireworks displays on the following dates: May 18, May 25, June 1, June 7, July 20, July 27, August 10, September 1, October 5, and October 12, 2019. This regulation prohibits persons and vessels from entering, transiting, or remaining within the safety zone unless authorized by the Captain of the Port Delaware Bay or a designated representative.

DATES:

Effective date: This rule is effective from 8:30 p.m. on May 18, 2019, through 9:30 p.m. on October 12, 2019.

Comment date: Comments and related material must be received by the Coast Guard on or before June 14, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2019–0283 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

You may submit comments identified by docket number USCG–2019–0283 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Thomas Welker, U.S. Coast Guard, Sector Delaware Bay, Waterways Management Division; telephone 215–271–4814, email *Thomas.j.welker@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
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 Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest to do so. There is insufficient time to allow for a reasonable comment period prior to the date of the first events. The rule must be in force by May 18, 2019. We are taking immediate action to ensure the safety of spectators and the general public from hazards associated with the fireworks displays. Hazards include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris.

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

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Delaware Bay (COTP) has determined that potential hazards associated with the fireworks displays on the dates listed above will be a safety concern for anyone within a 100 yard radius of the fireworks barge, which will be anchored in approximate position 39°34′09.32″ N, 074°14′31.67″ W. This rule is needed to protect persons, vessels and the public within the safety zone during the fireworks displays.

IV. Discussion of the Rule

This rule establishes a temporary safety zone on the waters of Little Egg Harbor in Beach Haven, NJ, during a series of fireworks displays from a barge. The events are scheduled to take place at approximately 8:30 p.m. on May 18, May 25, June 1, June 7, July 20, July 27, August 10, September 1, October 5, 2019, and October 12, 2019. The safety zone will extend 100 yards around the barge, which will be anchored at approximate position 39°34′09.32″ N, 074°14′31.67″ W. No person or vessel will be permitted to enter, transit through, anchor in, or remain within the safety zone without obtaining permission from the COTP Delaware Bay or a designated representative. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the COTP Delaware Bay or a designated representative, all persons and vessels

receiving such authorization must comply with the instructions of the COTP Delaware Bay or a designated representative. The Coast Guard will provide public notice of the safety zone by Broadcast Notice to Mariners and by on-scene actual notice from designated representatives. The regulatory text we are proposing appears at the end of this document.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, 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 impact of this rule is not significant for the following reasons: (1) Vessel traffic will be able to safely transit around this safety zone which would impact a small designated area of Little Egg Harbor, including the navigational channel, for 1 hour during the evening when vessel traffic is normally; (2) persons and vessels will still be able to enter, transit through, anchor in, or remain within the regulated area if authorized by the COTP Delaware Bay or a designated representative; and (3) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Broadcast Notice to Mariners, or by on-scene actual notice from designated representatives.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that will prohibit persons and vessels from entering, transiting through, anchoring in, or remaining within a limited area on the navigable water on a portion of Little Egg Harbor in Beach Haven, NJ, during a series of 10 fireworks displays lasting approximately one hour each. This rule is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

VI. Public Participation and Request for Comments

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

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

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

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–0283 to read as follows:

§ 165.T05–0283 Fireworks Displays, Little Egg Harbor, Beach Haven, NJ.

(a) *Location.* The following area is a safety zone: All waters of the Little Egg Harbor near Beach Haven, NJ, within 100 yards of a barge anchored in approximate position 39°34′09.32″ N, 074°14′31.67″ W. All coordinates are based on Datum NAD 1983.

(b) *Definitions* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard petty officer, warrant or commissioned officer on board a Coast Guard vessel or on board a federal, state, or local law enforcement vessel assisting the Captain of the Port (COTP), Delaware Bay in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter or remain in the zone, contact the COTP or the COTP's representative via VHF–FM channel 16 or 215–271–4807. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) No vessel may take on bunkers or conduct lightering operations within the safety zone during its enforcement period(s).

(4) This section applies to all vessels except those engaged in law enforcement, aids to navigation servicing, and emergency response operations.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement period.* This zone will be enforced from 8:30 p.m. through 9:30 p.m. on May 18, May 25, June 1, June 7, July 20, July 27, August 10, September 1, October 5, and October 12, 2019.

(f) *Effective period.* This zone is effective May 18, 2019, through October 12, 2019.

Dated: May 10, 2019.

S.E. Anderson,

Captain, U.S. Coast Guard, Captain of the Port Delaware Bay.

[FR Doc. 2019–10032 Filed 5–14–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2019–0362]

Safety Zones; Fireworks Displays in the Fifth Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Barnegat Bay, Ocean Township, NJ, safety zone from 9:00 p.m. through 10:00 p.m. on May 25, 2019. This action is necessary to ensure safety of life on the navigable waters of the United States immediately prior to, during, and immediately after the fireworks displays. Our regulation for safety zones of fireworks displays in the Fifth Coast Guard District identifies the regulated area for this event on Barnegat Bay in Ocean Township, NJ. During the enforcement period, vessels may not enter, remain in, or transit through the safety zone unless authorized by the Captain of the Port or designated Coast Guard patrol personnel on scene.

DATES: The regulations in the table to 33 CFR 165.506 at (a)(12) will be enforced from 9:00 p.m. through 10:00 p.m. on May 25, 2019.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, you may call or email Petty Officer Thomas Welker, U.S. Coast Guard, Sector Delaware Bay, Waterways Management Division, telephone 215–271–4814, email *Thomas.J.Welker@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone in the Table to 33 CFR 165.506, entry (a)(12) for the Ocean Township Memorial Day Fireworks display from 9:00 p.m. through 10:00 p.m. on May 25, 2019. This action is necessary to ensure safety of life on the navigable waters of the United States immediately prior to, during, and immediately after the fireworks displays. Our regulation for safety zones of fireworks displays within the Fifth Coast Guard District, table to § 165.506, entry (a)(12), specifies the location of the regulated area as all waters of Barnegat Bay in Ocean Township, NJ, within 500 yards of a fireworks barge launch site at approximate position latitude 39°47′33″ N, longitude 074°10′46″ W. During the enforcement period, as reflected in § 165.506(d), vessels may not enter, remain in, or transit through the safety zone during the enforcement period unless authorized by the Captain of the Port or designated Coast Guard patrol personnel on scene.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide notification of this enforcement period via broadcast notice to mariners.

Dated: May 10, 2019.

Scott E. Anderson,

Captain, U.S. Coast Guard, Captain of the Port, Delaware Bay.

[FR Doc. 2019–10033 Filed 5–14–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0322]

RIN 1625–AA87

Security Zone; Corpus Christi Ship Channel, Corpus Christi, TX

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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

DATES: This rule is effective without actual notice from 8:45 a.m. until 11:59 p.m. on May 14, 2019. For the purposes of enforcement, actual notice will be used from May 9, 2019 until 11:59 p.m. on May 14, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2019–0322 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

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

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish these security zones by May 9, 2019 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

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

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Sector Corpus Christi (COTP) has determined that potential hazards associated with Liquefied Natural Gas Carrier (LNGC) MARVEL FALCON between May 9, 2019 and May 14, 2019 will be a security concern while the vessel is moored at the receiving facility and within a 500-yard radius of the vessel while the vessel is loaded with cargo.

IV. Discussion of the Rule

This rule establishes two security zones around LNGC MARVEL FALCON from May 9, 2019 through May 14, 2019. A fixed security zone will be in effect in the mooring basin bound by 27°52′53.38″ N, 097°16′20.66″ W on the northern shoreline; thence to 27°52′45.58″ N, 097°16′19.60″ W; thence to 27°52′38.55″ N, 097°15′45.56″ W; thence to 27°52′49.30″ N, 097°15′45.44″ W; thence west along the shoreline to 27°52′53.38″ N, 097°16′20.66″ W, while LNGC MARVEL FALCON is moored. A moving security zone will cover all navigable waters within a 500-yard radius of the LNGC MARVEL FALCON while the vessel transits outbound with cargo through the La Quinta Channel and Corpus Christi Ship Channel. No vessel or person will be permitted to enter the security zones without obtaining permission from the COTP or a designated representative.

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

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, duration, and location of the security zone. This rule will impact a small designated area of the Corpus Christi Ship Channel and La Quinta Channel while the vessel is moored at the receiving facility and

during the vessel's transit while loaded with cargo. Moreover, the Coast Guard will issue BNMs via VHF–FM marine channel 16 about the zones and the rule allows vessels to seek permission to enter the zones.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

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

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0322 to read as follows:

§ 165.T08–0322 Security Zone; Corpus Christi Ship Channel, Corpus Christi, TX.

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

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

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

(b) *Effective period.* This section is effective without actual notice from 8:45 a.m. until 11:59 p.m. on May 14, 2019. For the purposes of enforcement, actual notice will be used from May 9, 2019 until 11:59 a.m. on May 14, 2019.

(c) *Period of enforcement.* This section will be enforced from the time LNGC MARVEL FALCON moors and while the vessel is transiting outbound through the La Quinta Channel and Corpus Christi Ship Channel from May 9, 2019 through May 14, 2019.

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

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

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

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

Dated: May 6, 2019.

E.J. Gaynor,

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

[FR Doc. 2019–10090 Filed 5–14–19; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2018–0207; FRL–9991–49]

Glufosinate Ammonium; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation amends tolerances for residues of glufosinate ammonium in or on Olive; Fruit, Stone (crop group 12–12); Nuts, Tree (crop group 14–12) and Soybean Hulls.

DATES: This regulation is effective May 15, 2019. Objections and requests for hearings must be received on or before July 15, 2019, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2018–0207, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2018–0207 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before July 15, 2019. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2018–0207, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of August 14, 2018 (83 FR 40272) (FRL–9981–10), EPA issued a notice pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP#8F8668) by Bayer CropScience, 2 T.W. Alexander Drive, P.O. Box 12014, RTP, NCP 27709. The petition requested that 40 CFR 180.473

be amended by establishing tolerances for residues of the herbicide glufosinate ammonium, butanoic acid, 2-amino-4-(hydroxymethylphosphinyl) monoammonium salt, and its metabolites, 2-(acetylamino)-4-(hydroxymethyl phosphinyl) butanoic acid, and 3-(hydroxymethylphosphinyl) propanoic acid, expressed as 2-amino-4-(hydroxymethylphosphinyl) butanoic acid equivalents, in or on olive at 0.50 parts per million (ppm); fruit, stone (crop group 12–12) at 0.30 ppm; nut, tree (crop group 14–12) at 0.50 ppm, and soybean hulls at 10 ppm. That document referenced a summary of the petition prepared by Bayer CropScience, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for glufosinate ammonium including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with glufosinate ammonium follows.

In the **Federal Register** of September 26, 2012 (77 FR 59106) (FRL–9363–6), EPA established tolerances for residues of glufosinate ammonium in or on corn, sweet, forage; corn, sweet, kernel plus cob with husks removed; corn, sweet, stover; fruit, citrus (crop group 10–10); olive; fruit, pome (crop group 11–10); and fruit, stone (crop group 12–12). EPA concluded a risk assessment in 2013 for the registration review of glufosinate and in 2017 for an increase in use rates in/on canola, corn (field and sweet), and soybean and to incorporate 6(a)(2) data on pistachio. The 2018 risk assessment for an increase in tolerances for olive; fruit, stone (group 12–12); nut, tree (group 14–12); and soybean, hulls concluded that the 2012, 2013, and 2017 risk assessments support the tolerance increases. The tolerance increases do not increase the dietary or aggregate risk estimates. A detailed discussion of the aggregate risk assessments and determination of safety for the tolerance increases can be found at *http://www.regulations.gov* in documents titled ''Glufosinate Ammonium. Abbreviated Risk Assessment for Increase in Tolerances for Olive, Stone Fruit (Group 12–12), Tree Nuts (Group 14–12), and Soybean Hull.'', ''Glufosinate ammonium. Human Health Risk Assessment for the Label Amendment Increasing the Use Rate in/on Canola, Com (Field and sweet), and Soybean; and to Incorporate 6(a)(2) Data on Pistachio.'', ''Glufosinate Ammonium. Human Health Risk Assessment for Registration Review.'', and ''Glufosinate Ammonium. Updated Human Health Risk Assessment for the Proposed New Use of Glufosinate Ammonium in/on Citrus Fruit (Crop Group 10), Pome Fruit (Crop Group 11), Stone Fruit (Crop Group 12), Olives and Sweet Corn'' in docket ID number EPA–HQ–OPP–2018–0207.

EPA concludes that there is reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to glufosinate ammonium residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

An adequate enforcement methodology (high performance liquid chromatography-electrospray ionization/tandem mass spectrometry (LC/MS/MS)) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for glufosinate ammonium in or on olive or soybean hulls. Codex has set a MRL for stone fruit at 0.15 ppm, and a MRL for tree nuts at 0.1 ppm. EPA cannot harmonize recommended U.S. tolerance values with the Codex MRLs for stone fruit or tree nuts because the lower MRLs could be exceeded with the uses petitioned-for in this action.

V. Conclusion

Therefore, tolerances are established for residues of glufosinate ammonium, butanoic acid, 2-amino-4-(hydroxymethylphosphinyl) monoammonium salt, and its metabolites, 2-(acetylamino)-4-(hydroxymethyl phosphinyl) butanoic acid, and 3-(hydroxymethylphosphinyl) propanoic acid, expressed as 2-amino-4-(hydroxymethylphosphinyl) butanoic acid equivalents, in or on olive at 0.50 ppm; fruit, stone (crop group 12–12) at 0.30 ppm; nut, trees (crop group 14–12) at 0.50 ppm; and soybean, hulls at 10 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885,

April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 3, 2019.

Donna Davis,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.473, revise the entries ''Fruit, stone, group 12–12''; ''Nut, tree, group 14–12''; ''Olive''; and ''Soybean, hulls'' in the table in paragraph (a) to read as follows:

§ 180.473 Glufosinate ammonium; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Fruit, stone, group 12–12	0.30
* * * * *	
Nut, tree, group 14–12	0.50
Olive	0.50
* * * * *	
Soybean, hulls	10

* * * * *

[FR Doc. 2019–10054 Filed 5–14–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1989–0007, EPA–HQ–OLEM–2018–0253, 0580, 0581, 0582, 0583, 0585, and 0586; FRL–9993–49–OLEM]

National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA'' or ''the Act''), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP'') include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The National Priorities List (''NPL'') constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (''the EPA'' or ''the agency'') in determining which sites warrant further investigation. These further investigations will allow the EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule adds seven sites to the General Superfund section of the NPL and changes the name of an NPL site.

DATES: The document is effective on June 14, 2019.

ADDRESSES: Contact information for the EPA Headquarters:

- Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301 Constitution Avenue NW; William Jefferson Clinton Building West, Room 3334, Washington, DC 20004, 202/566–0276.

The contact information for the regional dockets is as follows:

- Holly Inglis, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, Superfund Records and Information Center, 5 Post Office Square, Suite 100, Boston, MA 02109–3912; 617/918–1413.
- Ildefonso Acosta, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; 212/637–4344.
- Lorie Baker (ASRC), Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mailcode 3HS12, Philadelphia, PA 19103; 215/814–3355.
- Cathy Amoroso, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street SW, Mailcode 9T25, Atlanta, GA 30303; 404/562–8637.
- Todd Quesada, Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA Superfund Division Librarian/SFD Records Manager SRC–7J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; 312/886–4465.
- Brenda Cook, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1445 Ross Avenue, Suite 1200, Mailcode 6SFTS, Dallas, TX 75202–2733; 214/665–7436.
- Kumud Pyakuryal, Region 7 (IA, KS, MO, NE), U.S. EPA, 11201 Renner Blvd., Mailcode SUPRSTAR, Lenexa, KS 66219; 913/551–7956.
- Victor Ketellapper, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 1595 Wynkoop Street, Mailcode 8EPR–B, Denver, CO 80202–1129; 303/312–6578.
- Sharon Bowen, Region 9 (AZ, CA, HI, NV, AS, GU, MP), U.S. EPA, 75

Hawthorne Street, Mailcode SFD 6–1, San Francisco, CA 94105; 415/947–4250.

• Ken Marcy, Region 10 (AK, ID, OR, WA), U.S. EPA, 1200 6th Avenue, Mailcode ECL–112, Seattle, WA 98101; 206/463–1349.

FOR FURTHER INFORMATION CONTACT: Terry Jeng, phone: (703) 603–8852, email: *jeng.terry@epa.gov,* Site Assessment and Remedy Decisions Branch, Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation (Mailcode 5204P), U.S. Environmental Protection Agency; 1200 Pennsylvania Avenue NW, Washington, DC 20460; or the Superfund Hotline, phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

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I. Background

A. What are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (''CERCLA'' or ''the Act''), in response to the dangers of uncontrolled releases or threatened releases of hazardous substances, and releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (''SARA''), Public Law 99–499, 100 Stat. 1613 *et seq.*

B. What is the NCP?

To implement CERCLA, the EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances, or releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. The EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes ''criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action, for the purpose of taking removal action.'' ''Removal'' actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases of hazardous substances, pollutants or contaminants (42 U.S.C. 9601(23)).

C. What is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended. Section 105(a)(8)(B) defines the NPL as a list of ''releases'' and the highest priority ''facilities'' and requires that the NPL be revised at least annually. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is of only limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by the EPA (the ''General Superfund section'') and one of sites that are owned or operated by other federal agencies (the ''Federal Facilities section''). With respect to sites in the Federal Facilities section, these sites are generally being addressed by other federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody or control, although the EPA is responsible for preparing a Hazard Ranking System (''HRS'') score and determining whether the facility is placed on the NPL.

D. How are sites listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the HRS, which the EPA promulgated as appendix A of the NCP (40 CFR part 300). The HRS serves as a screening tool to evaluate the relative potential of uncontrolled hazardous substances, pollutants or contaminants to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), the EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. On January 9, 2017 (82 FR 2760), a subsurface intrusion component was added to the HRS to enable the EPA to

consider human exposure to hazardous substances or pollutants and contaminants that enter regularly occupied structures through subsurface intrusion when evaluating sites for the NPL. The current HRS evaluates four pathways: Ground water, surface water, soil exposure and subsurface intrusion, and air. As a matter of agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL. (2) Each state may designate a single site as its top priority to be listed on the NPL, without any HRS score. This provision of CERCLA requires that, to the extent practicable, the NPL include one facility designated by each state as the greatest danger to public health, welfare or the environment among known facilities in the state. This mechanism for listing is set out in the NCP at 40 CFR 300.425(c)(2). (3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed without any HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- The EPA determines that the release poses a significant threat to public health.
- The EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

The EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658) and generally has updated it at least annually.

E. What happens to sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the ''Superfund'') only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). (''Remedial actions'' are those ''consistent with a permanent remedy, taken instead of or in addition to removal actions'' (40 CFR 300.5).) However, under 40 CFR 300.425(b)(2), placing a site on the NPL ''does not imply that monies will be expended.'' The EPA may pursue other appropriate authorities to respond to the releases, including enforcement action under CERCLA and other laws.

F. Does the NPL define the boundaries of sites?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so. Indeed, the precise nature and extent of the site are typically not known at the time of listing.

Although a CERCLA ''facility'' is broadly defined to include any area where a hazardous substance has ''come to be located'' (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. However, the NPL site is not necessarily coextensive with the boundaries of the installation or plant, and the boundaries of the installation or plant are not necessarily the ''boundaries'' of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location where that contamination has come to be located, or from where that contamination came.

In other words, while geographic terms are often used to designate the site (*e.g.,* the ''Jones Co. Plant site'') in terms of the property owned by a particular party, the site, properly understood, is not limited to that property (*e.g.,* it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (*e.g.,* where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the ''site''). The ''site'' is thus neither equal to, nor confined by, the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. In addition, the site name is merely used to help identify the geographic location of the contamination, and is not meant to constitute any determination of liability at a site. For example, the name ''Jones Co. plant site,'' does not imply that the Jones Company is responsible for the contamination located on the plant site.

EPA regulations provide that the remedial investigation (''RI'') ''is a process undertaken . . . to determine the nature and extent of the problem presented by the release'' as more information is developed on site contamination, and which is generally performed in an interactive fashion with the feasibility study (''FS'') (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, the HRS inquiry focuses on an evaluation of the threat posed and therefore the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination ''has come to be located'' before all necessary studies and remedial work are completed at a site. Indeed, the known boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted previously, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, it can submit supporting information to the agency at any time after it receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

G. How are sites removed from the NPL?

The EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that the EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or

(iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate.

H. May the EPA delete portions of sites from the NPL as they are cleaned up?

In November 1995, the EPA initiated a policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been

cleaned up and made available for productive use.

I. What is the Construction Completion List (CCL)?

The EPA also has developed an NPL construction completion list (''CCL'') to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) the EPA has determined that the response action should be limited to measures that do not involve construction (*e.g.,* institutional controls); or (3) the site qualifies for deletion from the NPL. For more information on the CCL, see the EPA's internet site at *https://www.epa.gov/superfund/construction-completions-national-priorities-list-npl-sites-number.*

J. What is the Sitewide Ready for Anticipated Use measure?

The Sitewide Ready for Anticipated Use measure represents important Superfund accomplishments and the measure reflects the high priority the EPA places on considering anticipated future land use as part of the remedy selection process. See Guidance for Implementing the Sitewide Ready-for-Reuse Measure, May 24, 2006, OSWER 9365.0–36. This measure applies to final and deleted sites where construction is complete, all cleanup goals have been achieved, and all institutional or other controls are in place. The EPA has been successful on many occasions in carrying out remedial actions that ensure protectiveness of human health and the environment for current and future land uses, in a manner that allows contaminated properties to be restored to environmental and economic vitality. For further information, please go to *https://www.epa.gov/superfund/about-superfund-cleanup-process#tab-9.*

K. What is state/tribal correspondence concerning NPL listing?

In order to maintain close coordination with states and tribes in the NPL listing decision process, the EPA's policy is to determine the position of the states and tribes regarding sites that the EPA is considering for listing. This consultation process is outlined in two memoranda that can be found at the following website: *https://www.epa.gov/superfund/statetribal-correspondence-concerning-npl-site-listing.*

The EPA has improved the transparency of the process by which state and tribal input is solicited. The EPA is using the Web and where appropriate more structured state and tribal correspondence that (1) explains the concerns at the site and the EPA's rationale for proceeding; (2) requests an explanation of how the state intends to address the site if placement on the NPL is not favored; and (3) emphasizes the transparent nature of the process by informing states that information on their responses will be publicly available.

A model letter and correspondence between the EPA and states and tribes where applicable, is available on the EPA's website at *http://semspub.epa.gov/src/document/HQ/174024.*

II. Availability of Information to the Public

A. May I review the documents relevant to this final rule?

Yes, documents relating to the evaluation and scoring of the sites in this final rule are contained in dockets located both at the EPA headquarters and in the EPA regional offices.

An electronic version of the public docket is available through *https://www.regulations.gov* (see table below for docket identification numbers). Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facilities identified in section II.D.

DOCKET IDENTIFICATION NUMBERS BY SITE

Site name	City/county, state	Docket ID No.
Copper Bluff Mine	Hoopa, CA	EPA–HQ–OLEM–2018–0580.
Cliff Drive Groundwater Contamination	Logansport, IN	EPA–HQ–OLEM–2018–0581.
McLouth Steel Corp	Trenton, MI	EPA–HQ–OLEM–2018–0582.
Sporlan Valve Plant #1	Washington, MO	EPA–HQ–OLEM–2018–0583.
Magna Metals	Cortlandt Manor, NY	EPA–HQ–OLEM–2018–0585.
PROTECO	Peñuelas, PR	EPA–HQ–OLEM–2018–0253.
Shaffer Equipment/Arbuckle Creek Area	Minden, WV	EPA–HQ–OLEM–2018–0586.

B. What documents are available for review at the EPA Headquarters docket?

The headquarters docket for this rule contains the HRS score sheets, the documentation record describing the information used to compute the score and a list of documents referenced in the documentation record for each site.

C. What documents are available for review at the EPA regional dockets?

The EPA regional dockets contain all the information in the headquarters docket, plus the actual reference documents containing the data principally relied upon by the EPA in calculating or evaluating the HRS score. These reference documents are available only in the regional dockets.

D. How do I access the documents?

You may view the documents, by appointment only, after the publication of this rule. The hours of operation for the headquarters docket are from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays. Please contact the regional dockets for hours. For addresses for the headquarters and regional dockets, see **ADDRESSES** section in the beginning portion of this preamble.

E. How may I obtain a current list of NPL sites?

You may obtain a current list of NPL sites via the internet at *https://www.epa.gov/superfund/national-priorities-list-npl-sites-site-name* or by contacting the Superfund docket (see contact information in the beginning portion of this document).

III. Contents of This Final Rule

A. Additions to the NPL

This final rule adds the following seven sites to the General Superfund section of the NPL. These sites are being added to the NPL based on HRS score.

General Superfund Section

State	Site name	City/county
CA	Copper Bluff Mine	Hoopa.
IN	Cliff Drive Groundwater Contamination	Logansport.
MI	McLouth Steel Corp	Trenton.
MO	Sporlan Valve Plant #1	Washington.
NY	Magna Metals	Cortlandt Manor.
PR	PROTECO	Peñuelas.
WV	Shaffer Equipment/Arbuckle Creek Area	Minden.

B. What did the EPA do with the public comments it received?

The EPA reviewed all comments received on the sites in this rule and responded to all relevant comments. The EPA is adding seven sites to the NPL in this final rule. The PROTECO site in Peñuelas, PR was proposed for addition to the NPL on May 17, 2018 (83 FR 22918). The remaining six sites were proposed for addition to the NPL on September 13, 2018 (83 FR 46460).

Comments on the PROTECO site are being addressed in a response to comment support document available in the public docket concurrently with this rule. To view public comments on this site, as well as EPA's response, please refer to the support document available at *https://www.regulations.gov.*

The EPA received no comments on the Cliff Drive Groundwater Contamination site.

EPA received comments supporting the listing of McLouth Steel Corp, Sporlan Valve Plant #1 and Copper Bluff Mine.

For Magna Metals, in addition to several comments in support of the listing, the EPA received one comment from a community member raising concerns about the adequacy of previous site investigations and urging that a comprehensive off-site investigation be conducted as part of the RI/FS process. In response, the commenter's suggestions for further study have been noted and will be considered during further site related activities. The RI/FS study phase involves on-site and off-site testing to assess the nature and extent of the public health and environmental risks associated with the site and to determine what CERCLA-funded remedial actions, if any, may be appropriate.

For the Shaffer Equipment/Arbuckle Creek Area, the EPA received overwhelming community support for placing the site on the NPL, including mass mailers from community members. A law firm representing the community provided an independent technical review that raised concerns about previous cleanup work by EPA under the removal program but supported NPL listing as a means to address site risks under Superfund's remedial program. Several commenters requested permanent relocation either for themselves or on behalf of other community members. A few commenters raised concerns about the possibility of contamination spreading. Several comments from community members opposed listing because of the perceived stigma of Superfund which they believe could result in negative community impacts.

In response, EPA is adding the Shaffer Equipment/Arbuckle Creek Area to the NPL. Economic factors are generally not considered in the assessment of whether a site belongs on the NPL. However, the EPA notes that there are both costs and benefits that can be associated with including a site on the NPL. Among the benefits are increased environmental protection resulting from the cleanup. Therefore, it is possible that any perceived or actual negative fluctuations in property values that may result from contamination may also be countered by positive fluctuations when a CERCLA investigation and any necessary cleanup are completed.

For several sites included in this final rule, the EPA received comments unrelated to listing which were not relevant. In addition, there were several sites for which comments were submitted erroneously to incorrect docket numbers. All listing-related comments that were submitted to incorrect dockets were duplicated into the correct dockets for the site for which they were intended.

C. NPL Site Name Change

On September 13, 2018 (83 FR 46460), EPA proposed to change the name of an NPL site in San Francisco, California which was formally known as the Treasure Island Naval Station-Hunters Point Annex site. EPA received no comments on the name change. Therefore, the name has been changed and the site is now known as Hunters Point Naval Shipyard. The name Hunters Point Naval Shipyard is more representative of the area to the local community and local government. Refer to docket number EPA–HQ–SFUND–1989–0007 for information regarding this site.

IV. 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 the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This rule does not contain any information collection requirements that require approval of the OMB.

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. This rule listing sites on the NPL does not impose any obligations on any group, including small entities. This rule also does not establish standards or requirements that any small entity must meet, and imposes no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small

governments. This action imposes no enforceable duty on any state, local or tribal governments or the private sector. Listing a site on the NPL does not itself impose any costs. Listing does not mean that the EPA necessarily will undertake remedial action. Nor does listing require any action by a private party, state, local or tribal governments or determine liability for response costs. Costs that arise out of site responses result from future site-specific decisions regarding what actions to take, not directly from the act of placing a site on the NPL.

F. Executive Order 13132: Federalism

This final rule 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. Listing a site on the NPL does not impose any costs on a tribe or require a tribe to take remedial action. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because this action itself is procedural in nature (adds sites to a list) and does not, in and of itself, provide protection from environmental health and safety risks. Separate future regulatory actions are required for mitigation of environmental health and safety risks.

I. Executive Order 13211: Actions 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)

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations because it does not affect the level of protection provided to human health or the environment. As discussed in Section I.C. of the preamble to this action, the NPL is a list of national priorities. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is of only limited significance as it does not assign liability to any party. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

L. Congressional Review Act

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Provisions of the Congressional Review Act (CRA) or section 305 of CERCLA may alter the effective date of this regulation. Under 5 U.S.C. 801(b)(1), a rule shall not take effect, or continue in effect, if Congress enacts (and the President signs) a joint resolution of disapproval, described under section 802. Another statutory provision that may affect this rule is CERCLA section 305, which provides for a legislative veto of regulations promulgated under CERCLA. Although *INS* v. *Chadha,* 462 U.S. 919,103 S. Ct. 2764 (1983), and *Bd. of Regents of the University of Washington* v. *EPA,* 86 F.3d 1214,1222 (D.C. Cir. 1996), cast the validity of the legislative veto into question, the EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives.

If action by Congress under either the CRA or CERCLA section 305 calls the effective date of this regulation into question, the EPA will publish a document of clarification in the **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: May 6, 2019.

Barry N. Breen,

Acting Assistant Administrator, Office of Land and Emergency Management.

40 CFR part 300 is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

■ 2. Table 1 of appendix B to part 300 is amended as follows:

■ a. Under California:

■ i. Adding entries for ''Copper Bluff Mine'' and ''Hunters Point Naval Shipyard'' in alphabetical order; and

■ ii. Removing the entry for ''Treasure Island Naval Station-Hun Pt An''; and

■ b. Adding entries for ''Cliff Drive Groundwater Contamination'', ''McLouth Steel Corp'', ''Sporlan Valve Plant #1'', ''Magna Metals'', ''PROTECO'', and ''Shaffer Equipment/Arbuckle Creek Area'' in alphabetical order by state.

The additions read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1—GENERAL SUPERFUND SECTION

State	Site name	City/county	Notes [a]
*	* * * * *	*	*
CA	Copper Bluff Mine	Hoopa.	
*	* * * * *	*	*
CA	Hunters Point Naval Shipyard	San Francisco	P
*	* * * * *	*	*
IN	Cliff Drive Groundwater Contamination	Logansport.	
*	* * * * *	*	*
MI	McLouth Steel Corp	Trenton.	
*	* * * * *	*	*
MO	Sporlan Valve Plant #1	Washington.	
*	* * * * *	*	*
NY	Magna Metals	Cortlandt Manor.	
*	* * * * *	*	*
PR	PROTECO	Peñuelas.	
*	* * * * *	*	*
WV	Shaffer Equipment/Arbuckle Creek Area	Minden.	
*	* * * * *	*	*

[a] A = Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be greater than or equal to 28.50).

* * * * *

P = Sites with partial deletion(s).

[FR Doc. 2019–09924 Filed 5–14–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 1552

[EPA–HQ–OMS–2018–0742; FRL 9992–99–OMS]

Environmental Protection Agency Acquisition Regulation (EPAAR) Clause Update for Submission of Invoices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is revising its *Submission of Invoices* clause to add electronic invoicing requirements. In 2019 the EPA will begin using the Invoice Processing Platform (IPP), which is a secure web-based service provided by the U.S. Treasury that efficiently manages government invoicing.

DATES: This final rule is effective on May 15, 2019.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OARM–2018–0742. 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.,* 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 electronically through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Thomas Valentino, Policy, Training, and Oversight Division, Office of Acquisition Solutions (3802R), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–4522; email address: *valentino.thomas@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The EPA is revising clause 1552.232–70, *Submission of Invoices,* to add electronic invoicing requirements. In 2019 the EPA will begin using the Invoice Processing Platform (IPP), which is a secure web-based service provided by the U.S. Treasury that efficiently manages government invoicing. Currently the EPA requires contractors and vendors to submit paper invoices, which are inefficient and costly. The EPA will also begin using IPP to satisfy the requirements of Office of Management and Budget (OMB) Memorandum M–15–19, *Improving Government Efficiency and Saving Taxpayer Dollars Through Electronic Invoicing.* By changing the subject clause to require electronic invoicing, the EPA will reap benefits of efficiency and cost that have become ubiquitous in modern commerce, and be in compliance with Memorandum M–15–19. On December 20, 2018 (*83 FR 65328*) EPA sought comments on the proposed rule and received no comments.

II. Final Rule

The final rule amends EPAAR Part 1552, *Solicitation Provisions and Contract Clauses,* by revising EPAAR § 1552.232–70, *Submission of Invoices.*

1. EPAAR § 1552.232–70, *Submission of Invoices* clause is revised to provide new electronic invoicing requirements as the EPA begins using the IPP electronic-invoicing program in 2019. The clause is revised by replacing the preamble and paragraphs (a) and (b), with new paragraphs (a) and (b), that update the old paper invoicing instructions to electronic invoicing. Paragraph (g)(5) is revised to remove references to suspended costs, which are not authorized under IPP. The ''Note to paragraph (i)'' and ''Note to paragraph (j)'' are also being revised to remove references to suspended costs. Finally, paragraph (k) and ''Note to paragraph

(k)'' are being removed because suspended costs are not allowed under IPP, which re-letters the last three paragraphs, re-designating paragraphs (l) through (n) as paragraphs (k) through (m), respectively.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993) and therefore, not subject to review under the E.O.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* No information is collected under this action.

C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute; unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impact of today's final rule on small entities, ''small entity'' is defined as: (1) A small business that meets the definition of a small business found in the Small Business Act and codified at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action revises a current EPAAR clause and does not impose requirements involving capital investment, implementing procedures, or record keeping. This rule will not have a significant economic impact on small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, Local, and Tribal governments and the private sector.

This rule contains no Federal mandates (under the regulatory provisions of the Title II of the UMRA) for State, Local, and Tribal governments or the private sector. The rule imposes no enforceable duty on any State, Local or Tribal governments or the private sector. Thus, the rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and Local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This rule 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 as specified in Executive Order 13132.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This rule does not have tribal implications as specified in Executive Order 13175.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045, entitled ''Protection of Children from Environmental Health and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12886, and (2) concerns an environmental health or safety risk that may have a proportionate effect on children. This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions on environmental health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This final rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution of Use'' (66 FR 28335 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act of 1995 (NTTAA)

Section 12(d) (15 U.S.C 272 note) of NTTA, Public Law 104–113, directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (E.O.) 12898 (59 FR 7629 (February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This rulemaking does not involve human health or environmental effects.

List of Subjects in 40 CFR Part 1552

Environmental protection, Solicitation provisions and contract clauses.

Dated: April 8, 2019.

Kimberly Y. Patrick,

Director, Office of Acquisition Solutions.

Therefore, 40 CFR part 1552 is amended as set forth below:

■ 1. The authority citation for part 1552 continues to read as follows:

Authority: 5 U.S.C. 301and 41 U.S.C. 418b.

PART 1552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 2. Revise section 1552.232–70 to read as follows:

1552.232–70 Submission of invoices.

As prescribed in 1532.908, insert the following clause:

Submission of Invoices (MAY 19)

(a) *Electronic invoicing and the Invoice Processing Platform (IPP)*—(1) *Definitions.* As used in this clause—

Contract financing payment and *invoice payment* are defined in Federal Acquisition Regulation (FAR) 32.001.

Electronic form means an automated system that transmits information electronically from the initiating system to all affected systems. Facsimile, email, and scanned documents are not acceptable electronic forms for submission of payment requests. However, scanned documents are acceptable when they are part of a submission of a payment request made using Invoice Processing Platform or another electronic form authorized by the Contracting Officer.

Payment request means any request for contract financing payment or invoice payment submitted by the Contractor under this contract.

(2)(i) Except as provided in paragraph (c) of this clause, the Contractor shall submit invoices using the electronic invoicing program Invoice Processing Platform (IPP), which is a secure web-based service provided by the U.S. Treasury that more efficiently manages government invoicing.

(ii) Under this contract, the following documents are required to be submitted as an attachment to the IPP invoice: (This is a fill-in for acceptable types of required documentation, such as an SF 1034 and 1035, or an invoice/self-designed form on company letterhead that contains the required information.)

(iii) The Contractor's Government Business Point of Contact (as listed in System for Award Management (SAM)) will receive enrollment instructions via email from the IPP. The Contractor must register within 3 to 5 days of receipt of such email from IPP.

(iv) Contractor assistance with enrollment can be obtained by contacting the IPP Production Helpdesk via email at *IPPCustomerSupport@fiscal.treasury.gov* or by telephone at (866) 973–3131.

(3) If the Contractor is unable to comply with the requirement to use IPP for submitting invoices for payment, the Contractor shall submit a waiver request in writing to the Contracting Officer. The Contractor may submit an invoice using other than IPP only when—

(i) The Contracting Officer administering the contract for payment has determined, in writing, that electronic submission would be unduly burdensome to the Contractor; and in such cases, the Contracting Officer shall modify the contract to include a copy of the Determination; or

(ii) When the Governmentwide commercial purchase card is used as the method of payment.

(4) The Contractor shall submit any non-electronic payment requests using the method or methods specified in Section G of the contract.

(5) In addition to the requirements of this clause, the Contractor shall meet the requirements of the appropriate payment clauses in this contract when submitting payment requests.

(6) Invoices submitted through IPP will be either rejected, or accepted and paid, in their entirety, and will not be paid on a partial basis.

(b) *Invoice preparation.* The Contractor shall prepare its invoice or request for contract financing payment in accordance with FAR 32.905 on the prescribed Government forms, or the Contractor may submit self-designed forms which contain the required information. Standard Form 1034, *Public Voucher for Purchases and Services other than Personal,* is prescribed for used by contractors to show the amount claimed for reimbursement. Standard Form 1035, *Public Voucher for Purchases and Services other than Personal—Continuation Sheet,* is prescribed for use to furnish the necessary supporting detail or additional information required by the Contracting Officer.

(c) *Invoice content.* (1) The Contractor shall prepare a contract level invoice or request for contract financing payment in accordance with the invoice preparation instructions. If contract work is authorized by an individual task order or delivery order (TO/DO), the invoice or request for contract financing payment shall also include a summary of the current and cumulative amounts claimed by cost element for each TO/DO and for the contract total, as well as any supporting data for each TO/DO as identified in the instructions.

(2) The invoice or request for contract financing payment shall include current and cumulative charges by major cost element such as direct labor, overhead, travel, equipment, and other direct costs. For current costs, each major cost element shall include the appropriate supporting schedule identified in the invoice preparation instructions. Cumulative charges represent the net sum of current charges by cost element for the contract period.

(d) *Subcontractor charges.* (1) The charges for subcontracts shall be further detailed in a supporting schedule showing the major cost elements for each subcontract.

(2) On a case-by-case basis, when needed to verify the reasonableness of subcontractor costs, the Contracting Officer may require that the contractor obtain from the subcontractor cost information in the detail set forth in paragraph (c)(2) of this section. This information should be obtained through a means which maintains subcontractor confidentiality (for example, via sealed envelopes), if the subcontractor expresses Confidential Business Information (CBI) concerns.

(e) *Period of performance indication.* Invoices or requests for contract financing payment must clearly indicate the period of performance for which payment is requested. Separate invoices or requests for contract financing payment are required for charges applicable to the base contract and each option period.

(f) *Invoice submittal.* (1) Notwithstanding the provisions of the clause of this contract at FAR 52.216–7, *Allowable Cost and Payment,* invoices or requests for contract financing payment shall be submitted once per month unless there has been a demonstrated need and Contracting Officer approval for more frequent billings. When submitted on a monthly basis, the period covered by invoices or requests for contractor financing payments shall be the same as the period for monthly progress reports required under this contract.

(2) If the Contracting Officer allows submissions more frequently than monthly, one submittal each month shall have the same ending period of performance as the monthly progress report.

(3) Where cumulative amounts on the monthly progress report differ from the aggregate amounts claimed in the invoice(s) or request(s) for contract financing payments covering the same period, the contractor shall provide a reconciliation of the difference as part of the payment request.

(g) *EPA Invoice Preparation Instructions—SF 1034.* The information which a contractor is required to submit in its Standard Form 1034 is set forth as follows:

(1) U.S. Department, Bureau, or establishment and location—Insert the names and address of the servicing finance office, unless the contract specifically provides otherwise.

(2) Date Voucher Prepared—Insert date on which the public voucher is prepared and submitted.

(3) Contract/Delivery Order Number and Date—Insert the number and date of the contract and task order or delivery order, if applicable, under which reimbursement is claimed.

(4) Requisition Number and Date—Leave blank.

(5) Voucher Number—Insert the appropriate serial number of the voucher. A

separate series of consecutive numbers, beginning with Number 1, shall be used by the contractor for each new contract. For an adjustment invoice, write ''[*invoice number*] #Adj'' at the voucher number. For a final invoice, put invoice number F. For a completion invoice, put invoice number #C.

(6) Schedule Number; Paid By; Date Invoice Received—Leave blank.

(7) Discount Terms—Enter terms of discount, if applicable.

(8) Payee's Account Number—This space may be used by the contractor to record the account or job number(s) assigned to the contract or may be left blank.

(9) Payee's Name and Address—Show the name of the contractor exactly as it appears in the contract and its correct address, except when an assignment has been made by the contractor, or the right to receive payment has been restricted, as in the case of an advance account. When the right to receive payment is restricted, the type of information to be shown in this space shall be furnished by the Contracting Officer.

(10) Shipped From; To; Weight Government B/L Number—Insert for supply contracts.

(11) Date of Delivery or Service—Show the month, day and year, beginning and ending dates of incurrence of costs claimed for reimbursement. Adjustments to costs for prior periods should identify the period applicable to their incurrence, *e.g.,* revised provisional or final indirect cost rates, award fee, etc.

(12) Articles or Services—Insert the following: ''For detail, see Standard Form 1035 total amount claimed transferred from Page ____ of Standard Form 1035.'' Insert ''COST REIMBURSABLE—PROVISIONAL PAYMENT'' or ''INDEFINITE QUANTITY/INDEFINITE DELIVERY—PROVISIONAL PAYMENT'' on the Interim public vouchers. Insert ''COST REIMBURSABLE—COMPLETION VOUCHER'' or ''INDEFINITE QUANTITY/INDEFINITE DELIVERY—COMPLETION VOUCHER'' on the Completion public voucher. Insert ''COST REIMBURSABLE—FINAL VOUCHER'' or ''INDEFINITE QUANTITY/INDEFINITE DELIVERY—FINAL VOUCHER'' on the final public voucher. Insert the following certification, signed by an authorized official, on the face of the Standard Form 1034:

''I certify that all payments requested are for appropriate purposes and in accordance with the agreements set forth in the contract.''

_____

(Name of Official)

_____

(Title)

(13) Quantity; Unit Price—Insert for supply contracts.

(14) Amount—Insert the amount claimed for the period indicated in paragraph (g)(11) of this clause.

(h) *EPA Invoice Preparation Instructions—SF 1035.* The information which a contractor is required to submit in its Standard Form 1035 is set forth as follows:

(1) U.S. Department, Bureau, or Establishment—Insert the name and address of the servicing finance office.

(2) Voucher Number—Insert the voucher number as shown on the Standard Form 1034.

(3) Schedule Number—Leave blank.

(4) Sheet Number—Insert the sheet number if more than one sheet is used in numerical sequence. Use as many sheets as necessary to show the information required.

(5) Number and Date of Order—Insert payee's name and address as in the Standard Form 1034.

(6) Articles or Services—Insert the contract number as in the Standard Form 1034.

(7) Amount—Insert the latest estimated cost, fee (fixed, base, or award, as applicable), total contract value, and amount and type of fee payable (as applicable).

(8) A summary of claimed current and cumulative costs and fee by major cost element—Include the rate(s) at which indirect costs are claimed and indicate the base of each by identifying the line of costs to which each is applied. The rates invoiced should be as specified in the contract or by a rate agreement negotiated by EPA's Cost and Rate Negotiation Team.

(9) Fee—The fee shall be determined in accordance with instructions appearing in the contract.

Note to paragraph (h)—Amounts claimed on vouchers must be based on records maintained by the contractor to show by major cost element the amounts claimed for reimbursement for each applicable contract. The records must be maintained based on the contractor's fiscal year and should include reconciliations of any differences between the costs incurred and amounts claimed for reimbursement. A memorandum record reconciling the total indirect cost(s) claimed should also be maintained.

(i) *Supporting Schedules for Cost Reimbursement Contracts.* The following backup information is required as an attachment to the invoice as shown by category of cost:

(1) Direct Labor—Identify the number of hours (by contractor labor category and total) and the total loaded direct labor hours billed for the period in the invoice.

(2) Indirect Cost Rates—Identify by cost center, the indirect cost rate, the period, and the cost base to which it is applied.

(3) Subcontracts—Identify the major cost elements for each subcontract.

(4) Other Direct Costs—When the cost for an individual cost (*e.g.,* photocopying, material and supplies, telephone usage) exceeds $1,000 per the invoice period, provide a detailed explanation for that cost category.

(5) Contractor Acquired Equipment (if authorized by the contract)—Identify by item the quantities, unit prices, and total dollars billed.

(6) Contractor Acquired Software (if authorized by the contract)—Identify by item the quantities, unit prices, and total dollars billed.

(7) Travel—When travel costs exceed $2,000 per invoice period, identify by trip, the number of travelers, the duration of travel, the point of origin, destination, purpose of trip, transportation by unit price, per diem rates on daily basis and total dollars billed. Detailed reporting is not required for local travel. The manner of breakdown, *e.g.,* task order/delivery order basis with/without separate program management, contract period will be specified in the contract instructions.

Note to paragraph (i)—Any costs requiring advance consent by the Contracting Officer will be considered improper and will be disallowed, if claimed prior to receipt of Contracting Officer consent. Include the total cost claimed for the current and cumulative-to-date periods. After the total amount claimed, provide summary dollar amounts disallowed on the contract as of the date of the invoice. Also include an explanation of the changes in cumulative costs disallowed by addressing each adjustment in terms of: Voucher number, date, dollar amount, source, and reason for the adjustment. Disallowed costs should be identified in unallowable accounts in the contractor's accounting system.

(j) *Supporting Schedules for Time and Materials Contracts.* The following backup information is required as an attachment to the invoice as shown by category of cost:

(1) Direct Labor—Identify the number of hours (by contractor labor category and total) and the total direct labor hours billed for the period of the invoice.

(2) Subcontracts—Identify the major cost elements for each subcontract.

(3) Other Direct Costs—When the cost for an individual cost (*e.g.,* photocopying, material and supplies, telephone usage) exceeds $1,000 per the invoice period, provide a detailed explanation for that cost category.

(4) Indirect Cost Rates—Identify by cost center, the indirect cost rate, the period, and the cost base to which it is applied.

(5) Contractor Acquired Equipment—Identify by item the quantities, unit prices, and total dollars billed.

(6) Contractor Acquired Software—Identify by item the quantities, unit prices, and total dollars billed.

(7) Travel—When travel costs exceed $2,000 per invoice period, identify by trip, the number of travelers, the duration of travel, the point of origin, destination, purpose of trip, transportation by unit price, per diem rates on daily basis and total dollars billed. Detailed reporting is not required for local travel. The manner of breakdown, *e.g.,* task order/delivery order basis with/without separate program management, contract period will be specified in the contract instructions.

Note to paragraph (j)—Any costs requiring advance consent by the Contracting Officer will be considered improper and will be disallowed, if claimed prior to receipt of Contracting Officer consent. Include the total cost claimed for the current and cumulative-to-date periods. After the total amount claimed, provide summary dollar amounts disallowed on the contract as of the date of the invoice. Also include an explanation of the changes in cumulative costs disallowed by addressing each adjustment in terms of: Voucher number, date, dollar amount, source, and reason for the adjustment. Disallowed costs should be identified in unallowable accounts in the contractor's accounting system.

(k) *Adjustment vouchers.* Adjustment vouchers should be submitted if finalized indirect rates were received but the rates are not for the entire period of performance. For example, the base period of performance is for a calendar year but your indirect rates are by fiscal year. Hence, only part of the base period can be adjusted for the applicable final indirect rates. These invoices should be annotated with ''adj'' after the invoice number.

(l) *Final vouchers.* Final Vouchers shall be submitted if finalized rates have been received for the entire period of performance. For example, the base period of performance is for a calendar year but your indirect rates are by fiscal year. You have received finalized rates for the entire base period that encompass both fiscal years that cover the base period. In accordance with FAR 52.216–7, these invoices shall be submitted within 60 days after settlement of final indirect cost rates. They should be annotated with the word ''Final'' or ''F'' after the invoice number. Due to system limitations, the invoice number cannot be more than 11 characters to include spaces.

(m) *Completion vouchers.* In accordance with FAR 52.216–7(d)(5), a completion voucher shall be submitted within 120 days (or longer if approved in writing by the Contracting Officer) after settlement of the final annual indirect cost rates for all years of a physically complete contract. The voucher shall reflect the settled amounts and rates. It shall include settled subcontract amounts and rates. The prime contractor is responsible for settling subcontractor amounts and rates included in the completion invoice. Since EPA's invoices must be on a period of performance basis, the contractor shall have a completion invoice for each year of the period of performance. This voucher must be submitted to the Contracting Officer for review and approval before final payment can be made on the contract. The Contracting Officer may request an audit of the completion vouchers before final payment is made. In addition, once approved, the Contracting Officer will request the appropriate closeout paperwork for the contract. For contracts separately invoiced by delivery or task order, provide a schedule showing final total costs claimed by delivery or task order and in total for the contract. In addition to the completion voucher, the contractor must submit the *Contractor's Release; Assignee's Release,* if applicable; the *Contractor's Assignment of Refunds, Rebates, Credits and other Amounts;* the *Assignee's Assignment of Refunds, Rebates, Credits and other Amounts,* if applicable; and the *Contractor's Affidavit of Waiver of Lien,* when required by the contract.

Alternate I (May 19)

As prescribed in 1532.908, substitute the following paragraphs (c)(1) and (2) for paragraphs (c)(1) and (2) if used in a non-commercial time and materials type contract:

(c)(1) The Contractor shall prepare a contract level invoice or request for contract financing payment in accordance with the invoice preparation instructions. If contract work is authorized by individual task order or delivery order (TO/DO), the invoice or request for contract financing payment shall also include a summary of the current and cumulative amounts claimed by cost element for each TO/DO and for the contract total, as well as any supporting data for each TO/DO as identified in the instructions.

(2) The invoice or request for contract financing payment that employs a fixed rate feature shall include current and cumulative charges by contract labor category and by other major cost elements such as travel, equipment, and other direct costs. For current costs, each cost element shall include the appropriate supporting schedules identified in the invoice preparation instructions.

(End of clause)

[FR Doc. 2019–09695 Filed 5–14–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 18–23; FCC 19–10]

Elimination of Obligation To File Broadcast Mid-Term Report

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) eliminates a requirement of our rules that oblige certain broadcast television and radio stations to file the FCC Broadcast Mid-Term Report (Form 397). This requirement has become redundant now that most of the information that the form requests is readily accessible online via the Commission's Online Public Inspection File (Public File). The Public File will be modified to allow stations to indicate whether they are subject to a mid-term review, as this is the only information not otherwise available. It therefore finds that eliminating this requirement will serve the public interest.

DATES: Effective May 15, 2019.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Jonathan Mark, *Jonathan.Mark@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–3634. Direct press inquiries to Janice Wise at (202) 418–8165.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (*Order*), FCC 19–10, adopted February 14, 2019 and released on February 15, 2019. The full text of this document is available electronically via the FCC's Electronic Document Management System (EDOCS) website at *http://fjallfoss.fcc.gov/edocs_public/* or via the FCC's Electronic Comment Filing System (ECFS) website at *http://fjallfoss.fcc.gov/ecfs2/.* (Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.) This document is also available for public inspection and copying during regular business hours in the FCC Reference Information Center, which is located in Room CY–A257 at FCC Headquarters, 445 12th Street SW, Washington, DC 20554. The Reference Information Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Friday from 8:00 a.m. to 11:30 a.m. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW, Room CY–B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

I. Report and Order

1. In this Report and Order (*Order*), we eliminate the requirement in Section 73.2080(f)(2) of the Commission's rules that certain broadcast television and radio stations file the FCC Broadcast Mid-Term Report (Form 397). Earlier this year, we issued a Notice of Proposed Rulemaking (NPRM) (83 FR 12313) proposing to eliminate Form 397, which requires stations to provide equal employment opportunity (EEO) information that is generally also available through other sources, including stations' online public inspection files.[1] No commenter opposes elimination of this requirement. As set forth below, we conclude that eliminating this largely redundant reporting requirement will further our efforts to modernize our media rules and reduce unnecessary requirements without hindering the Commission's ability to conduct mid-term reviews of broadcasters' EEO practices.

2. Section 334(b) of the Communications Act of 1934, as amended (the Act), directs the Commission to conduct a mid-term review of broadcast stations' employment practices. Commission staff reviews the EEO practices of broadcast

[1] *Elimination of Obligation to File Broadcast Mid-Term Report (Form 397) Under § 73.2080(f)(2); Modernization of Media Regulation Initiative,* MB Docket Nos. 18–23 and 17–105, Notice of Proposed Rulemaking, 33 FCC Rcd 2570 (2018) (*NPRM*) (83 FR 12313).

television stations in station employment units with five or more full-time employees,[2] and radio stations in employment units with eleven or more full-time employees, around the midpoint of broadcasters' eight-year license terms. After completing a mid-term review, staff informs licensees of any necessary improvements in recruitment practices to ensure that they are in compliance with the Commission's EEO rules.

3. To facilitate mid-term reviews, the Commission adopted the current Form 397 in 2002.[3] Licensees subject to mid-term review must file Form 397 at least four months prior to the four-year anniversary of the station's most recent license expiration date. Form 397 consists of three sections and requires stations to provide information that, with one exception, also is available in their public inspection files.[4] First, stations must certify whether they have the requisite number of full-time employees to be subject to a mid-term review.[5] As discussed below, because this piece of information is not otherwise available, we will implement a simple mechanism for stations to provide it to the Commission via the Online Public Inspection File (OPIF). Second, stations must identify, by name and title, ''a particular official with overall responsibility for equal employment opportunity at the station.'' This official also must be identified in Form 396, Broadcast Equal Employment Opportunity Program Report, which must be included in a station's public file. Third, all stations subject to mid-term review must attach copies of their two most recent annual EEO public file reports to Form 397. Each station must also place these reports both in its public file and on its website, if it has one, on an annual basis. Each of the reports must be retained in the station's public file until its next license renewal is granted. Given the availability of this information to both the public and Commission staff even in the absence of Form 397, the record overwhelmingly supports elimination of the obligation to file the form.[6]

4. We adopt the NPRM's proposal to eliminate the requirement for broadcast television and radio stations to file Form 397. We agree with commenters that ''eliminating this outdated filing requirement will reduce the burden on licensees and the unnecessary waste of administrative and material. resources'' without undermining our ability to conduct the statutorily-required mid-term reviews of broadcaster compliance with the EEO rules.[7] Because the transition to the OPIF is now complete,[8] nearly all the information in Form 397 is easily accessible online. As noted above, the number of fulltime employees working at a station, which is the trigger for determining whether a station is subject to a mid-term review, is the only piece of information included in the Form 397 that is not currently available in a station's online public file. To address this issue, we will modify the OPIF, as described below, to enable broadcasters to provide this information to the Commission in a simple way and allow Commission staff to quickly identify stations subject to a mid-term review.

5. As an initial matter, we adopt our tentative conclusion that eliminating Form 397 is consistent with Section 334 of the Act. NAB and Nexstar, the only two commenters to weigh in on our statutory interpretation, agree with our tentative conclusion. Specifically, Section 334(a) prohibits revisions to EEO rules ''in effect on September 1, 1992 (47 CFR 73.2080) as such regulations apply to television broadcast station licensees and permittees'' and to the forms ''used by such licensees and permittees to report pertinent employment data to the Commission.''[9] Section 334's legislative history identifies those forms as FCC Forms 395–B and 396 and, as noted above, the Commission did not adopt Form 397 until after the date listed in Section 334. Accordingly, based on the statutory language and legislative history, we conclude that Form 397 is not subject to the statutory limitation on revisions found in Section 334(a). In addition, although Section 334(b) directed the Commission to revise its regulations to require a mid-term review of television broadcast licensees' employment practices, it did not require the Commission to adopt Form 397. Thus, we adopt our tentative conclusion that Section 334(b) does not bar the Commission from eliminating Form 397, and we emphasize that the Commission

[2] A station employment unit is a station or a group of commonly owned stations in the same market that share at least one employee. 47 CFR 73.2080(e)(2). To alleviate the burden on small entities, the Commission limited obligations to establish an EEO program to station employment units with five or more full-time employees.

[3] Form 397 is available at *https://transition.fcc.gov/Forms/Form397/397.pdf.* In 2000, eight years after Congress enacted Section 334, the Commission adopted Form 397 to assist with the mid-term review process, among other changes to the EEO rules. *See Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies,* Report and Order, 15 FCC Rcd 2329, 2385, para. 136 (2000) (*2000 Report and Order*) (adopting Form 397, referred to as a ''Statement of Compliance,'' as part of the mid-term review process and explaining that the form requires licensees to indicate whether they have complied with the Commission's EEO rules during the relevant review period). In 2001, the D.C. Circuit vacated in its entirety the 2000 rulemaking order for reasons unrelated to Form 397. *See MD/DC/DE Broad. Assoc.* v. *FCC,* 236 F.3d 13 (D.C. Cir. 2001) (finding unconstitutional one of the options the Commission adopted as part of its broadcast EEO outreach requirements in the *2000 Report and Order*). In 2002, the Commission readopted Form 397, with modifications, including renaming the form, ''Broadcast Mid-Term Report.'' *See Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies,* Second Report and Order, 17 FCC Rcd 24018, 24064, paras. 153, 164 (2002) (2002 EEO Order) (adopting a new broadcast EEO Rule in response to the D.C. Circuit's decision in *MD/DC/DE Broad. Assoc.* v. *FCC,* and readopting, with modifications, Form 397).

[4] All broadcast stations subject to the mid-term review requirement are also separately required to maintain their public inspection files in the Online Public Inspection File, a central, Commission-hosted database, which can be accessed at *https://publicfiles.fcc.gov/. See Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations,* Second Report and Order, 27 FCC Rcd 4535 (2012) (adopting online public file requirements for commercial and non-commercial TV and Class A TV stations); *Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees,* Report and Order, 31 FCC Rcd 526, 558–59, para. 83 (2016) (determining, among other things, that online public file requirements would be implemented on a rolling basis for AM and FM broadcast radio licensees with a final deadline of March 1, 2018).

[5] *See* Form 397, Section I. This information is not currently available in the OPIF. *But see infra* paras. 8–9. Stations that do not have the requisite number of full-time employees are not required to file Form 397 but may do so if they choose. Form 397, Section I (explaining that stations without the requisite number of full-time employees ''do not have to file this form with the FCC. However, you have the option to complete the certification below, return the form to the FCC, and place a copy in your station(s) public file.'').

[6] No commenter who filed in response to the *NPRM* opposed elimination of the form. One letter filed prior to release of the *NPRM* expresses a concern that eliminating Form 397 ''sends a bad message [that] the agency is abandoning its public interest responsibilities.'' Letter from Yosef Getachew, Director of Media and Democracy Program, Common Cause, to Marlene H. Dortch, Secretary, FCC, MB Docket Nos. 18–23 and 17–105, at 1 (filed Feb 16, 2018). We emphasize, however, that elimination of the requirement to file this form has no effect on the statutorily-required mid-term review itself. *See infra* para. 4.

[7] Nexstar Comments at 1. *See also* NAB Comments at 3 (''The information needed for the EEO mid-term review is already available to the FCC and the public in stations' online public files, and the stations that are subject to review can be identified without use of the Form. Eliminating the Form 397 filing requirement will have no impact whatsoever on the Commission's performance of mid-term reviews or broadcasters' compliance with the substantive EEO rules.'').

[8] As of March 1, 2018, all broadcast stations that are currently required to file Form 397 must now maintain their public inspection files in the OPIF.

[9] 47 U.S.C. 334(a). Section 334 applies expressly to ''television broadcast station licensees'' and therefore does not mandate the Commission's regulation of radio licensees. 47 U.S.C. 334(b); *NPRM,* 33 FCC Rcd at 2573, para. 6. However, no commenter in the record has suggested modifying our rules to remove radio licensees from the broadcast mid-term review.

will continue to conduct mid-term reviews even in the absence of Form 397.[10]

6. We also adopt our tentative conclusion in the NPRM that eliminating the Form 397 filing requirement will reduce unnecessary regulatory burdens that no longer serve the public interest. Commenters recognize, prior to establishing the OPIF in 2012, ''Form 397 was the only vehicle available to the [Commission] by which it could readily access the requisite documentation to complete its congressionally mandated task of review.'' However, now that all broadcast licensees subject to a midterm review are also required to have an online public file,[11] the need for the physical submission of the Form 397 no longer exists. The information in Form 397 is duplicative of documentation and information already available in a station's online public inspection file (*i.e.,* the requisite EEO contact information and copies of EEO public file reports) or that can easily be made available in the OPIF (*i.e.,* whether the station has the requisite number of full-time employees). Thus, as commenters contend, the burdens associated with filing Form 397, including ''the consumption of internal administrative efforts to prepare and file the form in the system or pay the fees associated with having outside FCC counsel prepare and/or submit the form online on behalf of the licensee,'' far outweigh its benefits.

7. In the NPRM, we sought comment on whether, if we adopted our proposal to eliminate Form 397, we should separately and more frequently solicit from broadcast licensees EEO point of contact information, the second piece of information collected via Form 397. We find persuasive commenters' arguments that ''a separate and singular [new] requirement to provide a station specific EEO contact beyond the context of the Form 397 is unnecessary.'' Indeed, such a requirement already exists. Given that the Commission already solicits EEO point of contact information once every eight years through Form 396 and station licensee contact information on various FCC forms, we agree that soliciting this information elsewhere is unnecessary.

8. To ensure that Commission staff will still be able to identify which licensees are subject to a mid-term review in the absence of Form 397, we will require radio stations to answer a question about staffing size in order to upload an EEO public file report to the OPIF. In the *NPRM,* we identified two possible ways to make this information available, as proposed by NAB. The first, NAB's preferred approach, would ''require all subject stations to indicate whether they are subject to a mid-term review on their annual EEO public file report.'' As the *NPRM* explained, however, ''this proposal would not provide information in a format that easily could be aggregated,'' and would potentially require Commission staff to manually review thousands of EEO public file reports in order to determine which stations are subject to a mid-term review. Alternatively, NAB suggested modifying the OPIF itself to require stations to indicate whether they are subject to a mid-term review as a prerequisite to filing their annual EEO public file report. The *NPRM* proposed that this could be achieved by ''adding questions regarding staff size to each station's public file that must be answered before the station can upload its EEO public file report.'' NAB argues that this approach would require greater Commission staff resources than its first proposal, but does not explain why it believes this to be the case. No other commenter put forth alternative proposals or addressed the concerns raised by the Commission about the first proposal suggested by NAB.

9. We adopt NAB's second proposal and require radio stations uploading an EEO public file report to the OPIF, as they are required to do annually under our rules, to identify whether their staff size is sufficient to trigger a mid-term review.[12] This information, entered into the OPIF itself rather than simply recorded on an uploaded document in a way that is not aggregable, will allow Commission staff to quickly and easily identify stations subject to mid-term review. As acknowledged in the *NPRM,* this approach will impose a one-time information technology resource cost on the Commission, but will also minimize the annual administrative burden of conducting the statutorily-required mid-term review. It also has the attribute of imposing only a *de minimis* burden on subject stations to answer an additional question at the time they upload their annual EEO report. We note that we anticipate that the necessary information technology work to effectuate this change will be completed well before the next radio midterm review cycle.[13]

10. In addition to the proposed elimination of Form 397, the *NPRM* also sought comment on ''the FCC's track record on EEO enforcement and how the agency can make improvements to EEO compliance and enforcement.'' We received responsive comments from a group of 33 organizations (collectively the ''EEO Supporters''). While these commenters did not address the *NPRM*'s proposal to eliminate Form 397, in response to the *NPRM* the EEO Supporters expressed concern over the degree to which the Commission has addressed ''the core issue'' of word-of-mouth recruiting ''conducted by a homogenous, non-diverse staff,'' or ''cronyism,'' within the broadcast industry.[14] They also recommended that the Commission engage in audit reform and locate EEO staff in the Enforcement

[10] *NPRM,* 33 FCC Rcd at 2573, para. 7. We similarly conclude that Section 334(c) does not preclude the Commission from eliminating Form 397. Although subsection (a) prohibits the Commission from revising the 1992 EEO rules, subsection (c) permits the Commission ''to make nonsubstantive technical or clerical revisions'' to those rules as are ''necessary to reflect changes in technology, terminology, or Commission organization.'' 47 U.S.C. 334(c). As noted in the *NPRM,* subsection (c), when considered in context, is most reasonably read as an exception to subsection (a)'s limitation prohibiting the Commission from revising the 1992 EEO Rules, which do not include the rule requiring submission of Form 397. *See NPRM,* 33 FCC Rcd at 2573–74, para. 7. Because the limitation in (a) does not apply to Form 397, neither does the exception to (a) that Congress carved out with subsection (c).

[11] As explained above, the EEO rules apply to TV, Class A TV, AM, and FM licensees, and online public file requirements apply to these same classes of licensees.

[12] Specifically, radio licensees will be prompted to answer ''Yes'' or ''No'' regarding whether they have eleven or more full-time employees. All television stations required to upload an EEO public file report to the OPIF necessarily have sufficient staff sizes to trigger a mid-term review, as the requisite staff size for both obligations with respect to television employment units is five full-time employees. Thus, the very act of filing the report will be sufficient to identify these television stations. *See* 47 CFR 73.2080(d); *infra* note 5.

[13] The next radio renewal cycle begins later this year, and therefore the next mid-term cycle will begin in 2023. *See https://www.fcc.gov/media/radio/broadcast-radio-license-renewal.* We note that the deadline for filing Form 397 under the current renewal cycle has already passed for all television stations except those in Delaware and Pennsylvania, which have an April 1, 2019 deadline. These reports should continue to be filed. *See infra* note 50.

[14] EEO Supporters Comments, MB Docket Nos. 18–23 and 17–105 at 2; Letter from David Honig, President Emeritus and Senior Advisor, Multicultural Media, Telecom and internet Council, to Marlene H. Dortch, Secretary, FCC, MB Docket Nos. 14–50, 09–182, 07–294, 04–256, 17–289, 98–204, 16–410, 18–23, and 17–105, at 2 (filed June 1, 2018) (EEO Supporters Ex Parte). The EEO Supporters assert that this practice perpetuates a ''lack of diversity in the industry across generations,'' and urge the Commission to use ''certain racial and gender data'' to identify stations who recruit primarily by word of mouth and require them to submit a Form 395. EEO Supporters Comments, MB Docket Nos. 18–23 and 17–105 at 3–4. The EEO Supporters also propose three additional EEO reforms, including reevaluating the Commission's audit program, publication of an anonymized summary of EEO data, and relocating the EEO staff to the Commission's Enforcement Bureau. *Id.* at 5–6.

Bureau.[15] Within 90 days of adoption of this *Order,* the Commission will seek comment in a Further Notice on the FCC's track record on EEO enforcement and how the agency can make improvements to EEO compliance and enforcement.[16]

11. For the reasons discussed above, we find that § 73.2080(f)(2)'s requirement that certain broadcast television and radio stations file Form 397 is unduly burdensome and no longer necessary. We amend our rules to eliminate Form 397 after the completion of the current mid-term review cycle which ends on April 1, 2019.[17]

II. PROCEDURAL MATTERS

A. Final Regulatory Flexibility Act Analysis

12. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[18] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking (*NPRM*) in MB Docket 18–23.[19] The Commission sought written public comments on proposals in the *NPRM,* including comment on the IRFA. The Commission received no comments on the IRFA. The present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

13. *Need for, and Objectives of, the Report and Order.* The Report and Order (*Order*) stems from a Public Notice issued by the Commission in May 2017, launching an initiative to modernize the Commission's media regulations.[20] Numerous parties in that proceeding argued for elimination of the recordkeeping requirement at issue as redundant and unnecessary. The *Order* adopts the *NPRM's* proposal to eliminate a provision of the Commission's rules that obligates certain broadcasters to file a Broadcast Mid-Term Report documenting their compliance with the Commission's EEO requirements, without eliminating the mid-term review of employment practices.

14. Specifically, the *Order* eliminates the requirement that broadcast television stations in station employment units (SEUs) with five or more full-time employees, and radio stations in SEUs with 11 or more full-time employees, file Form 397 four months prior to the date four years after their most recent license expiration date.[21] This *Order* reduces an outdated regulation and unnecessary regulatory burdens that can impede competition and innovation in media markets. It also announces changes to the Commission's Online Public Inspection File database (OPIF) in order for Commission staff to determine which stations are subject to the statutory mid-term review of employment practices.[22]

15. Summary of Significant Issues Raised by Public Comments in Response to the IRFA. No comments were filed in response to the IRFA.

16. *Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration.* Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the SBA and to provide a detailed statement of any change made to the proposed rules as a result of those comments.[23] The Chief Counsel did not file any comments in response to this proceeding.

17. *Description and Estimate of the Number of Small Entities to Which Rules Will Apply.* The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted.[24] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction'' [25] In addition, the term ''small business'' has the same meaning as the term ''small business concern''

[15] We note that the Commission recently has demonstrated its commitment to EEO enforcement by evaluating our audit program and consequently approving the relocation of Commission EEO enforcement staff and responsibilities to the Enforcement Bureau, as the EEO Supporters suggested. Press Release, FCC, Chairman Pai Statement on Proposal to Improve the FCC's Enforcement of Equal Employment Opportunity Rules (Jul. 3, 2018), *https://www.fcc.gov/document/chairman-pai-statement-proposal-improve-enforcement-eeo-rules; FCC Equal Employment Opportunity Audit and Enforcement Team Deployment,* Order, 33 FCC Rcd 7504 (FCC July 24, 2018). The reassignment will become effective when the appropriate clearance has been obtained and the Commission publishes the Order in the **Federal Register**. *Id.* at para. 10. *See* EEO Supporters Comments, MB Docket Nos. 18–23 and 17–105 at 5–6 (suggesting that ''the Commission should determine whether EEO enforcement would more effectively and efficiently be performed by the Enforcement Bureau''); *see also Diversity and Competition Supporters Supplemental NPRM Comments* at 80–81 (Proposal 40, Create a New Civil Rights Branch of the Enforcement Bureau), filed in MB Docket No. 09–182 (April 3, 2012) (proposing to create a Civil Rights Branch of the Enforcement Bureau that would contain EEO enforcement).

[16] We note that the EEO Supporters' request for the Commission to collect and publish an annual anonymized summary of aggregate broadcast licensee employment data is an issue closely related to issues raised in a separate pending proceeding. Likewise, the EEO Supporters' request for the Commission to impose particular requirements on stations that recruit primarily by word of mouth also relies on publishing this data, a matter that remains unresolved and pending in a separate proceeding. *See Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies,* Third Report and Order and Fourth Notice of Proposed Rulemaking, 19 FCC Rcd 9973 (2004) (adopting revised FCC Form 395 (Annual Employment Report) for broadcast stations and MVPDs and seeking comment on the Commission's policies regarding public access to obtain data contained in the forms)); *see also* EEO Supporters Comments, at 3–4 (suggesting that stations that recruit primarily by word of mouth should be required to submit *in camera* a Form 395). We also note that we received comments from the Leadership Conference on Civil and Human Rights (Leadership Conference) that echoed the EEO Supporters' concerns in this docket. The Leadership Conference further argues that, before eliminating Form 397, the Commission should collect aggregate industry employment data on Form 395–B and improve the usability of all EEO data in our online databases. Leadership Conference on Civil and Human Rights Comments, MB Docket No. 17–105, at 1–3 (June 2, 2018). Given our conclusion above that Form 397 has become unnecessary and no longer serves a useful purpose, we do not agree with this contention.

[17] This rule change will not become effective until after the completion of the current mid-term review periods for television stations in Delaware and Pennsylvania. *See* 47 CFR 73.1020(a)(18)(ii) (setting license renewal periods for Delaware and Pennsylvania at August 1, 2015). Accordingly, all television licensees in Delaware and Pennsylvania must file Form 397 in connection with the April 1, 2019 mid-term review deadline (four months prior to the four year anniversary of the license). We also note that we are amending the first sentence of 73.2080(f), as proposed in the *NPRM,* to alleviate any confusion or ambiguity that may have resulted from the construction of the prior rule. Our amendments serve to clarify that the Commission will conduct mid-term reviews of each broadcast television station *that is part of an employment unit of five or more full-time employees* and each radio station that is part of an employment unit of *11 or more* full-time employees. *See infra* Appendix A (emphasis added). We note that these clarifying amendments are consistent with those proposed in Appendix A of the *NPRM* and that no commenter has opposed them. *NPRM,* 33 FCC Rcd at 2578. These modifications serve only to direct readers to requirements already present in the rule. *See* 47 CFR 73.2080(f) (''The following provisions apply to employment activity concerning full-time positions at each broadcast station employment unit . . . employing five or more persons in full-time positions, *except where noted*'') (emphasis added); *see also* FCC Form 397, Filing Instructions, at 2; Section I.

[18] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. 104–121, Title II, 110 Stat. 857 (1996). The SBREFA was enacted as Title II of the Contract With America Advancement Act of 1996 (CWAAA).

[19] *Elimination of Obligation to File Broadcast Mid-Term Report (Form 397) Under § 73.2080(f)(2); Modernization of Media Regulation Initiative, MB Docket Nos. 18–23 and 17–105, Notice of Proposed Rulemaking, 33 FCC Rcd 2570, para. 1 (2018) (NPRM).*

[20] *Commission Launches Modernization of Media Regulation Initiative,* MB Docket No. 17–105, Public Notice, FCC 17–58 (MB May 18, 2017) (initiating a review of rules applicable to media entities to eliminate or modify regulations that are outdated, unnecessary or unduly burdensome).

[21] 47 CFR 73.2080(f)(2).

[22] *See Order* at para. 9, n. 12.

[23] 5 U.S.C. 604(a)(3).

[24] *Id.*

[25] 5 U.S.C. 601(6).

under the Small Business Act.[26] 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.[27] The final rules adopted herein affect small television and radio broadcast stations. A description of these small entities, as well as an estimate of the number of such small entities, is provided below.

18. *Television Broadcasting.* This Economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound.'' [28] These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public.[29] These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: Those having $38.5 million or less in annual receipts.[30] The 2012 Economic Census reports that 751 firms in this category operated in that year. Of that number, 656 had annual receipts of less than $25,000,000, and 95 had annual receipts of $25,000,000 or more.[31] Based on this data, we estimate that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

19. In addition, the Commission has estimated the number of licensed commercial television stations to be 1,349.[32] Of this total, 1,277 stations had revenues of $38.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on October 1, 2018. Such entities, therefore, qualify as small entities under the SBA definition. The Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 412.[33] The Commission, however, does not compile and does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

20. We note, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations [34] must be included. Our estimate, therefore likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of ''small business'' requires that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which the proposed rules would apply does not exclude any television station from the definition of a small business on this basis and therefore could be over-inclusive.

21. There are also 1,911 LPTV stations and 389 Class A stations.[35] Given the nature of these services, we will presume that all of these entities qualify as small entities under the above SBA small business size standard.

22. *Radio Stations.* This economic Census category ''comprises establishments primarily engaged in broadcasting aural programs by radio to the public.'' [36] The SBA has created the following small business size standard for this category: Those having $38.5 million or less in annual receipts.[37] Census data for 2012 shows that 2,849 firms in this category operated in that year.[38] Of this number, 2,806 firms had annual receipts of less than $25,000,000, and 43 firms had annual receipts of $25,000,000 or more.[39] Therefore, based on the SBA's size standard, the majority of such entities are small entities.

23. Apart from the U.S. Census, the Commission has estimated the number of licensed commercial AM radio stations to be 4,626 stations [40] and the number of commercial FM radio stations to be 6,737, for a total number of 11,363.[41] Of this total, 11,362 stations had revenues of $38.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on October 1, 2018. In addition, the Commission has estimated the number of noncommercial educational FM radio stations to be 4,130.[42] NCE stations are non-profit, and therefore considered to be small entities.[43] Therefore, we estimate that the majority of radio broadcast stations are small entities.

24. *Description of Reporting, Record Keeping, and Other Compliance Requirements for Small Entities.* In this section, we identify the reporting, recordkeeping, and other compliance requirements in the *Order* and consider whether small entities are affected disproportionately by any such requirements.

25. *Reporting Requirements.* The *Order* does adopt new reporting requirements.[44] It requires radio stations to indicate whether they have the requisite number of full-time employees to be subject to a mid-term review.

26. *Recordkeeping Requirements.* The *Order* does not adopt new recordkeeping requirements.

27. *Other Compliance Requirements.* The *Order* does not adopt new compliance requirements.

28. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives (among others): (1) The establishment of

[26] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small-business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[27] 15 U.S.C. 632.

[28] U.S. Census Bureau, 2012 North American Industry Classification System (NAICS) Definitions, ''515120 Television Broadcasting,'' *http://www.census.gov./cgi-bin/sssd/naics/naicsrch.*

[29] *Id.*

[30] 13 CFR 121.201; 2012 NAICS Code 515120.

[31] U.S. Census Bureau, Table No. EC1251SSSZ4, *Information: Subject Series—Establishment and Firm Size: Receipts Size of Firms for the United States: 2012* (515120 Television Broadcasting), *https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[32] FCC News Release, *Broadcast Station Totals as of September 30, 2018* (rel. Oct. 3, 2018) (*Broadcast Station Totals*), *https://www.fcc.gov/document/broadcast-station-totals-september-30–2018.*

[33] *Id.*

[34] ''[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has the power to control both.'' 13 CFR 21.103(a)(1).

[35] *Broadcast Station Totals supra* note 14.

[36] U.S. Census Bureau, 2012 NAICS Definitions, ''515112 Radio Stations,'' at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.* This category description continues, ''Programming may originate in their own studio, from an affiliated network, or from external sources.''

[37] 13 CFR 121.201; NAICS code 515112.

[38] U.S. Census Bureau, Table No. EC0751SSSZ4, *Information: Subject Series—Establishment and Firm Size: Receipts Size of Firms for the United States: 2012* (515112), *http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ4&prodType=table.*

[39] *Id.*

[40] *Broadcast Station Totals supra* note 14.

[41] *Id.*

[42] *Id.*

[43] 5 U.S.C. 601(4), (6).

[44] *See Order* at para. 9, n. 12.

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 or reporting requirements under the rule for 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 small entities.[45]

29. The *Order* eliminates the obligation imposed on certain broadcasters to file a Broadcast Mid-Term Report on employment practices. Eliminating this requirement is intended to modernize the Commission's regulations and reduce costs and recordkeeping burdens for affected entities, including small entities. Under the prior rule, affected entities were required to expend time and resources gathering and filing consolidated information that is largely already otherwise supplied to the Commission. The *Order* will require radio stations uploading an EEO public file report to answer one ''either/or'' question about staffing in order to determine their eligibility for the statutorily mandated mid-term review of broadcast equal employment practices. In the aggregate, replacing Form 397 with this requirement to provide additional information in the OPIF constitutes a reduction in burdens, and is as minimal a burden as possible for all entities, including small entities. Thus, we anticipate that affected small entities only stand to benefit from these revisions.

B. Paperwork Reduction Analysis

30. This document contains proposed new or revised information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501–3520). The requirements will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the information collection requirements contained in this proceeding. The Commission will publish a separate document in the **Federal Register** at a later date seeking these comments. In addition, we note that, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission previously sought specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees. We have described impacts that might affect small businesses, which includes most businesses with fewer than 25 employees, in the FRFA.

C. Congressional Review Act

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

III. Ordering Clauses

32. Accordingly, *It is ordered* that, pursuant to the authority found in sections 1, 4(i), 4(j) and 334 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), and 334 this Report and Order *IS HEREBY ADOPTED*.

33. *It is further ordered* that this Report and Order *SHALL BECOME EFFECTIVE* on May 1, 2019, except for those provisions which contain non-substantive modifications to existing information collection requirements that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The non-substantive modifications *WILL BECOME EFFECTIVE* upon the effective date announced when the Commission publishes a notice in the **Federal Register** announcing such OMB approval and the effective date.

34. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

35. *It is further ordered* that the Commission *SHALL SEND* a copy of the Report and Order in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act (CRA), *see* 5 U.S.C. 801(a)(1)(A).

36. *It is further ordered* that, should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 18–23 shall be TERMINATED, and its docket closed.

List of Subjects in 47 CFR Part 73

Equal employment opportunity, Radio, Reporting and recordkeeping requirements, Television.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Final Rules

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

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, and 339.

■ 2. Amend § 73.2080 by revising paragraph (f)(2) to read as follows:

§ 73.2080 Equal Employment Opportunities (EEO).

* * * * *

(f) * * *

(2) The Commission will conduct a mid-term review of the employment practices of each broadcast television station that is part of an employment unit of five or more full-time employees and each radio station that is part of an employment unit of eleven or more full-time employees, four years following the station's most recent license expiration date as specified in § 73.1020. If a broadcast licensee acquires a station pursuant to FCC Form 314 or FCC Form 315 during the period that is to form the basis for the mid-term review, that review will cover the licensee's EEO recruitment activity during the period starting with the date it acquired the station.

* * * * *

[FR Doc. 2019–09626 Filed 5–14–19; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 190207082–9433–02]

RIN 0648–XG800

Fisheries of the Northeastern United States; Spiny Dogfish Fishery; 2019 and Projected 2020–2021 Specifications

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

ACTION: Final rule.

[45] 5 U.S.C. 603(c)(1)–(4).

SUMMARY: NMFS issues final specifications for the 2019 spiny dogfish fishery, and projected specifications for fishing years 2020 and 2021. The specifications are necessary to establish allowable harvest levels and other management measures to prevent overfishing while allowing optimum yield, consistent with the Magnuson-Stevens Fishery Conservation and Management Act and the Spiny Dogfish Fishery Management Plan. This rule is also intended to inform the public of these specifications for the 2019 fishing year and projected specifications for 2020 and 2021.

DATES: Effective May 15, 2019 through April 30, 2020.

ADDRESSES: Copies of these specifications, including the Environmental Assessment (EA), Regulatory Flexibility Act Analyses, and other supporting documents for the action, are available upon request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. These documents are also accessible via the internet at *http://www.mafmc.org/dogfish.*

FOR FURTHER INFORMATION CONTACT: Cynthia Ferrio, Fishery Management Specialist, (978) 281–9180.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic spiny dogfish fishery is jointly managed in Federal waters by the New England and Mid-Atlantic Fishery Management Councils under the Spiny Dogfish Fishery Management Plan (FMP), with the Mid-Atlantic Council serving as the administrative lead. The Atlantic States Marine Fisheries Commission manages the fishery in state waters from Maine to North Carolina through an interstate fishery management plan. Regulations implementing the spiny dogfish FMP appear at 50 CFR part 648, subparts A and L, and require the specification of an annual catch limit (ACL), annual catch target (ACT), and the total allowable landings (TAL). These limits and other management measures may be set for up to five fishing years at a time, with each fishing year running from May 1 through April 30. This action implements spiny dogfish specifications for the 2019 fishing year, and announces projected specifications for 2020 and 2021, as recommended by the Councils.

The proposed rule for this action published in the **Federal Register** on March 29, 2019 (84 FR 11923), and comments were accepted through April 15, 2019. Additional background information regarding the development of these specifications was provided in the proposed rule and is not repeated here.

Final Specifications

This action implements the final 2019 and projected 2020–2021 spiny dogfish specifications (Table 1) as described in the March 29, 2019, proposed rule. These specifications substantially reduce the coastwide commercial quota in 2019 to ensure overfishing does not occur. Quota increases are projected for 2020 and 2021 as the stock biomass is expected to increase and the risk of overfishing declines. The lower catch limits are not expected to have a substantial impact on industry, as the reduced coastwide quotas remain higher than total annual landings in recent years.

TABLE 1—SUMMARY OF FINAL 2019, AND PROJECTED 2020 AND 2021 SPINY DOGFISH FISHERY SPECIFICATIONS

	2019		2020		2021	
	Metric tons	Pounds	Metric tons	Pounds	Metric tons	Pounds
Overfishing Limit	21,549	47,507,413	N/A	N/A	N/A	N/A
Acceptable Biological Catch	12,914	28,470,497	14,126	31,142,499	16,043	35,368,761
ACL = ACT	12,865	28,362,470	14,077	31,034,473	15,994	35,260,734
TAL	9,390	20,701,000	10,602	23,373,409	12,519	27,599,671
Commercial Quota	9,309	20,522,832	10,521	23,194,835	12,438	27,421,096
Percent Change in Quota from Previous Year	−46	−46	+13	+13	+18	+18

All other fishery management measures, including the 6,000-lb (2,722-kg) Federal trip limit, remain unchanged. Changes to the trip limit may be pursued in a future, separate rulemaking action. By providing projected quotas for 2019 and 2020, NMFS hopes to assist fishery participants in planning ahead. The Councils will review these specifications annually, and NMFS will provide notice prior to each fishing year to finalize specifications and related measures.

Comments and Responses

The public comment period for the proposed rule ended on April 15, 2019. Five comments were received from the public on this rule during the 15-day comment period. No changes to the proposed specifications were made as a result of these comments.

Comment 1: One commenter requested that the spiny dogfish quota be reduced by 50 percent to prevent overfishing, claimed that widespread corruption and commercial profiteering was taking place across all fisheries, and asked that all trawl gear be banned. No rationale or evidence was presented to support the commenter's claims.

Response 1: This action does reduce the commercial spiny dogfish quota by 46 percent to prevent overfishing, which is almost the 50 percent requested by the commenter. Banning trawl gear is beyond the scope of outcomes contemplated in specifications.

Comment 2: Another commenter alleged that the spiny dogfish quota should not be reduced because they prey on valuable groundfish.

Response 2: This action manages the spiny dogfish fishery in terms of the target species' stock health and availability. At this time, the FMP does not account for predation effects by spiny dogfish on other species.

Comment 3: The commenter supported this action and the quota reduction, but was also concerned with inaccurate data from trawl fisheries, and effects on the recreational spiny dogfish fishery.

Response 3: These specifications were developed using the best scientific information available, which includes fishery independent trawl surveys. These surveys are conducted by the Northeast Fisheries Science Center and others, and are not solely dependent on trawl reporting data from within the fishery. Also, there are no Federal regulations governing the spiny dogfish

recreational fishery; these specifications apply to the commercial fishery only. For more information on recreational spiny dogfish regulations, contact the Atlantic States Marine Fisheries Commission or your local state agency.

Comment 4: One commenter supported this action, but did not believe that immediate action is required. They agreed that quotas should be reduced in future years to prevent overfishing (perhaps by using limited protected areas), but for now, the stock is stable, and dogfish eat other groundfish species so the population should be controlled.

Response 4: This action reduces the dogfish quota to prevent overfishing based on the best scientific information available. Although the stock is not currently overfished or experiencing overfishing, biomass has been declining, and the quota reductions are a result of the application of the Mid-Atlantic Council's Risk Policy to prevent overfishing, consistent with National Standard 2 and the Magnuson-Stevens Act. As stated earlier, the FMP does not account for predation effects of spiny dogfish on other species.

Comment 5: This commenter supported this action's quota reductions for spiny dogfish to preserve future sustainability in the fishery. They also suggested that a sex-specific spiny dogfish fishery be considered to protect against harvest of pregnant females.

Response 5: NMFS agrees that these specifications will better maintain sustainability in the spiny dogfish fishery. Consideration of a sex-specific fishery and management measures was not discussed in this action and would need to be pursued separately by the Councils in the future.

Changes From the Proposed Rule

There are no changes from the proposed rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Spiny Dogfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule is exempt from review under Executive Order 12866 because this action contains no implementing regulations.

This final rule does not duplicate, conflict, or overlap with any existing Federal rules.

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Assistant Administrator for Fisheries, NOAA, finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay of effectiveness period for this rule, to ensure that the final specifications are in place as close as practicable to the start of the 2019 spiny dogfish fishing year, which began on May 1, 2019. This action implements the final specifications (*i.e.,* annual catch limits) for the spiny dogfish fishery for the 2019 fishing year. A delay in effectiveness well beyond the start of the fishing year would be contrary to the public interest, as it could create confusion in the commercial spiny dogfish industry. Additionally, it could compromise the effectiveness of the lower catch limits in preventing overfishing while still allowing sustainable yield.

This rule is being issued at the earliest possible date. Preparation of the proposed rule was dependent on the submission of the EA, in support of the specifications, developed by the Mid-Atlantic Council. Following submission, documentation in support of the Council's recommended specifications is required for NMFS to provide the public with information from the environmental and economic analyses, as required in rulemaking, and to evaluate the consistency of the Council's recommendation with the Magnuson-Stevens Act and other applicable law. A complete draft of the specifications document and accompanying EA was received in late November 2018. However, the recent lapse in federal appropriations prevented any work on this action from December 22, 2018, through January 25, 2019, and delayed approval of the final EA. As such, the final specifications document and EA was not completed and approved by NMFS until early March 2019. The proposed rule for this action published on March 29, 2019, with a 15-day comment period ending April 15, 2019. A 30-day delay in effectiveness would needlessly postpone implementation of the 2019 specifications beyond the start of the fishing year on May 1, which is contrary to the public interest.

Furthermore, the lower catch limits specified in this action should be implemented as soon as possible to minimize the potential for overfishing. Although the specifications from 2018 are carried into 2019 until new catch limits are implemented, the Councils have recommended a substantial reduction in commercial quota based on the most recent stock assessment update. Harvest occurring within the first weeks of the fishing year based on outdated, higher catch limits could further harm the resource, and subject it to a greater risk of overfishing.

Finally, regulated parties do not require any additional time to come into compliance with this rule, and thus, a 30-day delay in effectiveness does not provide any benefit. Unlike actions that require an adjustment period to comply with new rules, participants in the spiny dogfish fishery will not be required to purchase new equipment or otherwise expend time or money to comply with these management measures. Fishery stakeholders have also been involved in the development of this action and are anticipating this rule. Therefore, there would be no benefit to delaying the implementation of these specifications.

For these reasons, a 30-day delay in effectiveness would be contrary to the public interest, and is therefore waived. As a result, there is good cause to implement these specifications on May 15, 2019.

Final Regulatory Flexibility Analysis

The final regulatory flexibility analysis (FRFA) included in this final rule was prepared pursuant to 5 U.S.C. 604(a), and incorporates the initial regulatory flexibility analysis (IRFA) and a summary of analyses completed to support the action. A public copy of the environmental assessment/IRFA is available from the Mid-Atlantic Council (see **ADDRESSES**). The preamble to the proposed rule included a detailed summary of the analyses contained in the IRFA, and that discussion is not repeated here.

A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

NMFS did not receive any comments in response to the IRFA or regulatory flexibility analysis (RFA) process. Refer to the ''Comments and Responses'' section of this rule's preamble for more detail on the public comments that were received. No changes to the proposed rule were made as a result of public comment.

Description and Estimate of Number of Small Entities to Which the Rule Would Apply

This final rule affects small entities engaged in commercial fishing operations in the spiny dogfish fishery. For the purposes of the RFA analysis, the ownership entities (or firms), not the individual vessels, are considered to be the regulated entities. Because of this,

some vessels with spiny dogfish permits may be considered to be part of the same firm because they may have the same owners. In terms of RFA, a business primarily engaged in commercial fishing activity is classified as a small business if it has combined annual gross receipts not in excess of $11 million for all its affiliated operations worldwide. To identify these small and large firms, vessel ownership data from the permit database were grouped according to common owners and sorted by size.

The current ownership data set used for this analysis is based on calendar year 2017 (the most recent complete year available). In 2017, there were 2,254 vessels that held a spiny dogfish permit, while 244 of these vessels contributed to overall landings. Cross-referencing those permits with vessel ownership database revealed that 1,695 entities owned those vessels. 1,685 were classified as small entities, with the remaining 10 classified as large businesses. Of the 1,685 small entities, 374 had no revenue in 2017, 1,104 were commercial fishing entities, and 207 were for-hire entities. Overall, there were 227 entities with spiny dogfish permits that reported revenue from spiny dogfish landings during 2017. Of those entities, 1 was large and 226 were small and their average overall revenues in 2017 were $0.4 million.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

No additional reporting, recordkeeping, or other compliance requirements are included in this final rule.

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes

Specification of commercial catch limits is constrained by the conservation objectives of the FMP and the Magnuson-Stevens Act. This action implements final 2019 and projected 2020–2021 commercial catch specifications for the spiny dogfish fishery based on the most recent stock assessment update. The Councils also considered taking no action, where the same catch limits and specifications from fishing year 2018 would continue into 2019 with no change. Only these two alternatives were considered by the Councils. NMFS is somewhat constrained in approving specifications in that the agency can approve, disapprove, partially approve, or in very limited circumstances substitute measures to end overfishing and rebuild stocks if Council-recommended measures will not do so. Because of this, there are limited options to minimize potential impacts on small entities.

This rule decreases the commercial quota by 46 percent to 9,309 mt in 2019, followed by modest projected increases to 10,521 mt and 12,438 mt, in 2020 and 2021, respectively. Although the 46-percent reduction in 2019 is a substantial quota change, landings reports from the most recent available full fishing year (2017) show that 7,439 mt of spiny dogfish were landed. Available landing information for fishing year 2018 is around 23 percent lower than in 2017. Given this data, it is likely that the reduction in quota for 2019 will not constrain the spiny dogfish industry, including small entities.

If the fishery were to reverse the recent landing trends and achieve the proposed 2019 quota, it would still generate more landings and likely more revenues than the most recent year (2017) of full fishery information. Therefore, it is expected that the proposed action will have minimal impact on small entities.

Taking no action was also considered, where the same catch limits and specifications from 2018 would continue into 2019 and beyond. This may have had a higher potential to minimize short-term economic impacts on small entities, as the quotas would remain higher, providing the potential for greater revenues and economic gain. However, as previously stated, effort and landings in the spiny dogfish fishery have been low in recent years, and higher quotas increase the risk of overfishing without addressing the issues in the market that may be keeping landings low. Therefore, maintaining status quo specifications was not recommended by the Councils because it would exceed catch level recommendations, put the spiny dogfish stock at an unnecessary risk of overfishing, and would be inconsistent with the requirements of the Magnuson-Stevens Act.

NMFS does not anticipate any significant economic impacts on small entities as a result of implementing the reduced quotas in this action. While there is a substantial reduction in the 2019 ACT and commercial quota, analyses indicate that coastwide spiny dogfish landings have been less than these approved specifications in recent years. It is unlikely that potential revenue losses would be directly affected by these quota reductions. In addition, these quotas are projected to increase in 2020 and 2021, so any impact to small entities affected by this action may be remedied quickly as the risk of overfishing subsides.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as small entity compliance guide was prepared and will be sent to all holders of Federal permits issued for the spiny dogfish fishery. In addition, copies of this final rule and guide (*i.e.,* permit holder letter) are available from NMFS at the following website: *www.greateratlantic.fisheries.noaa.gov.*

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

Dated: May 9, 2019.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs National Marine Fisheries Service.

[FR Doc. 2019–09915 Filed 5–14–19; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 84, No. 94

Wednesday, May 15, 2019

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 52

[Docket No. PRM–50–118; NRC–2019–0071]

Measurement Standards Used at U.S. Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of docketing and request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received a petition for rulemaking from Michael Taylor, dated December 3, 2018, as amended on January 24, 2019. The petitioner requests that the NRC amend its regulations to revise the measurement standards used at U.S. nuclear power plants. The petition was docketed by the NRC on March 4, 2019, and has been assigned Docket No. PRM–50–118. The NRC is examining the issues raised in PRM–50–118 to determine whether they should be considered in rulemaking. The NRC is requesting public comment on this petition.

DATES: Submit comments by July 29, 2019. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

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–2019–0084. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

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: Solomon Sahle, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3407; email: *Solomon.Sahle@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0071 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–2019–0071.
- *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 (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2019–0071 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions 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. The Petitioner and Petition

The petition was filed by Michael Taylor. Michael Taylor is a private citizen. The petitioner is requesting that the NRC amend its regulations regarding the measurement standards used at U.S. nuclear power plants. The petitioner is concerned that U.S. nuclear power plants are not required to use or have internal metrology or calibration laboratories that are certified under accrediting organization standards, as a part of normal and required operations. The petitioner observed that certain important factors are not currently considered in measurements conducted at nuclear power plants, including the ratio of measurement standards to units under test. The petitioner proposed that the NRC require all internal metrology/calibration laboratories in U.S. nuclear power plants to become accredited by an accrediting organization, and require training of all personnel and their management that make measurements at nuclear power plants. The petition may be found in ADAMS at Accession No. ML19074A303.

III. Discussion of the Petition

The petitioner requests that the NRC revise its regulations to require internal metrology or calibration laboratories in U.S. nuclear power plants to become

accredited by accrediting organizations such as the American Association for Laboratory Accreditation, National Voluntary Laboratory Accreditation Program, under the guidance of International Organization for Standardization (ISO) and American National Standards Institute (ANSI) (specifically, under guidance ISO/IEC 17025 or ANSI/NCSLI Z540.3), as a part of normal and required operations. The petitioner notes that some nuclear power plant metrology laboratories are accredited under these standards voluntarily, but also notes that the lack of requirements for nuclear power plants allows for degraded measurements and is a safety concern. The petitioner also states that, according to these standards and scientific documents, measurements made without this guidance are subject to significant errors. The petitioner contends that this leads to an unresolved safety issue for ''*Q*'' measurements in particular. The petitioner also states existing internal quality assurance and documents and standards currently in use for inspections and audits do not adequately address this concern.

Dated at Rockville, Maryland, this 9th day of May 2019.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2019–09981 Filed 5–14–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2019–0070]

RIN 3150–AK33

List of Approved Spent Fuel Storage Casks: NAC International NAC–UMS® Universal Storage System, Certificate of Compliance No. 1015, Amendment No. 7

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel storage regulations by revising the NAC International NAC–UMS® Universal Storage System listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 7 to Certificate of Compliance No. 1015. Amendment No. 7 would revise the surveillance requirements for technical specifications A3.1.6.1 and A3.1.6.2 to ensure that adequate monitoring of the concrete cask heat removal system is performed. Amendment No. 7 would also revise the basis for technical specification A3.1.6 to clarify that the surveillance requirements for technical specification A3.1.6 require a minimum of two outlet air temperature measurements to provide an average outlet temperature.

DATES: Submit comments by June 14, 2019. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

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–2019–0070. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

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: Bernard H. White, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–6577; email: *Bernard.White@nrc.gov* or Victoria V. Huckabay, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–5183; email: *Victoria.Huckabay@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Table of Contents:

I. Obtaining Information and Submitting Comments
II. Rulemaking Procedure
III. Background
IV. Plain Writing
V. Availability of Documents

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0070 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–2019–0070.
- *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.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' 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–2019–0070 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions 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. Rulemaking Procedure

Because the NRC considers this action to be non-controversial, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. The direct final rule will become effective on July 29, 2019. However, if the NRC receives significant adverse comments June 14, 2019, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC to make a change (other than editorial) to the rule.

For procedural information and the regulatory analysis, see the direct final rule published in the Rules and Regulations section of this issue of the **Federal Register**.

III. Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended, requires that ''[t]he Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the Nuclear Waste Policy Act states, in part, that ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under section [218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule which added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on October 19, 2000, that approved the NAC–UMS® Universal Storage System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No. 1015 (65 FR 62581).

IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31885). The NRC requests comment on the proposed rule with respect to clarity and effectiveness of the language used.

V. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS accession No.
Letter from NAC International dated September 18, 2018, Submitting Request for Amendment to Certificate of Compliance No. 1015.	ML18264A014
Proposed Certificate of Compliance No. 1015 Amendment No. 7, Certificate of Compliance for Spent Fuel Storage Casks.	ML19057A267
Proposed Certificate of Compliance No. 1015 Amendment No. 7, Technical Specifications, Appendix A.	ML19057A265
Proposed Certificate of Compliance No. 1015 Amendment No. 7, Technical Specifications, Appendix B.	ML19057A266
Certificate of Compliance No. 1015 Amendment No. 7, Preliminary Safety Evaluation Report.	ML19057A268

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking website at *http://www.regulations.gov* under Docket ID NRC–2019–0070. 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–2019–0070); (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).

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

Dated at Rockville, Maryland, this 2nd day of May, 2019.

For the Nuclear Regulatory Commission.

Kim S. West,

Acting, Executive Director for Operations.

[FR Doc. 2019–10018 Filed 5–14–19; 8:45 am]

BILLING CODE 7590–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1005

[Docket No. CFPB–2019–0023]

Overdraft Rule Review Pursuant to the Regulatory Flexibility Act

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of section 610 review and request for comments.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is conducting a review of the Overdraft

Rule consistent with section 610 of the Regulatory Flexibility Act. As part of this review, the Bureau is seeking comment on the economic impact of the Overdraft Rule on small entities. These comments may assist the Bureau in determining whether the Overdraft Rule should be continued without change, or amended or rescinded to minimize any significant economic impact of the rules upon a substantial number of such small entities, consistent with the stated objectives of applicable statutes.

DATES: Comments must be received by July 1, 2019.

ADDRESSES: You may submit responsive information and other comments, identified by Docket No. CFPB–2019–0023, by any of the following methods:

- *Electronic:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: 2019-Notice-RFAReviewOverdraft@cfpb.gov.* Include Docket No. CFPB–2019–0023 in the subject line of the message.
- *Mail:* Comment Intake, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.
- *Hand Delivery/Courier:* Comment Intake, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.

Instructions: The Bureau encourages the early submission of comments. All submissions must include the document title and docket number. Please note the specific rule or topic on which you are commenting at the top of each response (you do not need to address all rules or topics). Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1700 G Street NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. eastern time. You can make an appointment to inspect the documents by telephoning 202–435–7275.

All submissions in response to this request for information, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary information or sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Submissions will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Joseph Baressi and Gregory Evans, Senior Counsels, Office of Regulations, at 202–435–7700. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act [1] (RFA) requires each agency to consider the effect on small entities for certain rules it promulgates.[2] Specifically, section 610 of the RFA [3] provides that each agency shall publish in the **Federal Register** a plan for the periodic review of the rules issued by the agency which have or will have a significant economic impact upon a substantial number of small entities.

The Bureau is publishing such a plan separately in this issue of the **Federal Register**. Section 610 provides that the purpose of the review shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of such small entities.[4] As also set forth in section 610, in each review agencies must consider several factors:

1. The continued need for the rule;
2. The nature of public complaints or comments on the rule;
3. The complexity of the rule;
4. The extent to which the rule overlaps, duplicates, or conflicts with Federal, State, or other rules; and
5. The time since the rule was evaluated or the degree to which technology, market conditions, or other factors have changed the relevant market.[5]

The following section lists and briefly describes the rule that the Bureau plans to review in 2019 under the criteria described by section 610 of the RFA and pursuant to the review plan published separately in this issue of the **Federal Register**. The Bureau expects to publish a notice in summer 2019 identifying the rules that will be the subject of section 610 reviews in 2020.

I. List of Rules for Review

This section lists and briefly describes the rule that the Bureau plans to review in 2019 under the criteria described by section 610 of the RFA and pursuant to the Bureau's review plan.

A. Federal Reserve Board Overdraft Rule

i. The Rule

In November 2009, to address overdraft practices, the Board of Governors of the Federal Reserve System (Board) published a final rule amending Regulation E, which implements the Electronic Fund Transfer Act [6] (EFTA), and the official staff commentary to the regulation, which interprets the requirements of Regulation E.[7] Specifically, pursuant to its authority under EFTA sections 904(a), (b), (c), and 905,[8] the Board issued a rule (Overdraft Rule or Rule) that limits the ability of financial institutions to assess overdraft fees for paying automated teller machine (ATM) and one-time debit card transactions that overdraw consumers' accounts.[9] The Board stated that the Overdraft Rule is intended to carry out the express purposes of the EFTA by: (a) Establishing notice requirements to help consumers better understand the cost of overdraft services for certain electronic fund transfers; and (b) providing consumers with a choice as to whether they want overdraft services for ATM and one-time debit card transactions in light of the costs associated with those services.[10] Under the Rule, financial institutions must not assess a fee or charge on a consumer's account for paying an ATM or one-time debit card overdraft transaction, unless the institution, among other things, obtains the consumer's affirmative consent, or opt-in, to the institution's payment of overdrafts for these transactions.[11] Under the Overdraft Rule, before a consumer may affirmatively consent, the financial institution must ''provide[] the consumer with a notice in writing, or if the consumer agrees, electronically, segregated from all other information, describing the institution's overdraft service.'' [12] This notice must include specific information, such as the fees imposed for paying such overdrafts, and the notice must also be ''substantially similar'' to a model form set forth in appendix A of the regulation (Model Form A–9).[13] The Bureau recodified Regulation E, including the amendments made by the Overdraft Rule, in 2011 when the Bureau assumed rulemaking responsibility under

[1] Public Law 96–354, 94 Stat. 1164.

[2] The term ''small entity'' is defined in the RFA. *See* 5 U.S.C. 601(6).

[3] 5 U.S.C. 610(a).

[4] 5 U.S.C. 610(a).

[5] 5 U.S.C. 610(b).

[6] 15 U.S.C. 1693 *et seq.*

[7] 74 FR 59033 (Nov. 17, 2009). *See also* clarifications that the Board published in June 2010. 75 FR 31665 (June 4, 2010).

[8] 15 U.S.C. 1693b(a), (b), (c), 1693c.

[9] *See* 74 FR 59033, 59037 (Nov. 17, 2009).

[10] *Id.*

[11] *See* 12 CFR 1005.17(b)(1)(iii).

[12] *See* 12 CFR 1005.17(b)(1)(i).

[13] *See* 12 CFR 1005.17(d).

EFTA.[14] The Overdraft Rule is now set forth within Subpart A of the Bureau's Regulation E, 12 CFR part 1005.[15]

ii. The Market

Consumers with checking accounts sometimes attempt transactions for amounts that exceed their account balance. Financial institutions that offer checking accounts may decide whether to allow such transactions to go through (an overdraft) and whether to charge fees in connection with the overdraft (subject to some restrictions). These decisions depend on a number of factors, including the type of transaction, the financial institution's policies, procedures, and technological systems, and regulatory requirements. In the case of a check or an Automated Clearing House (ACH) transaction, the financial institution may either return a transaction attempt that exceeds a consumer's account balance unpaid for non-sufficient funds (NSF), or process the transaction, in which case an overdraft occurs. If a consumer attempts a one-time debit card transaction or an ATM withdrawal, the financial institution either authorizes or declines the transaction within seconds of the consumer's request. A declined transaction does not result in a fee. If the transaction is authorized, the financial institution will later settle the transaction, which might occur on the same day, or as long as three business days later.

The Bureau believes that the majority of financial institutions offering checking account overdraft services chose to offer consumers the opportunity to opt-in to those services. Some financial institutions, however, chose not to implement an opt-in regime. Of those financial institutions, some may have elected to provide overdraft services for ATM and one-time debit card transactions, but not charge a fee. Other financial institutions that chose not to offer opt-in elected generally to decline ATM and one-time debit card transactions that would overdraw the account, although certain authorized transactions may nonetheless have resulted in an overdraft later at settlement. Bureau research suggests that a transaction authorizing with a sufficient balance, but later settling with a negative balance is a common occurrence for frequent overdrafters who have not opted in.[16]

The Bureau has found that the share of consumers who have opted in varies widely by institution, but in general it is considerably less than half.[17] This underscores the variation among financial institutions and their customers in their desire to offer or use overdraft on card-based transactions. The Bureau has estimated in 2013 that the rule led to a material decrease in the amount of overdraft fees paid by consumers.[18]

With regard to the type of transactions taking place, there has been substantial growth in debit card-based transactions both due to more consumers using debit cards and those with debit cards using them more. There have been technological changes making debit card acceptance more ubiquitous, such as the introduction of tablet and smartphone-based point of sale terminals and a growing number of online and mobile marketplaces, retailers, and service providers. There has also been a growing comfort among consumers in making electronic payments.

Since the issuance of the Overdraft Rule, the Bureau has observed several changes in overdraft practices at a number of financial institutions. These include: (i) Changes in the order in which different categories of transactions are posted, which has resulted in a diminution in the number of overdraft transactions; (ii) limits on the number of overdraft fees that some financial institutions may charge in a single business day; and (iii) ''cushions'' which preclude assessing overdraft fees on *de minimis* amounts. The Bureau does not have reason to believe that these changes are attributable to the Rule.

iii. Bureau Resources and Analysis

The Bureau has conducted research relevant to the Overdraft Rule. In 2012, the Bureau launched an inquiry into overdraft, paralleling work that the Bureau was undertaking to examine other types of short-term credit products. The Bureau obtained aggregate and anonymized account-level data from large banks as part of this inquiry, which Bureau researchers extensively analyzed. The Bureau shared some of its findings through a June 2013 White Paper, July 2014 Data Point, and August 2017 Data Point.[19]

In 2015, the Bureau obtained de-identified information from core processors on 4,091 financial institutions for a single 12-month period around 2014. The vast majority of these financial institutions were small, as defined by the Small Business Administration as having assets less than $550 million.[20] The acquired information related to overdraft practices (whether the financial institution offered overdraft and opt-in, its policies for making overdraft and balance-related decisions, transaction processing methods, and overdraft and NSF fees charged) and consumer outcomes (share of accounts opted-in, overdraft and NSF fee revenue per account, and distribution of fees across accounts).

iv. Previous Input to the Bureau

In February 2012, the Bureau published a request for information, seeking input from the public on the impact of overdraft programs on consumers, including information on the impact of the Overdraft Rule.[21] The Bureau received more than one thousand comments from trade groups, financial institutions, consumer advocates, individual consumers, and others.

In August 2017, the Bureau announced that it had conducted consumer testing on potential updates and improvements to the Model Form A–9 promulgated by the Board. The Bureau released four alternative versions of a revised opt-in model form

[14] 76 FR 81019 (Dec. 27, 2011).

[15] *See generally* 12 CFR 1005.17. These provisions were originally adopted by the Board in 12 CFR part 205 but, upon transfer of authority by the Dodd-Frank Act to implement EFTA to the Bureau, were renumbered as 12 CFR part 1005. 76 FR 81020 (Dec. 27, 2011).

[16] CFPB, *Data Point: Frequent Overdrafters* (Aug. 2017) at 28, *available at https://www.consumerfinance.gov/documents/5126/201708_cfpb_data-point_frequent-overdrafters.pdf.*

[17] CFPB, *CFPB Study of Overdraft Programs: A White Paper of Initial Data Findings* (June 2013) at 29, *available at http://files.consumerfinance.gov/f/201306_cfpb_whitepaper_overdraft-practices.pdf.* This report covers a number of larger banks. The Bureau has obtained data with respect to practices at smaller banks and credit unions which is consistent with the Bureau's finding. The Bureau will consider those data in connection with this review.

[18] CFPB, *CFPB Study of Overdraft Programs: A White Paper of Initial Data Findings* (June 2013) at 39, *available at http://files.consumerfinance.gov/f/201306_cfpb_whitepaper_overdraft-practices.pdf.*

[19] CFPB, *CFPB Study of Overdraft Programs: A White Paper of Initial Data Findings* (June 2013), *available at http://files.consumerfinance.gov/f/201306_cfpb_whitepaper_overdraft-practices.pdf;* CFPB, *Data Point: Checking account overdraft* (July 2014), *available at http://files.consumerfinance.gov/f/201407_cfpb_report_data-point_overdrafts.pdf;* CFPB, *Data Point: Frequent Overdrafters* (Aug. 2017), *available at https://www.consumerfinance.gov/documents/5126/201708_cfpb_data-point_frequent-overdrafters.pdf.*

[20] ''A financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' 13 CFR 121.201. Assets for the purposes of this size standard means the assets defined according to the Federal Financial Institutions Examination Council 041 call report form for NAICS Codes 522110, 522120, 522190, and 522210 and the National Credit Union Administration 5300 call report form for NAICS code 522130.

[21] 77 FR 12031 (Feb. 28, 2012).

and invited feedback on these alternatives, while noting that the current Model Form A–9 remains effective under Regulation E.[22] The Bureau received more than forty comments in response to the release.

In response to the Bureau's 2018 Call for Evidence Initiative, which included requesting input on all inherited regulations and rulemaking authorities, the Bureau received approximately ten comments that included information about checking account overdrafts generally.[23] These comments came from trade groups, financial institutions, and consumer advocates. The comments addressed a wide variety of topics including the overall cost of overdraft, the treatment of overdrafts under the Truth in Lending Act, and potential modifications to the current Model Form A–9.

Through these and other outreach efforts, the Bureau has heard concerns expressed by some financial institutions and trade groups regarding the requirements that the opt-in notice be substantially similar to Model Form A–9 and that the notice may not contain any information not specified in or otherwise permitted by the regulation. Some of these financial institutions have expressed a desire to add additional information to the notice that they believe may be relevant to the consumer's decision, such as an institution's policies for making overdraft and balance-related calculations.

Finally, the Bureau's experience suggests there is little overlap, duplication, or conflict between the Overdraft Rule and Federal, State, or other rules. The Bureau has not received any requests for a determination that the Overdraft Rule preempts State law. In October 2015, the Department of Education also issued a final rule that generally prohibits overdraft fees on students' checking accounts if the financial institution offering the account partners with an entity that handles the school's financial aid disbursement process.[24]

II. Request for Comment

Consistent with the review plan, the Bureau asks the public to comment on the Overdraft Rule, including the following topics:

(1) The nature and extent of the economic impacts of the Rule as a whole and of its major components on small entities, including impacts of the reporting, recordkeeping, and other compliance requirements of the Overdraft Rule, as well as benefits of the Rule.

(2) Whether and how the Bureau by rule could reduce the costs of the Overdraft Rule on small entities, consistent with the stated objectives of EFTA and the Overdraft Rule.

(3) Any other information relevant to the factors that the Bureau considers in completing a Section 610 Review under the Regulatory Flexibility Act, as described above.

Where possible, please submit detailed comments, data, and other information to support any submitted positions.

Dated: May 6, 2019.

Kathleen L. Kraninger,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2019–09812 Filed 5–14–19; 8:45 am]

BILLING CODE 4810–AM–P

[22] *https://www.consumerfinance.gov/about-us/blog/know-you-owe-we-are-designing-new-overdraft-disclosure-forms/.*

[23] 83 FR 12881 (March 26, 2018).

[24] *See* 34 CFR 668.164.

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Chapter X

[Docket No. CFPB–2019–0024]

Plan for the Review of Bureau Rules for Purposes of the Regulatory Flexibility Act

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Plan for periodic review of rules and request for comments.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is publishing a plan for the review of rules which have or will have a significant economic impact upon a substantial number of small entities, pursuant to section 610 of the Regulatory Flexibility Act.

DATES: Comments must be received by July 15, 2019.

ADDRESSES: You may submit responsive information and other comments, identified by Docket No. CFPB–2019–0024, by any of the following methods:

- *Electronic:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email:* like *2019-Notice-RFAReviewPlan@cfpb.gov.* Include Docket No. CFPB–2019–0024 in the subject line of the message.
- *Mail:* Comment Intake, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.
- *Hand Delivery/Courier:* Comment Intake, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.

Instructions: The Bureau encourages the early submission of comments. All submissions must include the document title and docket number. Please note the specific rule or topic on which you are commenting at the top of each response (you do not need to address all rules or topics). Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1700 G Street NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. eastern time. You can make an appointment to inspect the documents by telephoning 202–435–7275.

All submissions in response to this request for information, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary information or sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Submissions will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Joseph Baressi and Gregory Evans, Senior Counsels, Office of Regulations, at 202–435–7700. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act[1] (RFA) requires each agency to consider the effect on small entities for certain rules it promulgates.[2] Specifically, section 610(a) of the RFA[3] provides that each agency shall publish in the **Federal Register** a plan for the periodic review of the rules issued by the agency which have a significant economic impact upon a substantial number of small entities. An agency may amend a plan at any time by publishing the revision in the **Federal Register**. Congress specified that the purpose of the review shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic

[1] Public Law 96–354, 94 Stat. 1164.

[2] The terms ''small entity'' and ''rule'' are defined in the RFA. *See* 5 U.S.C. 601.

[3] 5 U.S.C. 610(a).

impact of the rules upon a substantial number of such small entities. Congress further provided that the plan shall provide for review of the relevant rules within ten years of their publication as final rules.[4]

In 2010, Congress established the Bureau through the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[5] The Bureau is now publishing this plan because it anticipates performing reviews in the coming years to comply with section 610 of the RFA (herein ''610 reviews''). Although the Bureau is not required to do so, it is also requesting comment on its 610 review plan.[6]

The Bureau's 610 reviews will generally be separate from and in addition to other Bureau reviews of its regulations. In March 2018, the Bureau issued a request for information (RFI) to seek public input regarding the substance of inherited regulations (those transferred to the Bureau), and issued another RFI for adopted regulations (those issued by the Bureau), including whether the Bureau should issue additional rules.[7] The Bureau also conducts an assessment, pursuant to section 1022(d) of the Dodd-Frank Act, of each significant rule or order adopted by the Bureau under Federal consumer financial law and publishes a report of each assessment not later than five years after the effective date of the subject rule or order.[8] The Bureau has also announced as part of the semi-annual Unified Agenda of Federal Regulatory and Deregulatory Actions a long-term action to review inherited regulations for the purpose of ensuring that outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed and stated that it expects to focus its initial review on subparts B and G of Regulation Z, which implements the Truth in Lending Act.[9]

I. Review Plan

Each year, the Bureau plans to initiate 610 reviews of final rules. The Bureau intends to commence the review roughly nine years after each rule's publication.[10] For each rule, the Bureau will first assess whether it is having a significant economic impact on a substantial number of small entities and so is subject to 610 review. The Bureau may also decide to exercise its discretion to review rules issued by the Bureau or by the Bureau's predecessor agencies that may not otherwise be subject to 610 review. The Bureau will then publish in the **Federal Register** a list of rules which the Bureau plans to review within the upcoming plan year. In addition to this list, the Bureau will publish, consistent with section 610(c) of the RFA,[11] a notice for each rule to be reviewed that will include a brief description of the rule, as well as the need for and legal basis of, the rule. Each of these notices will invite public comment on the rule, and the public may submit relevant data and other information to support any submitted positions.

For each rule, the Bureau intends to conduct a review based on information on hand, relevant literature, and information submitted by the public in response to the Bureau's request for comment. As circumstances warrant, the Bureau may exercise its discretion to request additional data from relevant parties on a voluntary basis or otherwise obtain data from other sources, for example, by purchasing data from a third-party vendor.

Consistent with section 610(a) of the RFA, the purpose of the review will be to determine whether the rule should be continued without change, or should be amended or rescinded, consistent with the stated objectives of any applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of small entities.[12]

As set forth in section 610(b) of the RFA, the Bureau will consider several factors:

1. The continued need for the rule;
2. The nature of public complaints or comments on the rule;
3. The complexity of the rule;
4. The extent to which the rule overlaps, duplicates, or conflicts with Federal, state, or other rules; and
5. The time since the rule was evaluated or the degree to which technology, market conditions, or other factors have changed the relevant market.[13]

The Bureau will complete each review within ten years of the publication of the relevant rule as a final rule. The Bureau intends to subsequently announce the determinations made as to follow-on rulemaking activities in the Unified Agenda of Federal Regulatory and Deregulatory Actions or through other appropriate methods.

The Bureau may amend this review plan at any time by publishing the revision in the **Federal Register**.

Dated: May 6, 2019.

Kathleen L. Kraninger,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2019–09813 Filed 5–14–19; 8:45 am]

BILLING CODE 4810–AM–P

[4] The statute also contains certain additional requirements for rules that existed on the effective date of the RFA, which was January 1, 1981. *Id.* Those requirements are not applicable to the Bureau's reviews.

[5] Public Law 111–203, 124 Stat. 2081 (2010).

[6] Notice and comment is not required because the RFA provides that a plan may be amended by the agency at any time by publishing the revision in the **Federal Register**. 5 U.S.C. 610(a). Furthermore, the plan is a procedural rule under the Administrative Procedure Act, 5 U.S.C. 553, and therefore it is exempt from its notice and comment requirements.

[7] 83 FR 12281 (March 21, 2018), 83 FR 12286 (March 21, 2018).

[8] To date, the Bureau has published three such assessment reports concerning, respectively, the Bureau's rules for remittance transfers, mortgage servicing, and ability to repay and qualified mortgage standards. These reports are available at *https://www.consumerfinance.gov/data-research/research-reports/.*

[9] *See https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201810&RIN=3170-AA73.*

[10] As permitted by section 605(c) of the RFA, the Bureau may consider a series of closely related rules as one rule for the purposes of section 610. 5 U.S.C. 605(c).

[11] 5 U.S.C. 610(c).

[12] 5 U.S.C. 610(a).

[13] 5 U.S.C. 610(b).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No.: FAA–2019–0343; Notice No. 19–04]

RIN 2120–AL11

Decompression Criteria for Interior Compartments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to revise its standards for pressurized compartment loads such that partitions located immediately adjacent to a decompression hole need not be designed to withstand certain decompression conditions. This action is necessary because, in some cases, it is not practical to design partitions in certain airplane compartments to withstand a large decompression event that occurs within that compartment. Even though individual partition failure would be allowed, continued safe flight and landing would still be required.

DATES: Send comments on or before June 14, 2019.

ADDRESSES: Send comments identified by docket number FAA–2019–0343 using any of the following methods:

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

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For questions concerning this action, contact Todd Martin, Airframe and Cabin Safety Section, AIR–675, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, WA 98198; telephone and fax (206) 231–3210; email *Todd.Martin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

This rulemaking is issued under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General Requirements.'' Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards for the design and performance of aircraft that the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority as it prescribes new safety standards for the design and performance of transport category airplanes.

I. Overview of Proposed Rule

The FAA proposes to revise § 25.365, ''Pressurized compartment loads,'' in Title 14, Code of Federal Regulations (14 CFR) Part 25, ''Airworthiness Standards: Transport Category Airplanes.''

The airworthiness standards in § 25.365 address the safety effects of decompression. When the fuselage skin or another part of the pressurized boundary of an airplane fails for any reason, a decompression occurs if the cabin pressure is greater than the outside air pressure. When a decompression occurs, the pressurized air inside the airplane exits the hole, or opening, in the fuselage until equilibrium is reached. This can result in potentially high air loads on floors, partitions, and bulkheads.

Section 25.365(e) addresses the structural integrity of the airplane by requiring that the airplane be capable of continued safe flight and landing following a sudden release of pressure through an opening in any compartment (*i.e.,* a ''sudden decompression'').

Section 25.365(g) requires applicants to design bulkheads, floors, and partitions, in pressurized compartments for occupants, to withstand the sudden decompression conditions specified in paragraph (e). Section 25.365(g) also requires applicants to take reasonable design precautions to minimize the probability of parts becoming detached and injuring seated occupants.

For certain smaller compartments on the airplane, such as lavatories, private suites, and crew rest areas, it may be difficult to achieve compliance with § 25.365(g) because a large decompression hole, of the size specified in § 25.365(e)(2), occurring in one of these compartments would result in very high air loads on the partitions that form the compartment. Thus, strengthening the partitions to sustain such high loads has been shown to be impractical in many cases for these smaller compartments because it could adversely affect the structural integrity of the aircraft and continued safe flight and landing. Further, alternative design strategies may impede the compartment's intended function.

Therefore, due to the difficulty of safely designing partitions around small compartments to withstand the decompression without adversely affecting the safety of the airplane or the compartment's intended function, the FAA proposes to revise § 25.365(g) to allow the failure of partitions that are immediately adjacent to the decompression hole. This allowance would only apply to the formula decompression hole specified in § 25.365(e)(2). A hole of this size is typically the most severe decompression load design requirement for small compartments, such as lavatories, private suites, and crew rest areas. Finally, partition failure would only be allowed if (1) failure of the partition would not interfere with continued safe flight and landing, and (2) meeting the decompression condition in paragraph (e)(2) would be impractical.

II. Background

A. Statement of the Problem

As previously noted, for compartments such as lavatories, private suites, and crew rest areas, compliance with the partition strength requirements of § 25.365(g) may be difficult for applicants to achieve and could potentially reduce the safety of the airplane since the current regulation requires all partitions to withstand all decompression events. Therefore, designing compliant lavatories, private suites, and crew rest areas may not be practical unless the FAA grants relief, such as an exemption in accordance with 14 CFR part 11 or an equivalent level of safety finding in accordance with 14 CFR 21.21.

B. History

Amendment 25–54 to § 25.365, 45 FR 60154, September 11, 1980, introduced the requirement that bulkheads, floors, and partitions be designed to withstand the decompression conditions specified in the rule.

In amendment 25–71 to § 25.365, 55 FR 13474, April 10, 1990, the specific references to ''bulkheads, floors, and partitions'' were moved from paragraph (e) to paragraph (g) to stipulate the passenger protection criteria related to failure of these structures in occupied compartments, regardless of whether their failure could interfere with safe flight and landing.

The current rule requires that the applicant consider partition failure in terms of the effects on occupant safety. However, in developing this requirement, the FAA recognized that structural integrity might not be maintained near the decompression hole. The preamble of the NPRM for amendment 25–71, 53 FR 8742, March 16, 1988, states, ''The loss of structural integrity at the opening location or

physiological effects on occupants are not considerations of the proposed rule,'' which indicates the FAA was aware of and accepted this risk to the occupant next to the opening location.

The FAA has certified numerous airplanes for which the partition strength criteria in § 25.365(e) at amendment 25–54 or § 25.365(g) at amendment 25–71 were included in the certification basis. Since the issuance of amendment 25–54, the FAA has found compliance on several projects to install small compartments on these airplanes based on a finding of equivalent level of safety (ELOS) to § 25.365(e) at amendment 25–54 or § 25.365(g) at amendment 25–71 (as applicable) in accordance with 14 CFR 21.21, the first of which was made in 1989.[1]

The FAA notes, however, that it has not consistently applied the rule and applicants have raised questions about the intent of the rule during recent certification programs.

III. Discussion of the Proposal

Section 25.365 addresses the safety effects of decompression. When the fuselage skin or another part of the pressurized boundary of an airplane fails for any reason, a decompression occurs if the cabin pressure is greater than the outside air pressure. Decompressions can occur due to a number of causes, such as a fatigue failure, an engine rotor burst, or an explosive or incendiary device. When a decompression occurs, the pressurized air inside the airplane exits the hole, or opening, in the fuselage until equilibrium is reached. This can result in potentially high air loads on floors, partitions, and bulkheads. The magnitude of these forces depends on the size of the hole, its location, and the initial pressure differential between the cabin and the outside air.

Section 25.365(e) requires structural integrity of the airplane following a sudden decompression. The rule specifies that the design be able to withstand the following sudden decompression conditions:

Paragraph (e)(1)—penetration of any pressurized compartment by a portion of an engine following engine disintegration;

Paragraph (e)(2)—an opening up to a ''formula'' size calculated from the diameter of the airplane's fuselage; and

Paragraph (e)(3)—any other opening caused by failures not shown to be extremely improbable.

Section 25.365(g) addresses occupant safety in that it requires applicants to design bulkheads, floors, and partitions, in pressurized compartments for occupants, to withstand the sudden decompression conditions specified in paragraph (e). Section 25.365(g) also requires applicants to take reasonable design precautions to minimize the probability of parts becoming detached and injuring seated occupants.

For certain smaller compartments on the airplane, such as lavatories, private suites, and crew rest areas, it may be difficult to achieve compliance with § 25.365(g) because a large decompression hole, of the size specified in § 25.365(e)(2), occurring in one of these compartments would result in very high air loads on the partitions that form the compartment. Compliance is typically demonstrated by either: 1) Strengthening the partition to the extent that it would not fail, or 2) adding sufficient venting to reduce the loads on the partition, or some combination thereof. In some cases, both of these approaches have been shown to be impractical because the design cannot maintain the airplane's structural integrity or the partition's intended function, or a combination thereof. For example, strengthening the partition to the extent that it would not fail can actually increase the loads on the floor, thereby causing a potentially more serious floor failure, which could jeopardize continued safe flight either through structural failure or by damaging control systems routed through the floor. Adding venting would reduce loads on the partition, but in some cases, it is not possible to add enough venting and also maintain the intended purpose of the compartment. Additionally, if a large decompression hole occurs in one of these compartments, the risk to occupants of that compartment from the decompression itself is likely to be significant, and exceed any risk from the partition collapse.

Therefore, due to the difficulty of safely designing partitions around small compartments to withstand the decompression without adversely affecting the safety of the airplane, the FAA proposes to revise § 25.365(g) to allow the failure of partitions. This proposed change would not impact safety because it conforms the regulatory text to longstanding FAA practice established through equivalent level of safety findings and methods of compliance for small compartment design. This proposed change would also improve certification efficiency by eliminating the need for design-by-design equivalent level of safety analyses and findings to allow for such partition design. Accordingly, the FAA proposes to revise § 25.365(g) to state that partitions adjacent to the opening specified in paragraph (e)(2) need not be designed to withstand that condition if (1) failure of the partition would not interfere with continued safe flight and landing, and (2) meeting this decompression condition would be impractical.

The proposed rule would only apply to partitions, meaning any non-structural wall, non-structural floor, or non-structural ceiling panel, the failure of which would not compromise the structural integrity of the airplane. The term ''floor'' means a structural floor, such as a passenger or cargo floor that carries airplane structural loads. The floor of an overhead crew rest area, which is elevated above the main floor, would not be a structural floor because it does not carry airplane structural loads. This type of non-structural floor is a partition. The term ''bulkhead,'' as used in the proposed regulation, means a structural pressure bulkhead. The FAA considers a non-structural, non-pressure bulkhead to be a partition because it does not carry airplane structural loads. The applicability of this rule is limited to partitions because the integrity of bulkheads and floors must be maintained to ensure continued safe flight and landing.

The proposed rule would only allow failure of partitions for the decompression condition specified in § 25.365(e)(2). This decompression condition, referred to as the ''formula'' hole size, is typically the most severe condition required by § 25.365(e). Partition failure due to the other decompression conditions specified in § 25.365(e) would continue to be prohibited because it is practical to design partitions to withstand those less significant decompression events.

The exception provided in proposed § 25.365(g)(2) only applies to the occupant safety provision of § 25.365(g)(1). All partitions would still be required to meet the requirements in § 25.365(e), which requires continued safe flight and landing. For example, if flight control cables run through a particular partition, and failure of that partition would cause a hazardous or catastrophic flight control system failure, then that partition would still be required to withstand all the

[1] An ELOS finding is made when the design does not comply with the applicable airworthiness provisions, but compensating factors, such as incorporating mitigating features (*e.g.,* lanyards to restrain loose parts, and frangible structure to cause structural failure in a direction away from the seated occupant), provide an equivalent level of safety in accordance with 14 CFR 21.21(b)(1) for small compartment design. The FAA documents an ELOS finding in an ELOS memorandum that communicates to the public the rationale for the FAA's determination of equivalency to the level of safety intended by the regulations.

decompression conditions specified in § 25.365(e).

The proposed rule would also only allow failure of partitions for the ''formula hole'' decompression condition of paragraph (e)(2) if the applicant can show that withstanding that condition is impractical (*i.e.,* there is no way to design the partitions to withstand the decompression condition of paragraph (e)(2) without adversely affecting safety or without affecting the functionality of the compartment). In some cases, depending on the particular partition configuration and the formula decompression hole size for the airplane, it may be practical to design all partitions to meet the decompression condition specified in paragraph (e)(2), regardless of their location. For example, the applicant may be able to add venting or make other changes to relieve the decompression loads on the partitions. Under the proposed rule, the applicant would only be allowed to design for partition failure if there is no practical way to design the partitions to withstand the decompression condition of paragraph (e)(2).

For a compartment such as a lavatory, remote crew rest, or private suite, having a solid door is a fundamental feature for the intended use of the compartment. While using a curtain in place of a solid door would greatly improve the decompression capability of the compartment and is physically practical for the purpose of compliance with § 25.365(g), the FAA accepts that changing the door to a curtain in these instances would be impractical because the resulting design would not fulfill the purpose of the compartment.

The second sentence of § 25.365(g) requires that applicants take reasonable design precautions to minimize the probability of parts becoming detached and injuring occupants while in their seats. This proposal would not change that requirement. Therefore, in those cases where partitions are not required to withstand the decompression condition of § 25.365(e)(2), the applicant must nevertheless take reasonable design precautions to minimize the probability that a failed partition will injure an occupant in the compartment. For example, the applicant can employ lanyards or other devices to reduce the chance that a failed partition will impact the occupant. The applicant, in this situation, must also add venting, as a reasonable design precaution, to the extent practical to reduce the chance the partition will fail as a result of smaller decompression hole sizes.

IV. Regulatory Notices and Analyses

A. Regulatory Evaluation

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

This proposed rule would codify current practice and would not result in additional costs or significant benefits to airplane manufacturers. As noted previously, in some cases, the FAA accepted the possibility of local partition failure based on a finding of equivalent level of safety. This proposed rule would relieve type certification applicants who might otherwise be required to submit requests for an equivalent level of safety under § 21.21(b)(1). However, cost savings for the FAA would be minimal because the FAA received only two such type certification applications in the past 5 years, and would not expect numerous similar applications in the future. Cost savings for industry would be minimal because the cost of administration of the FAA's finding of equivalent safety on each applicable certification project is not high, even though it is applied several times per year. The FAA, therefore, has determined that this proposed rule is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.'' To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required.

This proposed rule would only have impact on transport category airplanes. All United States transport category aircraft manufacturers exceed the Small Business Administration small-entity criteria of 1,500 employees.

If an agency determines that a rulemaking will not result in a significant economic impact on a substantial number of small entities, the head of the agency may so certify under section 605(b) of the RFA. Therefore, based on the foregoing analysis, as provided in section 605(b), the head of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to

the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and determined that it would impose no costs on domestic and international entities and thus has a neutral trade impact.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $155 million in lieu of $100 million. This proposed rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

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

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

G. Environmental Analysis

FAA Order 1050.1F identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 5–6.6 of FAA Order 1050.1F and involves no extraordinary circumstances.

V. Executive Order Determinations

A. Executive Order 13132, Federalism

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

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

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

C. Executive Order 13609, International Cooperation

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

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

This proposed rule is an Executive Order 13771 deregulatory action. Details on the regulatory relief provided by this proposed rule can be found in the Regulatory Evaluation section.

VI. Additional Information

E. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The agency may change this proposal in light of the comments it receives.

Proprietary or Confidential Business Information: Commenters should not file proprietary or confidential business information in the docket. Such information must be sent or delivered directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document, and marked as proprietary or confidential. If submitting information on a disk or CD ROM, mark the outside of the disk or CD ROM, and identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), if the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. It is held in a separate file to which the public does not have access, and the FAA places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, it treats it as any other request under the Freedom of Information Act (5 U.S.C. 552). The FAA processes such a request under Department of Transportation procedures found in 49 CFR part 7.

F. Availability of Rulemaking Documents

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

1. Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);

2. Visiting the FAA's Regulations and Policies web page at *http://www.faa.gov/regulations_policies* or

3. Accessing the Government Printing Office's web page at *http://www.gpo.gov/fdsys/.*

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9680. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed from the internet through the Federal eRulemaking Portal referenced in item (1) above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

■ 1. The authority citation for part 25 continues to read as follows:

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

■ 2. Amend § 25.365 by revising paragraph (g) to read as follows:

§ 25.365 Pressurized compartment loads.

* * * * *

(g)(1) Except as provided in paragraph (g)(2) of this section, bulkheads, floors, and partitions in pressurized compartments for occupants must be designed to withstand the conditions specified in paragraph (e) of this section. In addition, reasonable design precautions must be taken to minimize the probability of parts becoming detached and injuring occupants while in their seats.

(2) Partitions adjacent to the opening specified in paragraph (e)(2) of this section need not be designed to withstand that condition provided—

(i) Failure of the partition would not interfere with continued safe flight and landing; and

(ii) The applicant shows that designing the partition to withstand the condition specified in paragraph (e)(2) of this section would be impractical.

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44703 in Washington, DC, on May 3, 2019.

Earl Lawrence,

Executive Director, Aircraft Certification Service.

[FR Doc. 2019–09823 Filed 5–14–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS–HOSP–27423;PPMWMWROW2/PMP00UP05.YP0000]

RIN 1024–AE50

Hot Springs National Park; Bicycling

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service proposes to amend the special regulations for Hot Springs National Park to allow bicycle use on a new trail connection between the Park and property owned by the City of Hot Springs, Arkansas. The new 0.65-mile trail would provide local residents and visitors with access in and across the Park to an extensive network of recreational trails in the City's Northwoods Urban Forest Park. The new natural surface, multi-use trail connection would be open to both pedestrian and bicycle use. National Park Service regulations require promulgation of a special regulation to designate new trails for bicycle use off park roads and outside developed areas.

DATES: Comments on the proposed rule must be received by 11:59 p.m. EST on July 15, 2019.

ADDRESSES: You may submit comments, identified by Regulation Identifier Number (RIN) 1024–AE50, by either of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

(2) *By hard copy:* Mail or hand deliver to: Superintendent, Hot Springs National Park, 101 Reserve Street, Hot Springs, AR 71901.

Instructions: Comments will not be accepted by fax, email, or in any way other than those specified above. All submissions received must include the words ''National Park Service'' or ''NPS'' and must include the docket number or RIN (1024–AE50) for this rulemaking. Comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Tokey Boswell, Chief of Planning and Compliance, Midwest Regional Office, 601 Riverfront Drive, Omaha, Nebraska 68102. Phone: 402–661–1534, Email: *tokey_boswell@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

People have long recognized the unique thermal waters that flow from the base of Hot Springs Mountain in Hot Springs, Arkansas. For thousands of years before it became a favored vacation destination in the 18th century, and prior to the arrival of early European explorers journeying west of the Mississippi River, Native Americans from around the region traveled to the springs and surrounding rocky mountain slopes, quarrying novaculite from the hilltops for their tools and weapons, and drinking and bathing in the mineral rich waters bubbling from the ground. The first permanent settlers to reach the Hot Springs area in 1807 were quick to realize the springs' potential as a health resort, and a bustling town grew up around the hot springs to provide services for health seekers.

To protect this unique national resource and preserve it for the use of the public, Congress set aside the springs and adjoining mountains as a federal reservation in 1832, making it the oldest unit of the National Park System. Over the next 50 years, the area transformed from a rough frontier town to an elegant and thriving spa city. In 1921, Congress designated the reservation as Hot Springs National Park (the Park). Today, the 5,500-acre Park contains vegetation, thermal waters, cold-water springs, bathhouses and associated cultural features, nearly 26 miles of hiking and equestrian trails, and prehistoric and historic novaculite quarries. The National Park Service (NPS) preserves and manages the natural and cultural resources of the Park for more than 1.5 million annual visitors. The City of Hot Springs, with an approximate population of 37,000, is located next to the Park.

Pullman Avenue Trail Connection/Environmental Assessment

The NPS proposes to create a new 0.65-mile natural surface trail within the Park. This new Pullman Avenue Trail Connection would extend north from a trailhead at Pullman Avenue and connect the Park with ongoing trail

development on City property at the Park's northern boundary. The NPS would build the trail using sustainable trail construction techniques and designate it for both pedestrian and bicycle use. The trail would follow the natural contours of the site, winding around obstacles such as trees, large rocks, and bushes; and would feature shallower grades and wider turns to support user safety, reduce water pooling and erosion, and reduce the overall maintenance costs associated with more complex trail features. This gently-graded bare soil and bedrock trail connection would (1) enhance connectivity within and beyond the Park for the benefit of visitors and residents of the City; (2) expand recreational trail use opportunities; and (3) enhance visitor experience and safety while protecting natural and cultural resources. No equestrian use or motorized uses would be permitted.

On February 1, 2019, the NPS published the Pullman Avenue Trail Connection/Environmental Assessment (EA). The EA presents two alternatives for future trail opportunities at the Park, and identifies one of the alternatives as the NPS preferred alternative. Under the preferred alternative, the NPS would construct the Pullman Avenue Trail Connection and designate it for pedestrian and bicycle use. The EA evaluates (1) the suitability of the Pullman Avenue Trail Connection for bicycle use; and (2) life cycle maintenance costs, safety considerations, methods to prevent or minimize user conflict, and methods to protect natural and cultural resources and mitigate impacts associated with bicycle use on the trail in compliance with 36 CFR 4.30(e)(2). The EA, which contains a full description of the purpose and need for taking action, the alternatives considered, maps, and the environmental impacts associated with the project, may be viewed on the park's planning website at *https://parkplanning.nps.gov/hosp* by clicking on the link entitled ''Pullman Avenue Trail Connection Environmental Assessment'' and then clicking on the link entitled ''Document List.''

Proposed Rule

This proposed rule would implement the preferred alternative in the EA and authorize the Superintendent to designate bicycle use on the Pullman Avenue Trail Connection. This proposal does not include any existing park trails, which are not and would not be opened to bicycles by this proposed rule.

This proposed rule complies with the requirement in 36 CFR 4.30 that the NPS must promulgate a special regulation in order to designate a new bicycle trail that requires construction activities outside of developed areas. The proposed rule would add a new paragraph (c) to 36 CFR 7.18—Special Regulations, Areas of the National Park System for Hot Springs National Park. After the trail is constructed, the rule would require the Superintendent to notify the public prior to designating the trail for bicycle use through one or more of the methods listed in 36 CFR 1.7, and identify the designation on maps available at Park visitor centers and on the Park website (*www.nps.gov/hosp*). Where the proposed trail crosses or intersects other Park trails closed to bicycle use, signage would clearly indicate allowed uses and restrictions at those intersections. The proposed rule would also authorize the superintendent to establish closures, conditions, or restrictions for bicycle use on the trail after considering public health and safety, resource protection, and other management activities and objectives, provided public notice is given under 36 CFR 1.7(a). Bicycle use would not be authorized by the Superintendent until the NPS completes the planning and environmental review process, completes a written determination as required by 36 CFR 4.30(e)(2), promulgates a final rule, and completes trail construction.

Compliance With Other Laws, Executive Orders and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771)

Enabling regulations are considered deregulatory under guidance implementing E.O. 13771 (M–17–21). This rule would authorize the Superintendent to allow a recreational activity for the public to enjoy and experience certain areas within the National Park System that would otherwise be prohibited.

Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the economic analyses found in the report entitled Draft Cost-Benefit and Regulatory Flexibility Threshold Analyses: Proposed Special Regulations to Designate a New Trail Connection for Bicycle Use at Hot Springs National Park. The document may be viewed at *http://parkplanning.nps.gov/PullmanConnection,* by clicking on the link entitled ''Document List.''

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rule does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. This proposed rule only affects use of federally-administered lands and waters. It has no outside effects on other areas. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. This rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the criteria in Executive Order 13175 and under the Department's tribal consultation policy and have determined that tribal consultation is not required because the rule will have no substantial direct effect on federally recognized Indian tribes. Nevertheless, in support of the Department of Interior and NPS commitment for government-to-government consultation, through the EA process, the NPS initiated consultation with the four Indian tribes traditionally associated with the Park.

Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

The NPS has prepared the EA to determine whether this rule will have a significant impact on the quality of the human environment under the National Environmental Policy Act of 1969. A copy of the EA can be found online at *http://parkplanning.nps.gov/PullmanConnection,* by clicking on the link entitled ''Document List.''

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects in not required.

Clarity of This Rule

We are required by Executive Orders 12866 (section 1(b)(12)) and 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use common, everyday words and clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Drafting Information

The primary author of this regulation is Megan Apgar, Regulations Program Specialist, Division of Regulations, Jurisdiction, and Special Park Uses, National Park Service.

Public Participation

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule by one of the methods listed in the **ADDRESSES** section of this document.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

List of Subjects in 36 CFR Part 7

National parks, Reporting and Recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 7 as set forth below:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

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

Authority: 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under DC Code 10–137 and DC Code 50–2201.07.

■ 2. Amend § 7.18 by adding paragraph (c) to read as follows:

§ 7.18 Hot Springs National Park.

* * * * *

(c) *Bicycle Use.*

(1) The Superintendent may designate all or a portion of the following trail as open to bicycle use:

(i) Pullman Avenue Trail Connection (full length of the trail approximately 0.65 miles);

(ii) [Reserved].

(2) A map showing trails open to bicycle use will be available at park visitor centers and posted on the park website. The Superintendent will provide notice of all trails designated for bicycle use in accordance with § 1.7 of this chapter. The Superintendent may limit, restrict, or impose conditions on bicycle use, or close any trail to bicycle use, or terminate such conditions, closures, limits, or restrictions in accordance with § 4.30 of this chapter.

Andrea Travnicek,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, Exercising the Authority of the Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2019–09893 Filed 5–14–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 576

[Docket No. NHTSA–2019–0035]

RIN 2127–AL81

Record Retention Requirement

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This proposal is being issued pursuant to the Fixing America's Surface Transportation (FAST) Act which requires the Secretary of Transportation (Secretary) to extend the period of time manufacturers of motor vehicles, tires and child restraint systems must retain records concerning defects and malfunctions that may be related to motor vehicle safety under the National Traffic and Motor Vehicle Safety Act (Safety Act). Section 24403 of the FAST Act directs the Secretary to issue a rule increasing the time of record retention to a period not less than ten years, instead of five years as presently required under the regulatory provisions. Pursuant to its delegated authority, NHTSA is proposing to update our regulations in accordance with this mandate. This proposed update is not intended to change the scope of the existing rule, other than as specifically described in this notice, but is intended to aid in efficiently and effectively improving the agency's ability to identify safety defects and noncompliances.

DATES: You should submit comments early enough to ensure that Docket Management receives them not later than July 15, 2019.

ADDRESSES: You may submit written comments to the docket number identified in the heading of this document by any of the following methods:

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

Regardless of how you submit your comments, please be sure you mention the docket number of this document located at the top of this notice in your correspondence.

You may call the Docket at 202–366–9826.

Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act discussion below.

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

Confidential Information: If you wish to submit any information under a claim of confidentiality, you should submit two copies of your complete submission, including the information you claim to be confidential business information, and one copy with the claimed confidential business information deleted from the document, to the Chief Counsel, NHTSA, at the address given below under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should follow the procedures set forth in 49 CFR part 512 and include a cover letter setting forth the information specified in our confidential business information regulation. 49 CFR part 512.

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.

FOR FURTHER INFORMATION CONTACT: Thomas Healy, Trial Attorney, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: 202–366–2992).

SUPPLEMENTARY INFORMATION:

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I. Executive Summary

The FAST Act was signed into law on December 4, 2015. Public Law 114–94. Section 24403 of the FAST Act directs the Secretary of Transportation to amend the amount of time manufacturers of motor vehicles, tires and child restraint systems are required to maintain records that contain information concerning malfunctions that may be related to motor vehicle safety. In the final rule, the Secretary must lengthen the time that manufacturers must maintain these records to not less than ten years from the date the records were generated or acquired. Public Law 114–94, sec. 24403(a). Based on NHTSA's experience investigating potential defects and overseeing recalls, we have determined that a ten-year records retention requirement would ensure that the agency's investigative needs are meet without unnecessarily burdening manufacturers of motor vehicles and equipment. In this NPRM, NHTSA is proposing to extend the record retention requirement for records required to be maintained under 49 CFR 576.6 to ten years.

Since the language of the statute grants the Secretary discretion to extend the period during which manufacturers must retain record beyond ten years, we also seek comment on whether there is justification for extending the time that manufacturers are required to maintain the records specified in 49 CFR 576.6 to fifteen, twenty or twenty-five years.

This rulemaking would not require manufacturers to retain any new information; it would merely require manufacturers to retain information they are already required to retain under 49 CFR part 576 for a longer period of time. This rulemaking also would not extend the time period that manufacturers of motor vehicles and motor equipment are required to retain records underlying information reported under 49 CFR part 579.

In accordance with the FAST Act, the extended time period would apply to records in manufacturers' possession on the effective date of the rule and records generated or acquired in the future. Public Law 114–94, sec. 24403(b). Access to records concerning defects and malfunctions that may be related to motor vehicle safety is essential for NHTSA to fulfill the Safety Act objective of identifying safety-related defects and noncompliances.

II. Record Retention Requirements Under the Safety Act Prior to the FAST Act

Part 576 requires manufacturers of motor vehicles, tires, and child restraint systems to retain ''all documentary materials, films, tapes, and other information-storing media that contain information concerning defects and malfunctions that may be related to motor vehicle safety.'' 49 CFR 576.6. These records must be maintained for use in the investigation and disposition of defects related to motor vehicle safety or noncompliance with Safety Act requirements. 49 CFR 576.2. The requirement applies to motor vehicle manufacturers for records generated or acquired after August 16, 1969 and to motor vehicle equipment manufacturers for records in their possession, generated, or acquired on or after August 9, 2002. 49 CFR 576.3. Manufacturers of motor vehicles, child restraint systems, and tires must currently keep the records required to be maintained by 49 CFR 576.6 for five years after they are generated or acquired. 49 CFR 576.5(a). Manufacturers of motor vehicles and motor vehicle equipment must also keep documents underlying reporting required by 49 CFR part 579 for five years after they are generated or acquired. 49 CFR 576.5(b). However; according to 49 CFR 576.5(c), manufacturers of motor vehicles and motor vehicle equipment are not required to keep copies of documents reported to NHTSA as required by 49 CFR parts 573, 577, and 579. No manufacturer is required to keep duplicates according to 49 CFR 576.7.

III. NHTSA's Proposed Retention Requirement

The FAST Act vests authority in the Secretary to increase the required time manufacturers must retain records under the Safety Act. Pursuant to 49 CFR 1.95 and 501.8, this authority has been delegated to NHTSA. The provision of the FAST Act requiring an extension of the record retention requirement applicable to motor vehicle and motor vehicle equipment manufacturers gave the Secretary discretion to determine the amount of time records are kept as long as the time is ''a period not less than ten years.'' Public Law 114–94, sec. 24403(a). NHTSA has determined that ten years is the appropriate length of time that manufacturers of motor vehicles, tires, and child restraints should be required to retain records concerning defects and malfunctions that may be related to motor vehicle safety.

When a trend in consumer complaints or other data indicates a potential safety-related defect, NHTSA relies on information included in manufacturers' records, along with other agency data, to determine whether or not to open a formal defect investigation (as authorized by title 49 U.S.C. chapter 301—Motor Vehicle Safety). Our proposed approach to extend the time manufacturers of motor vehicles, tires and child restraint systems must retain records is based on NHTSA's experience with the increasing age of motor vehicles and motor vehicle equipment and the importance of records from manufacturers, balanced against our desire to avoid unnecessarily burdening manufacturers of motor vehicles and motor vehicle equipment.

Based on our evaluation of the foregoing factors, NHTSA is proposing to extend the records retention period for records required to be maintained under 49 CFR 576.6 to ten years. NHTSA contends that a records retention period of ten years will ensure that manufacturers will preserve records that NHTSA needs to conduct defect and noncompliance investigations without imposing an undue record retention burden on manufacturers.

Increases in the age of the vehicle fleet since the time the five-year records retention requirement was established in 1974 [1] and Congress' extension of the period during which vehicle and equipment manufacturers are required to provide a free remedy under 49 U.S.C. 30120 to fifteen years after first purchase both support extending the record retention period in part 576. The average age of the United States light vehicle fleet has been trending upward reaching 11.6 years in 2016.[2] In 1974 the average age of passenger cars was 5.7 years and the average age of trucks was 7 years.[3] As of 2015, there are 44 million vehicles on the road between sixteen and twenty-four years old and an additional 14 million vehicles that are at least twenty-five years old.[4]

NHTSA has tentatively concluded that extending the records retention requirements for records required to be maintained under 49 CFR 576.6 to ten years would ensure that NHTSA has access to records pertaining to an investigation since the record retention period begins the date the records were generated. It is NHTSA's experience that in the vast majority of cases, the records most pertinent to a defect investigation will be those generated in the previous ten years because those are the records more likely to show an emerging defect trend.

While justified in this instance based on the age of the vehicle fleet, a ten-year long records retention period is of significant length when compared to records retention periods of similar scope of other operating administrations with in US DOT [5] and federal agencies that regulate motor vehicles and child products.[6] The agency believes it should only move beyond the ten-year period required in the FAST Act if it has clear evidence that additional time is needed. NHTSA tentatively concludes that the benefits of extending the records retention period beyond ten years do not outweigh any burden or costs to manufacturers that would result in a lengthened retention period.

In addition to extending the record retention period applicable to manufacturers of motor vehicles, the FAST Act also requires us to extend the records retention requirements applicable to child restraint and tire manufacturers. While Congress did not provide discretion to establish a shorter records retention period for child restraint system and tire manufacturers, the manner in which these items differ from motor vehicles means that the costs and burdens of extending the records retention period in Part 576 for manufacturers of child restraints and

[1] 39 FR 30045 (Aug. 20, 1974).

[2] Vehicles Getting Older: Average Age of Light Cars and Trucks in U.S. Rises Again in 2016 to 11.6 Years, HIS Markit Says, IHS Markit (Nov. 22, 2016), *https://news.ihsmarkit.com/press-release/automotive/vehicles-getting-older-average-age-light-cars-and-trucks-us-rises-again-201* (last visited Sept. 19, 2018).

[3] Average Age of Automobiles and Trucks in Use, 1970–1999, Fed. Highway Admin., *https://www.fhwa.dot.gov/ohim/onh00/line3.htm* (last visited Sept. 19, 2018). From 1977 to 2017 the average of medium and heavy duty trucks increased from 11.6 years to 17.3 years and the average age of recreational vehicles increased from 4.5 years to 15.8 years. *See* Average Age of Automobiles and Trucks in Operation in the United States, Bureau of Transp. Statistics, *https://www.bts.gov/content/average-age-automobiles-and-trucks-operation-united-states* (last visited Sept. 19, 2018) .

[4] *Average age of cars on U.S. roads breaks record,* USA Today (July 29, 2015), *http://www.usatoday.com/story/money/2015/07/29/new-car-sales-soaring-but-cars-getting-older-too/30821191/* (last visited May 11, 2018) (citing an IHS Automotive study).

[5] The Federal Railroad Administration requires railroads to retain records on employee injuries and illnesses and highway user injuries for five years after the end of the calendar year to which they relate. 49 CFR 225.27. The Federal Motor Carrier Safety Administration requires companies to retain certain records related to employee drug and alcohol testing for five years. 49 CFR 382.401.

[6] The Consumer Product Safety Commission requires manufacturers of products subject to a children's product safety rule to maintain records on certification testing and design changes for five years. 16 CFR 1107.26. The Environmental Protection Agency requires manufacturers to retain records related to certification testing for a period of five years. 40 CFR 600.005.

tires will be different than the costs and burdens to motor vehicle manufacturers.

Like motor vehicle manufacturers, manufacturers of child restraint systems are required to provide a free remedy for fifteen years after purchase.[7] 49 U.S.C. 30120(g). However, manufacturers of child restraint systems typically label the restraint with an expiration date after which the manufacturer recommends that caregivers no longer use the restraint. The expiration date provided by the manufacturer is usually six to seven years after the date of manufacture of the restraint. Manufacturers of tires are required to provide a free remedy for a period of five years after the purchase of the tire. We seek comments on the costs and burdens of the proposed rule to manufacturers of child restraints and tires.

NHTSA has previously considered extending the records retention requirements in part 576 to correspond with the free remedy period in the Safety Act and declined to do so. After issuing a final rule in 1995 to increase the records retention requirement in part 576 from five years to eight years to correspond to the free remedy period in effect at the time, NHTSA rescinded the rule and restored the five-year records retention requirement.[8] At the time, NHTSA determined that the costs of extending the records requirement to eight years outweigh the benefits.[9]

When the Transportation Recall Enhancement, Accountability, and Documentation Act, Public Law 106–414, extended the free remedy period applicable to motor vehicles and equipment to ten years, NHTSA proposed extending the record retention requirements in part 576 applicable to motor vehicle manufacturers and child restraint manufacturers from five years to ten years.[10] The comments received in response to the proposal asserted that there was no justification for extending the records retention requirement to ten years and that records generated in the last five years are the records most relevant to discovering a defect.[11] In deciding to retain the existing retention period at that time, NHTSA concluded that the agency's investigative needs were adequately met by the five-year records retention period.

Lengthening the record retention period in part 576 beyond ten years would result in manufacturers being required to retain records generated late in the life of a vehicle, likely well after any defect trend has emerged. NHTSA also contends that manufacturers have an incentive to retain relevant records longer than required by part 576 in order to properly document the scope of any potential recalls and for other business purposes. Based on NHTSA's experience investigating potential defects and overseeing recalls, we have found that many manufacturers of motor vehicles and equipment currently retain some of the records subject to this rule for periods of time longer than the current five-year minimum.

As the length of time that vehicles remain on the road has increased in recent years, the amount of information generated and retained by vehicle manufacturers has also increased.[12] Extending the records retention requirement increases the total volume of information that must be stored either electronically or physically. NHTSA expects most records retained under part 576 to be in electronic format. While NHTSA anticipates the costs of electronic storage attributable to this proposal to be minimal, NHTSA does not believe that there is currently justification to extend the records retention requirements in part 576 beyond the length required by the FAST Act. For these reasons, NHTSA believes that extending the records retention period in part 576 to ten years best achieves NHTSA's need to preserve access to records for investigations while minimizing any costs to manufacturers of retaining records.

In addition to requiring manufacturers of motor vehicles, child restraint systems, and tires to retain all records involving information concerning malfunctions that may be related to motor vehicle safety, Part 576 also requires motor vehicle and motor vehicle equipment manufacturers to retain all the records underlying information reported under 49 CFR part 579. Part 579 requires that motor vehicle, child restraint system and tires manufacturers with certain production volumes report production information; information on incidents involving death and injury; and the number of property damage claims, warranty claims, consumer claims and field reports received by the manufacturer.[13] 49 CFR 579.21–26. Motor vehicle, tire and child restraint manufacturers who do not meet the production thresholds to be required to report production information and the number of property damage claims, warranty claims, consumer claims and field reports they receive and manufacturers of other motor vehicle equipment are required to report incidents involving death. 49 CFR 579.27.

NHTSA is not extending the period for which manufacturers are required to retain records underlying information reported to NHTSA pursuant to 49 CFR part 579 in this rulemaking. NHTSA contends that most of the records related to part 579 reporting that manufacturers of motor vehicles, tires, and child restraint systems are required to retain pursuant to 49 CFR 576.5(b) must also be retained under 49 CFR 576.6. Thus, the effects of extending the time that records underlying information reported under part 579 must be retained would be limited to motor vehicle equipment manufacturers who do not manufacturer child restraint systems or tires. NHTSA does not anticipate that the benefits to NHTSA's programs of extending the record retention requirements for the motor vehicle equipment manufacturers that do not have record retention responsibilities under 49 CFR 576.6 would outweigh the added burdens to these manufacturers of retaining records.

NHTSA requests comment on manufacturers' current records retention practices. NHTSA also requests comments on the burden of increasing the records retention period for records required to be maintained by 49 CFR 576.6 to fifteen, twenty, or twenty-five years, any costs that might be associated with storage of electronic records, and the total volume of records retained pursuant to part 576 by a manufacturer.

IV. Regulatory Analyses and Notices

A. Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866, Executive Order 13563, and the DOT's regulatory policies and procedures. This proposed rule was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866, ''Regulatory Planning and Review.'' It is not considered to be significant under Executive Order 12866

[7] While there are limits in the Safety Act on the period for which manufacturers are required to provide a free remedy, there is no limit on the time for which NHTSA can order a manufacturer to notify consumers of a defect.

[8] 61 FR 274 (Jan. 4, 1996).

[9] Id.

[10] 67 FR 45873, 45868 (July 10, 2002).

[11] Id.

[12] See Confidential Business Information. 81 FR 57, 51 (Jan. 4, 2016) (discussing the increase in volume of electronic information submitted to NHTSA during defect investigations).

[13] Child restraint system manufacturers are not required to report the number of property damage claims they received and tire manufacturers are only required to report the number of property damage claims and warranty adjustments.

or the Department's regulatory policies and procedures.

This proposal would amend 49 CFR part 576 to require motor vehicle, tire, and child restraint systems manufacturers to maintain records for a longer period than the currently required five-year time period. This proposed rule would not require manufacturers to maintain any records they are not already required to maintain, but instead is designed to lengthen the time manufacturers retain certain records. Extending the period of time to ten years is expected to lead to various unquantifiable benefits such as formalizing manufacturers' records retention practices and ensuring that, in all instances, records that must be retained under section 576.6 are available in the case of a NHTSA investigation for a minimum of ten years.

Based on NHTSA's experience conducting investigations and overseeing recalls, NHTSA contends that most manufacturers of motor vehicles subject to this proposal already retain records for a longer period than currently specified in part 576. It is NHTSA's position that those manufacturers of motor vehicles or equipment who do currently retain records for longer than ten years would be able to adjust their record retention systems in response to this rulemaking with minimal cost. Because we expect any costs, benefits, or savings associated with this rulemaking to be minimal, we have not prepared a separate economic analysis for this rulemaking.

B. Executive Order 13771

Executive Order 13771, titled ''Reducing Regulation and Controlling Regulatory Costs,'' directs that, unless prohibited by law, whenever an executive department or agency publicly proposes for notice and comment or otherwise promulgates a new regulation, it shall identify at least two existing regulations to be repealed. In addition, any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs. Only those rules deemed significant under section 3(f) of Executive Order 12866, ''Regulatory Planning and Review,'' are subject to these requirements. As discussed above, this rule is not a significant rule under Executive Order 12866 and, accordingly, is not subject to the offset requirements of 13771.

C. Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* NHTSA has evaluated the effects of this action on small entities. I hereby certify that this proposed rule would not have a significant impact on a substantial number of small entities. The proposed rule would affect manufacturers of motor vehicles, tires and child restraint systems, a few of which may qualify as small entities. Such manufacturers are expected to have fewer records, because they produce fewer motor vehicles, tires and child restraint systems than the larger manufacturers. Accordingly, the burden imposed on smaller manufacturers to retain these records should be small. In fact, NHTSA believes there would be some years during which the small manufacturers would not be required to retain any records under this regulation. Additionally, this proposed rule will merely extend how long manufacturers keep the required records, amounting to a minimal impact on small businesses. Thus, NHTSA believes that the regulation does not impose a significant burden on small manufacturers.

D. Executive Order 13132 (Federalism)

NHTSA has examined today's rule pursuant to Executive Order 13132 (64 FR 43255, Aug. 10, 1999) and concluded that no additional consultation with States, local governments, or their representatives is mandated beyond the rulemaking process. The agency has determined that the rulemaking would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The proposed rule would apply to manufacturers of motor vehicles and motor vehicle equipment and would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Thus, Executive Order 13132 is not implicated and consultation with State and local officials is not required.

E. National Environmental Policy Act

NHTSA has analyzed this proposed rule for the purposes of the National Environmental Policy Act. The agency has determined that the implementation of this action will not have any significant impact on the quality of the human environment.

F. Paperwork Reduction Act

Under the procedures established by the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et. seq.*), Federal agencies must obtain approval from the OMB for each collection of information they conduct, sponsor, or require through regulations. A person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB clearance number. This proposal would lengthen the time that manufacturers must retain certain records, which is considered to be an information collection requirement, as that term is defined by the OMB in 5 CFR part 1320.

In compliance with the PRA, we announce that NHTSA is seeking comment on a revision of a currently approved collection.

Agency: National Highway Traffic Safety Administration (NHTSA).

Title: 49 CFR part 576, Record Retention.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2127–0042.

Form Number: The collection of this information uses no standard form.

Requested Expiration Date of Approval: Three years from the date of approval.

Summary of the Collection of Information: Manufacturers must retain certain records for a period of five years from which they were created or acquired. 49 CFR part 576. NHTSA requires manufacturers of motor vehicles, tires, and child restraint systems to retain one copy of all records that contain information concerning malfunctions that may be related to motor vehicle safety for a period of five calendar years after the record is generated or acquired by the manufacturer under 49 CFR part 576. Manufacturers of motor vehicles and equipment must also retain for five years the underlying records related to early warning reporting (EWR) information submitted under 49 CFR part 579. The proposed rule would amend part 576 to require the manufacturers of motor vehicles, tires and child restraint systems to retain all records that contain information concerning malfunctions that may be related to motor vehicle safety for ten years instead of five.

Description of the Need for the Information and Use of the Information

The information collection supports the Department's Strategic goal of safety. The records that are required to be retained per 49 CFR part 576 are used to promptly identify potential safety-related defects in motor vehicles and motor vehicle equipment in the United States. When a trend in incidents arising from a potentially safety-related defect is discovered, NHTSA relies on this information, along with other agency data, to determine whether or not to open a formal defect investigation (as

authorized by Title 49 U.S.C. chapter 301—Motor Vehicle Safety). NHTSA normally becomes aware of possible safety-related defects because it receives consumer complaints.

Agency experience has shown that manufacturers receive significantly more consumer complaints than does the agency. This is because the consumer with the product does not know whether their particular vehicle or equipment has a problem that is common with an entire group of vehicles or equipment. Whereas consumers know the manufacturer of their vehicle or equipment, relatively few know how to file a complaint with the National Highway Traffic Safety Administration. Complaints filed with the manufacturer give the agency a fair indication of how widespread the potential problem may be.

Additionally, consumer complaints may contain information relating to older vehicles and equipment that becomes increasingly useful to NHTSA over time. A ten-year period of record retention aids the agency in identifying possible safety-related defects in aging vehicles which may become apparent through manufacturers' records. Since vehicle life is ever increasing, the records related to older vehicles remain pertinent. The value of the information in records relating to aging vehicles may increase over time as NHTSA or manufacturers may become aware of newly emerging safety-related defects. Extending the records retention requirement to ten years will ensure that NHTSA has access to records relevant to NHTSA's investigative needs.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)

Approximately one thousand manufacturers of motor vehicles and equipment (including tires and child restraint systems) are required to maintain records. Part 576 requires the manufacturers to retain only one copy of all records concerning malfunctions that may relate to motor vehicle safety. The manufacturers are permitted to store this information by any means they wish and transfer the information from one means of storage to another as often as they wish. No information is submitted to the government under this regulation, and NHTSA does not conduct routine enforcement activities to ensure that the manufacturers have retained these records.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting From the Collection of Information

To the extent that there is an ''average'' record retention, we estimate the manufacturers' burden at 40 hours each for a subtotal of 40,000 hours (1,000 respondents × 40 hours). In the case of record retention by large manufacturers, which often consists of thousands of pages of records, on average, it would probably take about over 40 hours to properly retain the records. On the other hand, the typical small business that must retain only a single record should only need about five (5) minutes to fully comply with the regulation. Some small manufacturers may not have to retain any records at all. We believe that 40 hours per manufacturer is a reasonable estimate of the recordkeeping burden given the difference in the amount of time it takes for different manufacturers to retain records. We believe that the modifications to this collection will not increase the burden of recordkeeping, as manufacturers are only required to keep records already maintained for a longer time; manufacturers are not required to retain any new records.

In addition, there are approximately 23,600 equipment manufacturers (excluding tires and child seat restraint systems manufacturers) whose record retention requirements under part 576 are limited to the documents underlying their part 579 reporting requirements. The manufacturers' part 579 requirements include only the reporting of incidents involving deaths. Based on the number of death reports submitted to date by these equipment manufacturers, we estimate that an additional 20 equipment manufacturers have record retention requirements imposed by part 576. We estimate that it will take one hour each to maintain the necessary records for a subtotal burden of 20 hours (20 respondents × one hour). We are not modifying the records retention requirements for these manufacturers, so the record keeping burden will not increase. Accordingly, the estimate of total annual burden hours is 40,020 hours (1,000 respondents × 40 hours plus 20 respondents × 1 hour) for 49 CFR part 576.

The agency estimates that the hourly cost associated with the burden hours of 40,020 is approximately $20 per hour. This is somewhat higher than the usual assumed hourly cost, reflecting the fact that although some of these hours would be computer time, a number of the hours may be clerical time. Accordingly, the agency estimates that the total annual cost associated with the burden hours is $804,000 (40,020 annual burden hours × $20 per hour).

Because the proposed revision to this information collection would not increase the burden hours of the collection, the costs associated with the burden hours for the collection also are not expected to increase as result of this proposal.

Comments Are Invited on

- Whether the Department's estimate for the burden of record retention is accurate.
- Whether there are any costs for electronic storage of records.
- The volume of records retained pursuant to part 576.
- What the burden of record retention becomes if the rulemaking requires manufacturers to retain records for a period of ten, fifteen, twenty, or twenty-five years.

A comment to OMB is most effective if OMB receives it within 30 days of publication. Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attn: NHTSA Desk Officer. PRA comments are due within 30 days following publication of this document in the **Federal Register**.

The agency recognizes that the collection of information contained in today's proposed rule may be subject to revision in response to public comments.

G. National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), ''all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.'' The amendment in today's proposed rule would extend the time manufacturers retain records, and does not involve any voluntary consensus standards as it relates to NHTSA or this rulemaking.

H. Executive Order 12988 (Civil Justice Reform)

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729, Feb. 7, 1996), requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing

Federal law or regulation including all provisions repealed, circumscribed, displaced, impaired, or modified; (3) provides a clear legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) specifies whether administrative proceedings are to be required before parties may file suit in court; (6) adequately defines key terms; and (7) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

Pursuant to this Order, NHTSA has considered these issues and determined that this proposed rule would not have any retroactive or preemptive effect. The proposed rule would only apply to documents in manufacturers' possession at the time the rule goes into effect and documents generated or acquired by manufacturers in the future. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

I. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). This proposed rule would not result in expenditures by State, local, or tribal governments, in the aggregate, or by the private sector in excess of $100 million annually (adjusted for inflation with base year of 1995).

J. Executive Order 13211

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rulemaking that: (1) Is determined to be economically significant as defined under Executive Order 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This rulemaking is not subject to Executive Order 13211.

K. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

L. Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments. Your comments must not be more than 15 pages long.[14] We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit your comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments on the electronic docket site by clicking on ''Help'' or ''FAQ.''
- *Mail:* Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.[15]

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at https://*www.whitehouse.gov/omb/fedreg_reproducible.* DOT's guidelines may be accessed at *https://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject_areas/statistical_policy_and_research/data_quality_guidelines/html/guidelines.html.*

How can I be sure that my comments were received?

If you submit your comments by mail and wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation.[16]

In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to the Docket by one of the methods set forth above.

Will the agency consider late comments?

We will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments received after that date. Therefore, if interested persons believe that any new information the Agency places in the docket affects their comments, they may submit comments after the closing date concerning how the agency should consider that information for the final rule. If a comment is received too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

[14] *See* 49 CFR 553.21.

[15] Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

[16] *See* 49 CFR part 512.

How can I read the comments submitted by other people?

You may read the materials placed in the docket for this document (*e.g.,* the comments submitted in response to this document by other interested persons) at any time by going to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. You may also read the materials at the Docket Management Facility by going to the street address given above under **ADDRESSES**. The Docket Management Facility is open between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

M. Privacy Act Statement

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

List of Subjects in 49 CFR Part 576

Motor vehicle safety, Tires, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, NHTSA proposes to amend 49 CFR part 576 as follows:

PART 576—RECORD RETENTION

■ 1. Amend § 576.5 by revising paragraph (a) to read as follows:

§ 576.5 Basic requirements.

(a) Each manufacturer of motor vehicles, child restraint systems, and tires shall retain, as specified in § 576.7 of this part, all records described in § 576.6 of this part for a period of ten calendar years from the date on which they were generated or acquired by the manufacturer.

* * * * *

Issued in Washington, DC, under authority delegated in 49 CFR 1.95 and 501.5.

Heidi Renate King,

Deputy Administrator.

[FR Doc. 2019–09844 Filed 5–14–19; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register

Vol. 84, No. 94

Wednesday, May 15, 2019

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 13, 2019.

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

Comments regarding this information collection received by June 14, 2019 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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

Risk Management Agency

Title: General Administrative Regulations; Interpretations of Statutory and Regulatory Provisions.

OMB Control Number: 0563–0055.

Summary of Collection: Section 533 of the Agricultural Research, Extension, and Education Reform Act of 1998 (1998 Research Act) requires the Federal Crop Insurance Corporation (FCIC) to publish regulation on how FCIC will provide a final agency determination in response to certain inquiries. Consistent with section 506(r) of the Act and 7 CFR part 400, subpart X in accordance with the Federal Crop Insurance Act, as amended, FCIC revised section 20 of the Common Crop Insurance Policy Basic Provisions, published at 7 CFR 457.8, to require the FCIC to provide interpretations of policy provisions and procedures (handbooks, manuals, memoranda, and bulletins) when any dispute in mediation, arbitration, or litigation requires interpretation of a policy provision or procedure.

Need and Use of the Information: FCIC will use the requester's name and address to provide a response. Federal crop insurance is a national program with all producers receiving the same policy for the same crop and insurance providers are required to use procedures issued by FCIC in the service and adjustment of such policies to ensure that all producers are treated alike and none receive special benefits or treatment because of the crop they produce, the insurance provider that insures them, or who hears their disputes. FCIC issued Manager's Bulletin MGR–05–018 on October 7, 2005, to provide the criteria for requesting an interpretation of procedure to inquire about the meaning or applicability of procedure. The requirements for this collection are necessary for FCIC to provide an interpretation of statutory and regulatory provisions upon request. If the requested information is not collected with each submission, FCIC would not be able to comply with the statutory mandates.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 30.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 240.

Kimble Brown,

Departmental Information Clearance Officer.

[FR Doc. 2019–10002 Filed 5–14–19; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 10, 2019.

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

Comments regarding this information collection received by June 14, 2019 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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

displays a currently valid OMB control number.

Food and Nutrition Service

Title: Uniform Grant Application for Non-Entitlement Discretionary Grants.

OMB Control Number: 0584–0512.

Summary of Collection: The Food and Nutrition Service (FNS) has a number of non-entitlement discretionary grant programs to collect the information from grant applicants needed to evaluate and rank applicants and protect the integrity of the grantee selection process. All FNS discretionary grant programs will be eligible, but not required to use the uniform grant application package. The authorities for these grants vary. The term ''grant'' in this submission refers only to non-entitlement discretionary grants or cooperative agreements. Discretionary grant announcements include a number of information collections, including a ''project description'' (program narrative), budget information, disclosure of lobbying activities certification, and disclosure of Corporate Felony Convictions and Corporate Federal Tax Delinquencies. The requirements for the program narrative statement are based on the requirements for program narrative statements described in section 1.c (5) of OMB Circular A–102 and OMB A–110 (as implemented at USDA 7 CFR part 3015, 3016 and 3019); and will apply to all types of grantees; State and local governments, non-profit organizations, institutions of higher education, hospitals, and for profit organizations.

Need and Use of the Information: The primary users of the information collected from the applicant are FNS and other Federal staff who will serve on a panel to systematically review, evaluate, and approve the grant/cooperative agreement applications and recommend the applicants most likely to meet program objectives and most responsive to the solicitation. The selection criteria will be contained in the Request for Application package. Without this information, FNS will not have adequate data to select appropriate grantees or evaluate which grants should be continued, or monitor financial reporting requirements.

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

Number of Respondents: 829.

Frequency of Responses: Reporting: Other (one-time).

Total Burden Hours: 150,000.

Kimble Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2019–10005 Filed 5–14–19; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

South Central Idaho Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The South Central Idaho Resource Advisory Committee (RAC) will meet in Jerome, Idaho. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act.

DATES: The meeting will be held on Wednesday, May 29, 2019, from 9 a.m. to 3 p.m. Mountain Standard Time.

All RAC meetings are subject to cancellation. For updated status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Idaho Fish and Game Office, 324 South 417 East, Jerome, Idaho. RAC information can be found at the following website: *https://www.fs.usda.gov/main/sawtooth/workingtogether.*

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Sawtooth Supervisors Office, 370 American Avenue, Jerome, Idaho. Please call ahead at 208–423–7500 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Julie Thomas, RAC Coordinator, by phone at 208–423–7500, or via email at *jathomas@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Elect a Chairperson;
2. Discuss current status of RAC; and
3. Discuss, recommend, and approve new Title II projects.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by Monday, May 20, 2019, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Julie Thomas, RAC Coordinator, 370 American Avenue, Jerome, Idaho 83338; by email to *jathomas@fs.fed.us,* or via facsimile at 208–423–7570.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: May 7, 2019.

Frank Beum,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2019–10136 Filed 5–14–19; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Utah Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that the meeting of the Utah Advisory Committee (Committee) to the Commission will be held at 12:00 p.m. (Mountain Time) Friday, June 14, 2019. The purpose of this meeting is for the Committee to review their project proposal on the gender wage gap.

DATES: The meeting will be held on Friday, June 14, 2019 at 12:00 p.m. MT.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes (DFO) at *afortes@usccr.gov* or (213) 894–3437.

SUPPLEMENTARY INFORMATION:

Public Call Information: Dial: 866–556–2513; Conference ID: 6813696.

This meeting is available to the public through the following toll-free call-in number: 866–556–2513, conference ID number: 6813696. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (213) 894–0508, or emailed Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (213) 894–3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meetings at *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzltAAA.* Please click on the ''Committee Meetings'' tab. Records generated from these meetings may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meetings. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome
II. Approval of April 16, 2019 Meeting Minutes
III. Review Project Proposal
IV. Public Comment
V. Next Steps
VI. Adjournment

Dated: May 9, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–09954 Filed 5–14–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Generic Clearance for Questionnaire Pretesting Research

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written comments must be submitted on or before July 15, 2019.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *docpra@doc.gov*). You may also submit comments, identified by Docket Number USBC–2019–0004, to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* All comments received are part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Jennifer Hunter Childs, U.S. Census Bureau, 4600 Silver Hill Road, Washington, DC 20233–9150, (202) 603–4827 (or via the internet at *jennifer.hunter.childs@census.gov*).

SUPPLEMENTARY INFORMATION

I. Abstract

The Census Bureau plans to request an extension of the current OMB approval to conduct a variety of small-scale questionnaire pretesting activities under this generic clearance. A block of hours will be dedicated to these activities for each of the next three years. OMB will be informed in writing of the purpose and scope of each of these activities, as well as the time frame and the number of burden hours used. The number of hours used will not exceed the number set aside for this purpose.

This research program will be used by the Census Bureau and survey sponsors to improve questionnaires and procedures, reduce respondent burden, and ultimately increase the quality of data collected in the Census Bureau censuses and surveys. The clearance will be used to conduct pretesting of decennial, demographic, and economic census and survey questionnaires prior to fielding them. Pretesting activities will involve one of the following methods for identifying measurement problems with the questionnaire or survey procedure: Cognitive interviews, focus groups, respondent debriefing, behavior coding of respondent/interviewer interaction, and split panel tests.

II. Method of Collection

Any of the following methods may be used: Mail, telephone, face-to-face; paper-and-pencil, CATI, CAPI, internet, mobile device, or IVR.

III. Data

OMB Control Number: 0607–0725.

Form Number(s): Various.

Type of Review: Regular submission.

Affected Public: Individuals or households, businesses or other for profit, farms.

Estimated Number of Respondents: 5,500 per year.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 5,500 hours annually.

Estimated Total Annual Cost to Public: There is no cost to the respondent other than time to answer the information request.

Respondent's Obligation: Voluntary.

Legal Authority: Data collection for this project is authorized under the authorizing legislation for the questionnaire being tested. This may be Title 13, Sections 131, 141, 161, 181, 182, 193, and 301 for Census Bureau-sponsored surveys, and Title 13 for surveys sponsored by other Federal agencies. We do not now know what other titles will be referenced, since we

do not know what survey questionnaires will be pretested during the course of the clearance.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–10021 Filed 5–14–19; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

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: Bureau of Industry and Security.

Title: National Security and Critical Technology Assessments of the U.S. Industrial Base.

Form Number(s): N/A.

OMB Control Number: 0694–0119.

Type of Review: Regular submission.

Estimated Total Annual Burden Hours: 308,000 hours.

Estimated Number of Respondents: 28,000.

Estimated Time per Response: 8 to 14 hours per response.

Needs and Uses: The Department of Commerce, in coordination with the Department of Defense and other Federal agencies, conducts survey assessments of U.S. industrial base sectors deemed critical to U.S. national security. The information gathered is necessary to determine the health and competitiveness as well as the needs of these critical market segments in order to maintain a strong U.S. industrial base.

Affected Public: Business or other for-profit organizations.

Frequency: On Occasion.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov http://www.reginfo.gov/public/*. 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.*

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–09999 Filed 5–14–19; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; International Import Certificate

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written comments must be submitted on or before July 15, 2019.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, 1401 Constitution Avenue NW, Room 6616, Washington, DC 20230 (or via the internet at *docpra@doc.gov.*)

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Mark Crace, BIS ICB Liaison, (202) 482–8093 or at *mark.crace@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States and several other countries have increased the effectiveness of their respective controls over international trade in strategic commodities by means of an Import Certificate procedure. For the U.S. importer, this procedure provides that, where required by the exporting country, the importer submits an international import certificate to the U.S. Government to certify that he/she will import commodities into the United States and will not reexport such commodities, except in accordance with the export control regulations of the United States. The U.S. Government, in turn, certifies that such representations have been made.

II. Method of Collection

Submitted electronically or on paper.

III. Data

OMB Control Number: 0694–0017.

Form Number(s): BIS–645P.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 195.

Estimated Time per Response: 16 minutes.

Estimated Total Annual Burden Hours: 52.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Voluntary.

Legal Authority: Public Law 95–223 Sec 203. International Emergency Economic Powers Act.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection;

they also will become a matter of public record.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–10022 Filed 5–14–19; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH004

Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 61 Assessment Webinar V for Gulf of Mexico red grouper.

SUMMARY: The SEDAR 61 stock assessment process for Gulf of Mexico red grouper will consist of an In-person Workshop, and a series of data and assessment webinars. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 61 Assessment Webinar V will be held May 30, 2019, from 11 a.m. to 1 p.m. Eastern Time.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: *Julie.neer@safmc.net*.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the Assessment Webinar are as follows:

1. Using datasets and initial assessment analysis recommended from the In-person Workshop, panelists will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions.

2. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: May 10, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–10086 Filed 5–14–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH030

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Ad Hoc Climate and Communities Core Team (CCCT) will hold a meeting, which is open to the public.

DATES: The meeting will be held on Thursday, May 30 and Friday, May 31, 2019, from 9 a.m. until the completion of business on each day.

ADDRESSES: The meeting will be held at the Sheraton Portland Airport, Cascade C Room, 8235 NE Airport Way, Portland, OR 97220; telephone: (503) 281–2500.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Dr. Kit Dahl, Pacific Council; telephone: (503) 820–2422.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is for the CCCT to gain a full understanding of climate change scenario planning methodologies and begin developing a plan for a Pacific Council-focused scenario planning exercise as part of the Fishery Ecosystem Plan Climate and Communities Initiative. In March 2019 the Pacific Council formed the CCCT and assigned it specific planning tasks to report back on at the September 2019 Council meeting. These tasks are to refine the scenario topic used in the exercise, develop a detailed timeline for the scenario planning process (to be conducted between the September 2019 and March 2020 Pacific Council meetings), and identify participants in the scenario planning exercise. As necessary, the CCCT also may plan future meetings or webinars to complete this assignment.

Although non-emergency issues not contained in the meeting agenda may be

discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt, (503) 820–2411, at least ten business days prior to the meeting date.

Dated: May 10, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–10082 Filed 5–14–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG958

Notice of Availability of the Deepwater Horizon Oil Spill Open Ocean Trustee Implementation Group Draft Restoration Plan 2 and Environmental Assessment: Fish, Sea Turtles, Marine Mammals, and Mesophotic and Deep Benthic Communities

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

ACTION: Notice of availability; request for comments.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), and a Consent Decree with BP Exploration & Production Inc. (BP),[1] the *Deepwater Horizon* Federal natural resource trustee agencies for the Open Ocean Trustee Implementation Group (Open Ocean TIG) have prepared a Draft Restoration Plan 2 and Environmental Assessment (Draft RP/EA). The Draft RP/EA describes and proposes restoration project alternatives considered by the Open Ocean TIG to restore natural resources and ecological services injured or lost as a result of the *Deepwater Horizon* oil spill. The Open Ocean TIG evaluated these alternatives under criteria set forth in the OPA natural resource damage assessment regulations, and also evaluated the environmental consequences of the restoration alternatives in accordance with NEPA. The proposed projects are consistent with the restoration alternatives selected in the *Deepwater Horizon* Oil Spill: Final Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement (PDARP/PEIS). The purpose of this notice is to inform the public of the availability of the Draft RP/EA and to seek public comments on the document.

DATES: The Open Ocean TIG will consider public comments received on or before July 1, 2019.

Public Meetings: The Open Ocean TIG will conduct one public meeting and two webinars to facilitate the public review and comment on the Draft RP/EA. Each of the public meeting and webinars will include a presentation of the Draft RP/EA. Both written and oral public comments will be taken at the public meeting. Only written comments will be taken through the public webinars. Comments will also be taken through submission online or through U.S. mail (see *Submitting Comments* below). Public meetings and webinars will be held on June 4 (public meeting), June 11 (webinar), and June 13 (webinar). The full meeting schedule is listed in **SUPPLEMENTARY INFORMATION** below.

ADDRESSES:

Obtaining Documents: You may download the Draft RP/EA at: *http://www.gulfspillrestoration.noaa.gov/restoration-areas/open-ocean.* Alternatively, you may request a CD of the Draft RP/EA (see **FOR FURTHER INFORMATION CONTACT** below). Also, you may view the document at any of the public facilities listed in Appendix G.

Submitting Comments: You may submit comments on the Draft RP/EA by one of the following methods:

- *Via the Web: http://www.gulfspillrestoration.noaa.gov/restoration-areas/open-ocean;*
- *Via U.S. Mail:* U.S. Fish and Wildlife Service, P.O. Box 29649, Atlanta, GA 30345. Please note that mailed comments must be postmarked on or before the comment deadline of 45 days following publication of this notice to be considered; or
- *In Person:* Written and oral comments may be submitted at the public meeting on June 4, 2019 and written comments may be submitted during public webinars on June 11 and June 13, 2019 (see Invitation to Comment below).

FOR FURTHER INFORMATION CONTACT: National Oceanic and Atmospheric Administration—Laurie Rounds, *Laurie.Rounds@noaa.gov,* (850) 934–9284.

SUPPLEMENTARY INFORMATION:

Introduction

On April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon,* which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the Macondo prospect (Mississippi Canyon 252–MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest off shore oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over one million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

The Deepwater Horizon Federal and State natural resource trustees (DWH Trustees) conducted the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill under OPA (OPA; 33 U.S.C. 2701 *et seq.*). Pursuant to OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The *Deepwater Horizon* Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;

[1] Consent Decree among Defendant BP Exploration & Production Inc. (''BPXP''), the United States of America, and the States of Alabama, Florida, Louisiana, Mississippi, and Texas entered in *In re: Oil Spill by the Oil Rig ''Deepwater Horizon'' in the Gulf of Mexico, on April 20, 2010,* MDL No. 2179 in the United States District Court for the Eastern District of Louisiana.

• National Oceanic and Atmospheric Administration (NOAA), on behalf of the

U.S. Department of Commerce;

• U.S. Department of Agriculture (USDA);

• U.S. Environmental Protection Agency (EPA);

• State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;

• State of Mississippi Department of Environmental Quality;

• State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;

• State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and

• State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

The Trustees reached and finalized a settlement of their natural resource damage claims with BP in an April 4, 2016, Consent Decree approved by the United States District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Open Ocean Restoration Area are now selected and implemented by the Open Ocean TIG. The Open Ocean TIG is composed of the following federal Trustees: NOAA; DOI; EPA; and USDA.

This restoration planning activity is proceeding in accordance with the PDARP/PEIS. Information on the Restoration Types being considered in the Draft RP/EA, as well as the OPA criteria against which project ideas are being evaluated, can be viewed in the PDARP/PEIS (*http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan*) and in the Overview of the PDARP/PEIS (*http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan*).

Background

On March 31, 2017, the Open Ocean TIG posted a public notice at *http://www.gulfspillrestoration.noaa.gov* requesting new or revised natural resource restoration project ideas by May 15, 2017 for the Open Ocean Restoration Area. The notice stated that the Open Ocean TIG was seeking project ideas for the following Restoration Types: (1) Birds; (2) Sturgeon; (3) Sea Turtles; (4) Marine Mammals; (5) Fish and Water Column Invertebrates; and (6) Mesophotic and Deep Benthic Communities.

On February 7, 2018 the Open Ocean TIG announced that it had initiated drafting of its first and second post settlement draft restoration plans; and that the first plan would include restoration projects for Birds and Sturgeon, while the second plan, noticed here, would include restoration projects for Sea Turtles, Marine Mammals, Fish and Water Column Invertebrates, and Mesophotic and Deep Benthic Communities.

Overview of the OO TIG Draft RP/EA

The Draft RP/EA is being released in accordance with OPA NRDA regulations in the Code of Federal Regulations (CFR) at 15 CFR part 990, NEPA (42 U.S.C. 4321 *et seq.*), the Consent Decree, and the Final PDARP/PEIS.

In the Draft RP/EA, the Open Ocean TIG analyzes 23 alternatives and proposes 18 preferred alternatives for the following restoration types: Fish and Water Column Invertebrates, Sea Turtles, Marine Mammals, and Mesophotic and Deep Benthic Communities:

Fish and Water Column Invertebrates

• Reduction of Post-Release Mortality from Barotrauma in Gulf of Mexico Reef Fish Recreational Fisheries- Preferred, $30,011,000.

• Better Bycatch Reduction Devices for the Gulf of Mexico Commercial Shrimp Trawl Fishery- Preferred, $17,171,000.

• Communication Networks and Mapping Tools to Reduce Bycatch—Phase 1- Preferred, $4,416,000.

• Restoring for Bluefin Tuna via Fishing Depth Optimization- Preferred, $6,175,000.

• Reduce the Impacts of Ghost Fishing by Removing Derelict Fishing Gear from Marine and Estuarine Habitats- Not Preferred, $6,128,000.

Sea Turtles

• Gulf of Mexico Sea Turtle Atlas- Preferred, $5,700,000.

• Identifying Methods to Reduce Sea Turtle Bycatch in the Reef Fish Bottom Longline Fishery- Preferred, $290,000.

• Developing a Gulf-wide Comprehensive Plan for In-Water Sea Turtle Data Collection- Preferred, $655,000.

• Developing Methods to Observe Sea Turtle Interactions in the Gulf of Mexico Menhaden Purse Seine Fishery- Preferred, $3,000,000.

• Reducing Juvenile Sea Turtle Bycatch Through Development of Reduced Bar Spacing in Turtle Excluder Devices- Preferred, $2,153,000.

• Long-term Nesting Beach Habitat Protection for Sea Turtles- Preferred, $7,000,000.

• Reducing Sea Turtle Entanglement from Recreational Fishing Debris- Not Preferred, $1,113,600.

• Reducing Sea Turtle Bycatch at Recreational Fishing Sites- Not Preferred, $1,329,000.

Marine Mammals

• Reducing Impacts to Cetaceans During Disasters by Improving Response Activities- Preferred, $4,287,000.

• Compilation of Environmental, Threats, and Animal data for Cetacean Population Health Analyses—Preferred, $5,808,500.

• Reduce Impacts of Anthropogenic Noise on Cetaceans—Preferred, $8,992,200.

• Reduce and Mitigate Vessel Strike Mortality of Cetaceans—Preferred, $3,834,000.

• Assessment of Northern Gulf of Mexico Shelf Small Cetacean Health, Habitat. Use, and Movement Patterns—Not Preferred, $4,620,000.

Mesophotic and Deep Benthic Communities

• Mapping, Ground-Truthing, and Predictive Habitat Modeling—Preferred, $35,909,000.

• Habitat Assessment and Evaluation—Preferred, $52,639,000.

• Coral Propagation Technique Development—Preferred, $16,951,000.

• Active Management and Protection—Preferred, $20,689,000.

• Habitat Characterization at Known High Priority Sites—Not Preferred, $21,500,000.

The Open Ocean TIG also analyzes a No Action alternative. One or more alternatives may be selected for implementation by the Open Ocean TIG in the Final RP/EA or in future restoration plans.

The Open Ocean TIG has examined the injuries assessed by the DWH Trustees and evaluated restoration alternatives to address the injuries. In the Draft RP/EA, the Open Ocean TIG presents to the public its draft plan for providing partial compensation to the public for injured natural resources and ecological services in the Open Ocean Restoration Area. The proposed alternatives are intended to continue the process of using DWH restoration funding to restore natural resources injured or lost as a result of the *Deepwater Horizon* oil spill. The total estimated cost of the projects proposed as preferred is $225,680,700. Additional restoration planning for the Open Ocean Restoration Area will continue.

Next Steps

The public is encouraged to review and comment on the Draft RP/EA. A

public meeting and webinars are scheduled to facilitate the public review and comment process. After the public comment period ends, the Open Ocean TIG will consider and address the comments received before issuing a Final RP/EA. A summary of comments received and the Open Ocean TIG's responses and any revisions to the document, as appropriate, will be included in the final document.

Public Meeting Schedule

The Open Ocean TIG will conduct a public meeting and webinars to provide information and seek input on the Draft RP/EA:

- June 4, 2019 (public meeting), at 5:30 p.m. at the Pensacola City Hall, 222 W Main St., Pensacola, FL 32502;
- June 11, 2019 (webinar), at 12:00 p.m. Central Time. Register at: *https://register.gotowebinar.com/register/7304216670381829899.*
- June 13, 2019 (webinar), at 6:00 p.m. Central Time. Register at: *https://register.gotowebinar.com/register/2042490581520295947.*

Written and oral comments on the Draft RP/EA may be submitted at the public meeting and through the webinars (written comment only). Persons with disabilities may request special accommodations at the public meeting by contacting the Open Ocean TIG by May 24, 2019 (see **FOR FURTHER INFORMATION CONTACT**).

Invitation to Comment

The Open Ocean TIG seeks public review and comment on the Draft RP/EA (see **ADDRESSES** above). Before including your address, telephone number, email address, or other personal identifying information in your comment, please be aware that your entire comment, including your personal identifying information, will become part of the public record.

Administrative Record

The documents comprising the Administrative Record for the Draft RP/EA can be viewed electronically at *http://www.doi.gov/deepwaterhorizon/adminrecord.*

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*) and its implementing Oil Pollution Act Natural Resource Damage Assessment regulations found at 15 CFR part 990 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Dated: May 3, 2019.

Carrie Selberg,

Deputy Director, Office of Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 2019–09554 Filed 5–14–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH029

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Herring Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, May 30, 2019 at 10 a.m.

ADDRESSES:

Meeting address: The meeting will be held at the Four Points by Sheraton, Wakefield, MA 01880; telephone: (781) 245–9300.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Committee will review Framework 6 to the Herring Fishery Management Plan, an action considering fishery specifications for FY 2019–21; identify final preferred alternatives for Council consideration. They will also discuss and make recommendations for the Council review of the Management Strategy Evaluation (MSE) process used in Amendment 8 to develop and analyze acceptable biological catch (ABC) control rule alternatives. The Committee will have an initial discussion of a background document being prepared on Atlantic herring spawning activity on Georges Bank.

They will review findings and recommendations from the Research Set-Aside (RSA) Program Review and identify which issues the Council should consider further. Other business may be discussed as necessary.

Although non-emergency issues not contained on this agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: May 10, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–10084 Filed 5–14–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH031

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting (webinar).

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will convene a webinar meeting of its Groundfish Management Team (GMT) to discuss items on the Pacific Council's June 2019 meeting agenda. The meeting is open to the public.

DATES: The webinar meeting will be held Wednesday, June 12, 2019, from 1 p.m. to 5 p.m. Pacific Daylight Time. The scheduled ending time for the GMT webinar is an estimate, the meeting will

adjourn when business for the day is completed.

ADDRESSES: This meeting will be held via webinar. A public listening station is available at the Pacific Council office (address below). To attend the webinar: (1) Join the GoToWebinar by visiting this link *https://www.gotomeeting.com/webinar* (Click ''Join a Webinar'' in top right corner of page), (2) Enter the Webinar ID: 769–834–475 and (3) enter your name and email address (required). After logging into the webinar, you must use your telephone for the audio portion of the meeting. Dial this TOLL number 1–914–614–3221, enter the Attendee phone audio access code 572–583–398, and enter your audio phone pin (shown after joining the webinar). System Requirements: For PC-based attendees: Required: Windows® 10, 8, 7, Vista, or XP; for Mac®-based attendees: Required: Mac OS® X 10.5 or newer; for Mobile attendees: Required: iPhone®, iPad®, Android™ phone or Android tablet (see *https://www.gotomeeting.com/webinar/ipad-iphone-android-webinar-apps*). You may send an email to Mr. Kris Kleinschmidt at *kris.kleinschmidt@noaa.gov* or contact him at (503) 820–2411 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Todd Phillips, Staff Officer; telephone: (503) 820–2426.

SUPPLEMENTARY INFORMATION: The primary purpose of GMT webinar is to prepare for and develop recommendations for consideration by the Pacific Council at its June 2019 meeting. The GMT will discuss items related to groundfish management and administrative Pacific Council agenda items. A detailed agenda for the webinar will be available on the Pacific Council's website prior to the meeting. The GMT may also address other assignments relating to groundfish management. No management actions will be decided by the GMT.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The public listening station is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2411 at least 10 business days prior to the meeting date.

Dated: May 10, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–10083 Filed 5–14–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH025

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of scheduled SEDAR 58 pre-assessment webinar.

SUMMARY: The SEDAR 58 assessment of the Atlantic stock of Cobia will consist of a series of workshops and webinars: Data Workshop; Assessment Webinars; and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 58 Pre-Assessment Webinar has been scheduled for Thursday, June 20, 2019, from 1 p.m. to 4 p.m.

ADDRESSES:

Meeting address: The meetings will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Kathleen Howington at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405; *www.sedarweb.org.*

FOR FURTHER INFORMATION CONTACT: Kathleen Howington, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone (843) 571–4366; email: *Kathleen.Howington@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: Data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion at the Pre-Assessment webinar are as follows:

Participants will discuss any remaining data issues and/or pre-modeling questions.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 5 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: May 10, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–10081 Filed 5–14–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH019

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 (Council) Surfclam and Ocean Quahog Committee will hold a public meeting.

DATES: The meeting will be held on Monday, June 3, 2019, from 1 p.m. until 4:30 p.m. See **SUPPLEMENTARY INFORMATION** for agenda details.

ADDRESSES:

Meeting address: The meeting will take place at the Doubletree by Hilton New York Times Square West, 350 W 40th St., New York, NY 10018; telephone: (212) 607–8888.

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 Mid-Atlantic Fishery Management Council's Surfclam and Ocean Quahog Committee will meet to review the Public Hearing Document for the Atlantic Surfclam and Ocean Quahog Excessive Shares Amendment to ensure the document is complete for Council review and approval. 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: May 10, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–10085 Filed 5–14–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG954

Fisheries of the Caribbean; Southeast Data, Assessment and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 57 Review Workshop for Caribbean spiny lobster.

SUMMARY: The SEDAR 57 assessment of the Caribbean spiny lobster will consist of: a Data Workshop; a series of Assessment webinars; and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 57 Review Workshop will be held from 9 a.m. on July 9, 2019 until 5 p.m. on July 11, 2019.

ADDRESSES:

Meeting address: The SEDAR 57 Review Workshop will be held at the Hotel Aira Coconut Grove, 2889 McFarlane Road, Miami, FL 33131.

SEDAR address: 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie Neer, SEDAR Coordinator; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *Julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three step process including: (1) Data Workshop; (2) Assessment Process utilizing workshops and webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include: Data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in the Review Workshop agenda are as follows:

The Review Panel participants will review the stock assessment reports to determine if they are scientifically sound.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) at least 10 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: May 10, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–10087 Filed 5–14–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Developing Hispanic-Serving Institutions Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications (NIA) for new awards for fiscal year (FY) 2019 for the Developing Hispanic-Serving Institutions (DHSI) Program, Catalog of Federal Domestic Assistance (CFDA) number 84.031S. This notice relates to the approved information collection under OMB control number 1840–0745.

DATES:

Applications Available: May 15, 2019.

Deadline for Transmittal of Applications: July 15, 2019.

Deadline for Intergovernmental Review: September 12, 2019.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Njeri Clark, U.S. Department of Education, 400 Maryland Avenue SW, Room 260–14, Washington, DC 20202–4260. Telephone: (202) 453–6224. Email: *Njeri.Clark@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:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The DHSI Program provides grants to assist Hispanic-Serving Institutions (HSIs) to expand educational opportunities for, and improve the academic attainment of, Hispanic students. DHSI Program grants enable HSIs to expand and enhance the academic offerings, program quality, faculty quality, and institutional stability of colleges and universities that are educating the majority of Hispanic college students and help large numbers of Hispanic students and low-income individuals complete postsecondary degrees.

Background: Hispanic students are enrolling in postsecondary institutions at higher rates than ever before, yet their high enrollments are not translating to degree completion.[1] HSIs have an opportunity to change the landscape by increasing the number of certificates and degrees attained by Hispanic and low-income students. Certificate and degree attainment is imperative to the thriving economy of the United States. HSIs' high enrollment of Hispanic and low-income students enables them to serve as models for how best to meet the needs of Hispanic and low-income students. As such, this program supports HSIs that demonstrate a commitment to developing and/or enhancing a comprehensive plan that looks to identify and address the strengths and weaknesses of an institution's enrollment, retention, support, and graduation rates of Hispanic and low-income students.

HSIs interested in applying to this grant program can use the development of their comprehensive plan to examine the alignment of their mission and current strategic plan with the needs of the target population and surrounding community to develop, enhance, and implement leadership, practice, and policies that best promote student success. Moreover, HSIs can use their plans as road maps to help all students, especially those with the highest needs, find exciting pathways to employment and career advancement.

To this end, this competition includes two competitive preference priorities that are designed to promote student success.

Priorities: This notice contains two competitive preference priorities. The first competitive preference priority is from the authorized activities for this program in section 503 of the HEA (20 U.S.C. 1101b). The second competitive preference priority is from the Secretary's Final Supplemental Priorities and Definitions for Discretionary Grant Programs, published in the **Federal Register** on March 2, 2018 (83 FR 9096) (Supplemental Priorities).

Competitive Preference Priorities: For FY 2019 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award an application up to 10 additional points, depending on how well the application meets one of these priorities. Applicants may only respond to one of the priorities, for a total of up to 10 additional points.

These priorities are:

Competitive Preference Priority 1 (Up to 10 Additional Points)

Projects that are designed to expand the number of Hispanic and other underrepresented graduate and professional students that can be served by the institution by expanding courses and institutional resources.

Competitive Preference Priority 2 (Up to 10 Additional Points)

Projects that support instruction in personal financial literacy, knowledge of markets and economics, knowledge of higher education financing and repayment (*e.g.,* college savings and student loans), or other skills aimed at building personal financial understanding and responsibility.

Definitions: The following definitions are from 34 CFR 77.1 and apply to the selection criteria in this notice:

Baseline means the starting point from which performance is measured and targets are set.

Budget period means an interval of time into which a project period is divided for budgetary purposes.

Demonstrates a rationale means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

Department means the U.S. Department of Education.

Experimental study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of experimental studies that, depending on their design and implementation (*e.g.,* sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbook:

(i) A randomized controlled trial employs random assignment of, for

[1] Digest of Education Statistics 2017, January 2019, *https://nces.ed.gov/pubs2018/2018070.pdf.*

example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns the project component being evaluated using a measured variable (*e.g.,* assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (*e.g.,* a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment.

Fiscal year means the Federal fiscal year—a period beginning on October 1 and ending on the following September 30.

Grantee means the legal entity to which a grant is awarded and that is accountable to the Federal Government for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award notice (GAN). For example, a GAN may name as the grantee one school or campus of a university. In this case, the granting agency usually intends, or actually intends, that the named component assume primary or sole responsibility for administering the grant-assisted project or program. Nevertheless, the naming of a component of a legal entity as the grantee in a grant award document shall not be construed as relieving the whole legal entity from accountability to the Federal Government for the use of the funds provided. (This definition is not intended to affect the eligibility provision of grant programs in which eligibility is limited to organizations that may be only components of a legal entity.) The term ''grantee'' does not include any secondary recipients, such as subgrantees and contractors, that may receive funds from a grantee pursuant to a subgrant or contract.

Grant period means the period for which funds have been awarded.

Local educational agency means:

(a) A public board of education or other public authority legally constituted within a State for either administrative control of or direction of, or to perform service functions for, public elementary or secondary schools in:

(1) A city, county, township, school district, or other political subdivision of a State; or

(2) Such combination of school districts or counties a State recognizes as an administrative agency for its public elementary or secondary schools; or

(b) Any other public institution or agency that has administrative control and direction of a public elementary or secondary school.

(c) As used in 34 CFR parts 400, 408, 525, 526 and 527 (vocational education programs), the term also includes any other public institution or agency that has administrative control and direction of a vocational education program.

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

Note: In developing logic models, applicants may want to use resources such as the Pacific Education Laboratory's Logic Model Application (*https://ies.ed.gov/ncee/edlabs/regions/pacific/elm.asp*).

Performance measure means any quantitative indicator, statistic, or metric used to gauge program or project performance.

Performance target means a level of performance that an applicant would seek to meet during the course of a project or as a result of a project.

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers).

Promising evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome, based on a relevant finding from one of the following:

(i) A practice guide prepared by What Works Clearinghouse (WWC) reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single study assessed by the Department, as appropriate, that—

(A) Is an experimental study, a quasi-experimental design study, or a well-designed and well-implemented correlational study with statistical controls for selection bias (*e.g.,* a study using regression methods to account for differences between a treatment group and a comparison group); and

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (*e.g.,* establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbook.

Relevant outcome means the student outcome(s) or other outcomes(s) the key project component is designed to improve, consistent with the specific goals of a program.

Subgrant means an award of financial assistance in the form of money, or property in lieu of money, made under a grant by a grantee to an eligible subgrantee. The term includes financial assistance when provided by contractual or any other form of legal agreement, but does not include procurement purchases, nor does it include any form of assistance that is excluded from the definition of ''grant or award'' in this part (See 2 CFR 200.92, ''Subaward'').

What Works Clearinghouse Handbook (WWC Handbook) means the standards and procedures set forth in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (incorporated by reference, see 34 CFR 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the Handbook documentation.

Program Authority: 20 U.S.C. 1101–1101d; 1103–1103g.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget (OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform

Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 606. (e) The Supplemental Priorities.

II. Award Information

Type of Award: Discretionary grants. Five-year Individual Development Grants only. Cooperative Arrangement Grants and Planning grants will not be awarded in FY 2019.

Estimated Available Funds: $24,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent fiscal years from the list of unfunded applications from this competition.

Estimated Range of Awards: $500,000–$600,000.

Maximum Awards: We will not make an award exceeding $600,000 for a single budget period of 12 months.

Estimated Number of Awards: 40.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information and Supplemental Requirements

1. *Eligible Applicants:* (a) Institutions of higher education (IHEs) that qualify as eligible HSIs are eligible to apply for new Individual Development Grants under the DHSI Program. To be an eligible HSI, an IHE must—

(i) Have an enrollment of needy students, as defined in section 502(b) of the HEA (section 502(a)(2)(A)(i) of the HEA; 20 U.S.C. 1101a(a)(2)(A)(i));

(ii) Have, except as provided in section 522(b) of the HEA, average education and general expenditures that are low, per full-time equivalent (FTE) undergraduate student, in comparison with the average education and general expenditures per FTE undergraduate student of institutions that offer similar instruction (section 502(a)(2)(A)(ii) of the HEA; 20 U.S.C. 1101a(a)(2)(A)(ii));

Note: To demonstrate an enrollment of needy students and low average education and general expenditures per FTE undergraduate student, an IHE must be designated as an ''eligible institution'' in accordance with 34 CFR 606.3 through 606.5 and the notice inviting applications for designation as an eligible institution for the fiscal year for which the grant competition is being conducted.

Note: The notice announcing the FY 2019 process for designation of eligible institutions, and inviting applications for waiver of eligibility requirements, was published in the **Federal Register** on January 29, 2019 (84 FR 451). Only institutions that the Department determines are eligible, or are granted a waiver, may apply for a grant in this program.

(iii) Be accredited by a nationally recognized accrediting agency or association that the Secretary has determined to be a reliable authority as to the quality of education or training offered, or making reasonable progress toward accreditation, according to such an agency or association (section 502(a)(2)(A)(iv) of the HEA; 20 U.S.C. 1101a(a)(2)(A)(iv));

(iv) Be legally authorized to provide, and provide within the State, an education program for which the institution awards a bachelor's degree (section 502(a)(2)(A)(iii) of the HEA), or be a junior or community college (20 U.S.C. 1101a(a)(2)(A)(iii));

(v) Have an enrollment of undergraduate FTE students that is at least 25 percent Hispanic students at the end of the award year immediately preceding the date of application (section 502(a)(5)(B) of the HEA; 20 U.S.C. 1101a(a)(5)(B)); and

(vi) Provide, as an attachment to the application, the documentation the IHE relied upon in determining that at least 25 percent of the IHE's undergraduate FTE students are Hispanic. The 25 percent requirement applies only to undergraduate Hispanic students and is calculated based upon FTE students as defined in section 502(a)(4) of the HEA. Instructions for formatting and submitting the verification documentation to *Grants.gov* are in the application package for this competition.

(b) For this program, the ''end of the award year immediately preceding the date of application'' refers to the end of the fiscal year prior to the application due date. For purposes of this competition, the data that we will use to determine percent enrollment is for academic year 2017–2018.

(c) In considering applications for grants under this program, the Department will compare the data and documentation the institution relied on in its application with data reported to the Department's Integrated Postsecondary Education Data System (IPEDS), the IHE's State-reported enrollment data, and the institutional annual report. If different percentages or data are reported in these various sources, the institution must, as part of the 25 percent assurance verification, explain the reason for the differences. If the IPEDS data show that less than 25 percent of the institution's undergraduate FTE students are Hispanic, the burden is on the institution to show that the IPEDS data are inaccurate. If the IPEDS data indicate that the institution has an undergraduate FTE less than 25 percent, and the institution fails to demonstrate that the IPEDS data are inaccurate, the institution will be considered ineligible.

(d) A grantee under the DHSI Program, which is authorized by title V of the HEA, may not receive a grant under any HEA, title III, part A or part B program (section 505 of the HEA; 20 U.S.C. 1101D). The title III, part A programs include: The Strengthening Institutions Program; the American Indian Tribally Controlled Colleges and Universities Program; the Alaska Native and Native Hawaiian-Serving Institutions Programs; the Asian American and Native American Pacific Islander-Serving Institutions Program; the Strengthening Predominantly Black Institutions program; and the Native American-Serving Non-Tribal Institutions Program. Furthermore, a current DHSI Program grantee may not give up its HSI grant in order to receive a grant under any title III, part A program (§ 606.2(c)(1)).

(e) An eligible HSI may only submit one Individual Development Grant application.

(f) Nothing in this notice alters a grantee's obligations to comply with nondiscrimination requirements in the U.S. Constitution and Federal civil rights laws, including on the basis of race or ethnicity, among others.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching unless the grantee uses a portion of its grant for establishing or improving an endowment fund. If a grantee uses a portion of its grant for endowment fund purposes, it must match those grant funds with non-Federal funds (section 503(c)(2) of the HEA; 20 U.S.C. 1101b(c)(2)).

3. *Supplement-Not Supplant:* This program involves supplement-not-supplant funding requirements. Grant funds shall be used so that they supplement and, to the extent practical, increase the funds that would otherwise be available for the activities to be carried out under the grant and in no case supplant those funds. (34 CFR 606.30(b).

4. *Subgrantees:* Under 34 CFR 75.708(b) and (c) a grantee under this competition may award subgrants—to directly carry out project activities described in its application—to the following types of entities: Local educational agencies; State educational agencies; institutions of higher education; nonprofit organizations. The grantee may award subgrants to entities

it has identified in an approved application or that it selects through that it selects through a competition under procedures established by the grantee.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the Developing Hispanic-Serving Institutions Program, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

An applicant may wish to request confidentiality of business information because successful applications may be made available to the public, if requested.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

4. *Funding Restrictions:* We specify unallowable costs in 34 CFR 606.10(c). We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 55 pages for Individual Development Grants and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger, and no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit applies to the Project Narrative, which is your complete response to the selection criteria, and your response to *one* of the competitive preference priorities (if applicable). However, the page limit does not apply to the Application for Federal Assistance form-SF–424; ED SF–424 Supplement form; Budget Information—Non-Construction Programs form (ED 524); the assurances and certifications; the one-page project abstract, the program profile form, and supporting budget narrative.

6. *Notice of Intent To Apply:* The Department will be able to review grant applications more efficiently if we know the approximate number of applicants that intend to apply. Therefore, we strongly encourage each potential applicant to notify us of their intent to submit an application. To do so, please email the program contact person listed under **FOR FURTHER INFORMATION CONTACT** with the subject line ''Intent to Apply,'' and include the applicant's name and a contact person's name and email address. Applicants that do not submit a notice of intent to apply may still apply for funding; applicants that do submit a notice of intent to apply are not bound to apply or bound by the information provided.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 606.8, 34 CFR 606.22, and 34 CFR 75.210 and are as follows:

(a) *Quality of the applicant's comprehensive development plan.* (Up to 25 points).

The extent to which—

(1) The strengths, weaknesses, and significant problems of the institution's academic programs, institutional management, and fiscal stability are clearly and comprehensively analyzed and result from a process that involved major constituencies of the institution; (up to 5 points)

(2) The goals for the institution's academic programs, institutional management, and fiscal stability are realistic and based on comprehensive analysis; (up to 5 points)

(3) The objectives stated in the plan are measurable, related to institutional goals, and, if achieved, will contribute to the growth and self-sufficiency of the institution; and (up to 5 points)

(4) The plan clearly and comprehensively describes the methods and resources the institution will use to institutionalize practice and improvements developed under the proposed project, including, in particular, how operational costs for personnel, maintenance, and upgrades of equipment will be paid with institutional resources. (Up to 5 points)

(5) The plan clearly and comprehensively describes the five-year plan to improve its services to Hispanic and other low-income students. (up to 5 points)

(b) *Quality of the project design.* (up to 15 points)

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following:

(1) The extent to which the proposed project demonstrates a rationale (as defined in this notice). (up to 5 points)

(2) The extent to which the proposed project is supported by promising evidence (as defined in this notice). (up to 10 points)

Note: To establish that their projects ''demonstrate a rationale,'' applicants must use a logic model (as defined in this notice). To establish that their projects are supported by ''promising evidence,'' applicants should cite the supporting study or studies that meets the conditions in the definition of ''promising evidence'' and attach the studies as part of the application attachments. In addressing ''promising evidence,'' applicants are encouraged to align the direct student services proposed in this application to evidence-based practices identified in the selected studies.

(c) *Quality of activity objectives.* (Up to 10 points)

The extent to which the objectives for each activity are—

(1) Realistic and defined in terms of measurable results; (up to 5 points) and

(2) Directly related to the problems to be solved and to the goals of the comprehensive development plan. (up to 5 points)

(d) *Quality of implementation strategy.* (Up to 15 points)

The extent to which—

(1) The implementation strategy for each activity is comprehensive; (up to 5 points)

(2) The rationale for the implementation strategy for each activity is clearly described and is supported by the results of relevant studies or projects; (up to 5 points) and

(3) The timetable for each activity is realistic and likely to be attained. (up to 5 points)

(e) *Quality of project management plan.* (Up to 10 points)

The extent to which—

(1) Procedures for managing the project are likely to ensure efficient and effective project implementation; (up to 5 points) and

(2) The project coordinator and activity directors have sufficient authority to conduct the project effectively, including access to the president or chief executive officer. (up to 5 points)

(f) *Quality of key personnel.* (Up to 5 points)

The extent to which—

(1) The past experience and training of key professional personnel are directly related to the stated activity objectives; (up to 2 points) and

(2) The time commitment of key personnel is realistic. (up to 3 points)

(g) *Quality of evaluation plan.* (Up to 15 points)

The extent to which—

(1) The data elements and the data collection procedures are clearly described and appropriate to measure the attainment of activity objectives and to measure the success of the project in achieving the goals of the comprehensive development plan; (up to 5 points)

(2) The data analysis procedures are clearly described and are likely to produce formative and summative results on attaining activity objectives and measuring the success of the project on achieving the goals of the comprehensive development plan; (up to 5 points) and

(3) The evaluation will provide guidance about effective strategies suitable for replication or testing in other settings. (up to 5 points)

(h) *Budget.* (up to 5 points)

The extent to which the proposed costs are necessary and reasonable in relation to the project's objectives and scope.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

A panel of three non-Federal reviewers will review and score each application in accordance with the selection criteria in this notice, as well as the competitive preference priorities. A rank order funding slate will be made from this review. Awards will be made in rank order according to the average score received from the peer review.

Tiebreaker: In tie-breaking situations for development grants described in 34 CFR 606.23(b), the DHSI Program regulations in 34 CFR part 606, subpart C require that we award additional points to an application from an IHE that—

(1) Has an endowment fund of which the current market value, per full-time equivalent enrolled student, is less than the average current market value of the endowment funds, per full-time equivalent enrolled student, at comparable institutions that offer similar instruction;

(2) Has expenditures for library materials per full-time equivalent enrolled student that are less than the average expenditures for library materials per full-time equivalent enrolled student at comparable institutions that offer similar instruction; or

(3) Proposes to carry out one or more of the following activities—

(i) Faculty development (1 point);

(ii) Funds and administrative management (1 point);

(iii) Development and improvement of academic programs (2 points);

(iv) Acquisition of equipment for use in strengthening management and academic programs (1 point);

(v) Joint use of facilities (2 points); or

(vi) Student services (2 points).

If a tie remains after applying the tiebreaker mechanism above, priority will be given to applicants that addressed the statutory priority found in section 521(d) of the HEA (20 U.S.C. 1071).

If a tie still remains after applying the additional point(s) and the relevant statutory priority, we will determine the ranking of applicants based on the applicant that scores the highest under the selection criterion, quality of the applicant's comprehensive development plan, followed by quality of implementation strategy.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program, the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* The Secretary has established the following key performance measures for assessing the effectiveness of the DHSI Program:

(a) The annual rate of degree or certificate completion for all students, and specifically for Hispanic students, at DHSI grantee institutions.

(b) The annual persistence rate at DHSI grantee institutions for all students, and for Hispanic students in particular, from one year to the next.

(c) The percentage of all students, and of Hispanic students in particular, that transfer from a two-year HSI to a four-year institution.

(d) The number of all students, and the number of Hispanic students in particular, served by any direct student service supported by the grant.

(e) The Federal cost per undergraduate and graduate degree at institutions in the DHSI program.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program 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.

Dated: May 10, 2019.

Diane Auer Jones,

Principal Deputy Under Secretary, Delegated to Perform the Duties of Under Secretary and Assistant, Secretary for the Office of Postsecondary Education.

[FR Doc. 2019–10056 Filed 5–14–19; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Meetings

ACTION: Notice of third public hearing on Voluntary Voting System Guidelines 2.0 Principles and Guidelines.

TIME AND DATE: The meeting will be held on Monday, May 20, 2019, from 1:30 p.m. until 4:00 p.m., EDT.

PLACE: 1335 East West Highway, Silver Spring, Maryland 20910, 1st Floor Conference Room. The meeting will also be streamed on *www.eac.gov.*

STATUS: This Hearing will be open to the public. ID required to enter secured building.

Hearing Agenda: The Commission will conduct a public hearing to receive testimony and public comments on the proposed Voluntary Voting System Guidelines 2.0 Principles and Guidelines (VVSG 2.0). The full hearing agenda will be posted in advance at *http://www.eac.gov.* Members of the public who wish to speak at the hearing regarding the VVSG 2.0 Principles and Guidelines may send a request to participate to the EAC via email at *votingsystemguidelines@eac.gov* by 5:00 p.m. EDT Friday, May 17, 2019. Members of the public may also sign up at the public meeting as long as they do so before the public hearing begins. Due to time constraints, the EAC may select no more than ten participants amongst the volunteers who request to participate. The selected volunteers will be allotted five-minutes each to share their viewpoint. Participants will be selected on a first-come, first-served basis. However, to maximize diversity of input, only one participant per organization or entity will be chosen if necessary. Participants may also submit written testimony to be included in the

record. All requests must include a description of what will be said, contact information that will be used to notify the requestor with status of request (phone number on which a message may be left or email), and include the subject/attention line (or on the envelope if by mail): Testimony on proposed VVSG 2.0 Principles and Guidelines. Please note that these testimonies will be made available to the public at *www.eac.gov.* Written testimony from members of the public regarding the proposed VVSG 2.0 Principles and Guidelines will also be accepted. Testimony will be included as part of the written record of the hearing, and it will be available on our website. Written testimony must be submitted prior to the beginning of the public hearing and, if by mail, received by 5:00 p.m. EDT on May 17, 2019. Written testimony should be submitted via email at *votingsystemguidelines@eac.gov* or via mail addressed to the U.S. Election Assistance Commission, 1335 East-West Highway, Suite 4300, Silver Spring, Maryland 20910, or by fax at 301–734–3108. All correspondence that contains written testimony must have in the subject/attention line (or on the envelope if by mail): Written testimony on proposed VVSG 2.0 Principles and Guidelines.

Clifford D. Tatum,

General Counsel, U.S. Election Assistance Commission.

[FR Doc. 2019–10221 Filed 5–13–19; 4:15 pm]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ19–11–000]

Oncor Electric Delivery Company LLC; Notice of Filing

Take notice that on April 30, 2019, the Oncor Electric Delivery Company LLC submitted its tariff filing: Oncor TFO Tariff Rate Changes to be effective July 1, 2018.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on May 21, 2019.

Dated: May 9, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–10039 Filed 5–14–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ19–12–000]

Oncor Electric Delivery Company LLC; Notice of Filing

Take notice that on April 30, 2019, the Oncor Electric Delivery Company LLC submitted its tariff filing: Oncor Tex-La Tariff Rate Changes to be effective July 1, 2018.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on May 21, 2019.

Dated: May 9, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–10042 Filed 5–14–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–1806–000]

Mitsui Bussan Commodities, Ltd.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced Mitsui Bussan Commodities, Ltd.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and

assumptions of liability, is May 29, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 9, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–10038 Filed 5–14–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL19–75–000]

EDF Renewables, Inc., Enel Green Power North America, Inc., NextEra Energy Resources, LLC, Southern Power Company v. Southwest Power Pool, Inc.; Notice of Complaint

Take notice that on May 9, 2019, pursuant to sections 206, 306 and 309 of the Federal Power Act (FPA), 16 U.S.C. 824e, 825e and 825h and Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.206 (2019), EDF Renewables, Inc., Enel Green Power North America, Inc., NextEra Energy Resources, LLC and Southern Power Company (collectively, Joint Complainants) filed a formal complaint against Southwest Power Pool, Inc. (SPP or Respondent) alleging that SPP has failed to implement Attachment Z2 of the SPP Tariff. The Complaint requests that the Commission order relief under Attachment Z2 of the SPP Tariff, all as more fully explained in the complaint.

Complainants certify that a copy of the Complaint was served on the contacts for SPP as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on May 29, 2019.

Dated: May 9, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–10047 Filed 5–14–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10934–000]

Sugar River II, LLC; Notice Soliciting Pre-Application Documents and Notices of Intent To File a Subsequent License Application

On May 24, 2016, William B. Ruger, Jr., the then licensee for the Sugar River II Project No. 10934 (project) filed a Notice of Intent (NOI) to file an application for a subsequent license for the project.[1] The existing license for the project expires on April 30, 2021.[2] On October 6, 2016, Commission staff approved the use of the traditional licensing process to develop the license application, and on October 7, 2016, Commission staff issued a public notice of Mr. Ruger's NOI.

Pursuant to section 16.20(c) of the Commission's regulations, an existing licensee with a minor license not subject to sections 14 and 15 of the Federal Power Act must file an application for a subsequent license at least 24 months prior to the expiration of the current license, which with respect to the Sugar River II Project, was April 30, 2019.[3] On April 30, 2019, the current licensee, Sugar River Hydro II, LLC,[4] filed a letter stating that it is not filing an application to relicense 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 subsequent license for a project, subsequently does not file a license application, the Commission must solicit applications from potential applicants other than the existing licensee.[5] 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.[6] While the integrated

[1] 18 CFR 16.19(b) (2018).

[2] The license for the project was issued with an effective date of May 1, 1991, for a term of 30 years. *William B. Ruger,* 55 FERC ¶ 62,118 (1991).

[3] 18 CFR 16.20(c) (2018).

[4] On January 26, 2017, the Commission approved a transfer of the license for the project from William B. Ruger to Sugar River Hydro II, LLC. *William B. Ruger, Jr. and Sugar River Hydro II, LLC,* 158 FERC ¶ 62,053 (2017).

[5] 18 CFR 16.25(a) (2018).

[6] Pursuant to section 16.24(b)(2) of the Commission's regulations, the existing licensee, Sugar River Hydro II, LLC, is prohibited from filing an application for a subsequent license or exemption for the project, either individually or in conjunction with other entities. 18 CFR 16.24(b)(2) (2018).

licensing process is the default process for preparing an application for a subsequent license, a potential applicant may request to use alternative licensing procedures when it files its NOI.[7] An application for a subsequent license or exemption for the Sugar River II Project No. 10934 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 Michael Watts at 202–502–6123 or *michael.watts@ferc.gov.*

Dated: May 8, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–09975 Filed 5–14–19; 8:45 am]

BILLING CODE 6717–01–P

[7] 18 CFR 5.3(b) (2018).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL19–72–000, QF90–73–010]

EF Kenilworth LLC; Notice of Petition for Declaratory Order

Take notice that on May 6, 2019, pursuant to section 292.205(c) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 292.205(c)(2018) implementing the Public Utility Regulatory Policies Act of 1978 (PURPA), as amended, EF Kenilworth LLC (Petitioner) filed a petition for declaratory order requesting a waiver of the efficiency and operating standards for its qualifying cogeneration facility located at the Merck Sharp & Dohme Corp. manufacturing and processing facility in Kenilworth, New Jersey for calendar years 2018, 2019 and 2020 due to a decrease in steam consumption by the Kenilworth Facility's thermal host, as more fully explained in the petition.

Any person desiring to intervene or to protest in this proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.or* call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on June 5, 2019.

Dated: May 8, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–09974 Filed 5–14–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

PB Energy, Inc.; Soliciting Notices of Intent To File a License Application and Pre-Application Documents

The current license for PB Energy, Inc.'s (PB Energy) Dry Spruce Bay Project No. 1432 was issued on June 11, 1990, for a term of 30 years, ending June 1, 2020.[1] The 75-kilowatt (kW) project is located on an unnamed creek near Port Bailey in the Kodiak Island Borough of Alaska. The project occupies 44 acres of land administered by the Bureau of Land Management.

The principal project works consist of: (1) A 920-foot-long, 50-foot-wide ditch diverting water from an unnamed stream to an upper pond; (2) a 12.59-acre upper pond created by a 200-foot-long, 50-foot-wide, 5-foot-high earthen dam with a spillway and a 200-footlong overflow ditch; (3) a short metal flume and a 275-foot-long, 12-inch-diameter wood stave pipe conveying water from the upper pond to the lower pond; (4) a 1000-foot-long, 50-foot-wide ditch diverting water from an unnamed stream to the lower pond; (5) a 2.2-acre lower pond created by a 200-foot-long, 50-foot-wide, 5-foot-high earthen dam; (6) a 6,772- foot-long PVC and steel penstock conveying water from the lower pond to the powerhouse; (7) a steel powerhouse with a 75-kilowatt Pelton turbine; (8) a short transmission line; and (9) appurtenant facilities.

At least 24 months before the expiration of a license for a minor water power project in which sections 14 and 15 of the Federal Power Act were waived, the Commission's regulations require the licensee to file with the Commission an application for a subsequent license.[2] Accordingly, the licensee was required to file a subsequent license application by June 1, 2018. On May 30, 2018, PB Energy filed an application for a subsequent license for the Dry Spruce Bay Project. However, on May, 1, 2019, Commission staff rejected PB Energy's license application for failing to cure deficiencies and respond to additional information requests.

If the Commission rejects or dismisses a subsequent license application, the licensee may not refile the application after the deadline to file (*i.e.,* June 1, 2018).[3] Because the only timely-filed license application has been dismissed, the Commission is soliciting applications from other potential applicants for the project.

Any party interested in filing a license application for the Dry Spruce Bay Project No. 1432 must first file a notice of intent (NOI)[4] and pre-application document (PAD)[5] pursuant to Part 5 of the Commission's regulations. Although the integrated licensing process (ILP) is the default pre-filing process, section 5.3(b) of the Commission's regulations allows a potential license applicant to request to use the traditional licensing process or alternative procedures when it files its NOI.[6]

[1] *Wards Cove Packing Co.,* 51 FERC ¶ 62,228 (1990). The license was transferred to PB Energy in 2010. *Port Bailey Wild Enterprises, LLC PB Energy, Inc.,* 133 FERC ¶ 62,214 (2010).

[2] 18 CFR 16.20(c) (2018).

[3] 18 CFR 16.9(b)(4) (2018.)

[4] 18 CFR 5.5 (2018).

[5] 18 CFR 5.6 (2018).

[6] 18 CFR 5.3(b) (2018).

This notice sets a deadline of 120 days from the date of this notice for interested applicants, other than the existing licensee, to file NOIs, PADs, and requests to use the traditional licensing process or alternative procedures. A potential applicant that timely files an NOI and PAD must file an application for a subsequent license no later than 18 months after the date on which it filed its NOI.[7]

Questions concerning this notice should be directed to Ryan Hansen at (202) 502–8074 or *ryan.hansen@ferc.gov.*

Dated: May 3, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–09977 Filed 5–14–19; 8:45 am]

BILLING CODE 6717–01–P

[7] 18 CFR 16.25(b)(1) (2018).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1904–000]

Great River Hydro, LLC; Notice of Authorization for Continued Project Operation

On October 31, 2012 Great River Hydro, LLC, licensee for the Vernon Hydroelectric Project, filed an Application for a New License pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The Vernon Hydroelectric Project is located on the Connecticut River in Orange and Windsor counties, Vermont, and Grafton County, New Hampshire.

The license for Project No. 1904 was issued for a period ending April 30, 2019. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 1904 is issued to the licensee for a period effective May1, 2019 through April 30, 2020, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before April 30, 2020, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that the licensee, Great River Hydro, LLC, is authorized to continue operation of the Vernon Hydroelectric Project until such time as the Commission acts on its application for a subsequent license.

Dated: May 9, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–10048 Filed 5–14–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR19–59–000.
Applicants: Columbia Gas of Ohio, Inc.
Description: Tariff filing per 284.123(b),(e)/: COH Rates effective May 1, 2019 to be effective 5/1/2019.
Filed Date: 5/7/19.
Accession Number: 201905075067.
Comments/Protests Due: 5 p.m. ET 5/28/19.

Docket Number: PR19–60–000.
Applicants: ONEOK WesTex Transmission, L.L.C.
Description: Tariff filing per 284.123(b),(e)/: OWT PR16–11–003 –004 Compliance Filing to be effective 5/1/2019.
Filed Date: 5/7/19.
Accession Number: 201905075127.
Comments/Protests Due: 5 p.m. ET 5/28/19.

Docket Numbers: RP19–1216–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—May 2019 Cleanup Filing to be effective 6/7/2019.
Filed Date: 5/8/19.
Accession Number: 20190508–5000.
Comments Due: 5 p.m. ET 5/20/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 9, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–10046 Filed 5–14–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1892–000]

Great River Hydro, LLC; Notice of Authorization for Continued Project Operation

On October 31, 2012 Great River Hydro, LLC, licensee for the Wilder Hydroelectric Project, filed an Application for a New License pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The Wilder Hydroelectric Project is located on the Connecticut River in Orange and Windsor counties, Vermont, and Grafton County, New Hampshire.

The license for Project No. 1892 was issued for a period ending April 30, 2019. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year

an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 1892 is issued to the licensee for a period effective May 1, 2019 through April 30, 2020, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before April 30, 2020, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that the licensee, Great River Hydro, LLC., is authorized to continue operation of the Wilder Hydroelectric Project until such time as the Commission acts on its application for a subsequent license.

Dated: May 9, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–10040 Filed 5–14–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3185–005]

Pembroke Hydro Associates LP; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Application for Non-capacity Amendment.

b. *Project No:* P–3185–005.

c. *Date Filed:* March 21, 2019.

d. *Applicant:* Pembroke Hydro Associates Limited Partnership, a subsidiary of Eagle Creek Renewable Energy.

e. *Name of Project:* Webster Pembroke Hydroelectric Project.

f. *Location:* The project is located on the Suncook River between the towns of Pembroke and Allentown in Merrimack County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Robert A. Gates, Eagle Creek Renewable Energy, 65 Madison Ave., Suite 500, Morristown, New Jersey 07960, (973) 998–8403.

i. *FERC Contact:* Kurt Powers, (202) 502–8949, *kurt.powers@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* 30 days from the issuance date of this notice by the Commission.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, or recommendations 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–3185–005.

k. *Description of Request:* The exemptee proposes to remove a portion of stacked stone blocks, of varying dimensions, and stone cap blocks from the Pembroke Dam. The removal area totals approximately 30 linear feet or 380 square feet of the existing dam. The stone blocks would be removed one by one via a crane that would be placed on a pad located on previously disturbed grass adjacent to the Emerson Mill Condos. The stone blocks would be taken off-site and either donated or disposed of properly. The work is expected to take two to three weeks to complete. The exemptee would continue to meet minimum flow requirements during the work.

l. Locations of the Application: This filing may be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number P–3185 in the docket number field to access the documents. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above and at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 502–8371.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title COMMENTS, PROTEST, or MOTION TO INTERVENE as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the

requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license amendment. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: May 9, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–10049 Filed 5–14–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14967–000]

Renewable Energy Aggregators; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On February 25, 2019, Renewable Energy Aggregators, 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 Freestone Pumped Storage Hydro Project (Freestone Project or project) to be located at Nickajack Lake, near the town of Trenton, in Dade County, Georgia. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A roller compacted concrete or earth and rock upper dam; (2) an upper reservoir with a surface area of 84 acres and a storage capacity of 1,258.92 acre-feet; (3) a 48-inch-diameter, 3,158-foot-long penstock; (4) a 25-foot-high, 150-foot-long, and 50-foot-wide powerhouse containing one unit with a capacity of 80 megawatts; (5) a lower reservoir (Nickajack Lake) with a surface area of 31.4 acres, and a storage capacity of 1,883.87 acre-feet; (6) a substation; and (7) a 1-mile-long transmission line from the substation to the point of interconnection.

The proposed project would have an estimated average annual generation of 351,483 megawatt-hours.

Applicant Contact: Adam Rousselle, Renewable Energy Aggregators, 5710 Oak Crest Drive, Doylestown Pennsylvania 18902; phone: (215) 485–1708.

FERC Contact: Michael Spencer, (202) 502–6093, *michael.spencer@ferc.gov*.

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–14967–000.

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–14967) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 9, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–10050 Filed 5–14–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG19–96–000.

Applicants: Wildhorse Wind Energy, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Wildhorse Wind Energy, LLC.

Filed Date: 5/8/19.

Accession Number: 20190508–5128.

Comments Due: 5 p.m. ET 5/29/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2042–030; ER10–1942–022; ER17–696–010; ER10–1938–025; ER10–1934–024; ER10–1893–024; ER10–3051–029; ER10–2985–028; ER10–3049–029; ER11–4369–009; ER16–2218–009; ER10–1862–024; ER10–1865–010.

Applicants: Calpine Energy Services, L.P., Calpine Construction Finance Company, LP, Calpine Energy Solutions, LLC, Calpine Power America—CA, LLC, CES Marketing IX, LLC, CES Marketing X, LLC, Champion Energy, LLC, Champion Energy Marketing LLC, Champion Energy Services, LLC, North American Power and Gas, LLC, North American Power Business, LLC, Power Contract Financing, L.L.C., South Point Energy Center, LLC.

Description: Notification of Change in Status of the Indicated Calpine MBR Sellers.

Filed Date: 5/8/19.

Accession Number: 20190508–5130.

Comments Due: 5 p.m. ET 5/29/19.

Docket Numbers: ER19–105–003.

Applicants: PJM Interconnection, L.L.C.

Description: Compliance filing: Compliance Filing Pursuant to Commission's 4/15/19 Order to be effective 1/17/2019.

Filed Date: 5/9/19.

Accession Number: 20190509–5020.

Comments Due: 5 p.m. ET 5/30/19.

Docket Numbers: ER19–1498–001.

Applicants: AEP Texas Inc.

Description: Tariff Amendment: AEPTX-Pedernales EC IA First Amend & Restated Amendment to be effective 3/13/2019.

Filed Date: 5/9/19.

Accession Number: 20190509–5035.

Comments Due: 5 p.m. ET 5/30/19.

Docket Numbers: ER19–1806–000.

Applicants: Mitsui Bussan Commodities, Ltd.
Description: Compliance filing: Application for Market Based Rate to be effective 8/19/2019.
Filed Date: 5/8/19.
Accession Number: 20190508–5111.
Comments Due: 5 p.m. ET 5/29/19.

Docket Numbers: ER19–1807–000.
Applicants: PacifiCorp.
Description: Tariff Cancellation: Termination of Invenergy Solar E&P Agreement to be effective 7/29/2019.
Filed Date: 5/8/19.
Accession Number: 20190508–5112.
Comments Due: 5 p.m. ET 5/29/19.

Docket Numbers: ER19–1808–000.
Applicants: Midcontinent Independent System Operator, Inc., American Electric Power Service Corporation.
Description: § 205(d) Rate Filing: 2019–05–09_Rate Schedule 53_Duke IMTCo Revenue Distribution Agreement to be effective 6/1/2019.
Filed Date: 5/9/19.
Accession Number: 20190509–5019.
Comments Due: 5 p.m. ET 5/30/19.

Docket Numbers: ER19–1809–000.
Applicants: Southwestern Electric Power Company.
Description: § 205(d) Rate Filing: SWEPCO-Bentonville POD#8 DPA Cancellation to be effective 5/1/2019.
Filed Date: 5/9/19.
Accession Number: 20190509–5034.
Comments Due: 5 p.m. ET 5/30/19.

Docket Numbers: ER19–1810–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original ISA, SA No. 5361; Queue No. AB2–099 to be effective 4/9/2019.
Filed Date: 5/9/19.
Accession Number: 20190509–5050.
Comments Due: 5 p.m. ET 5/30/19.

Docket Numbers: ER19–1811–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: GIA Tulare Solar 5 Project SA No. 1079 to be effective 5/10/2019.
Filed Date: 5/9/19.
Accession Number: 20190509–5051.
Comments Due: 5 p.m. ET 5/30/19.

Docket Numbers: ER19–1812–000.
Applicants: CED Wistaria Solar, LLC.
Description: § 205(d) Rate Filing: Filing of a Certificate of Concurrence to be effective 5/8/2019.
Filed Date: 5/9/19.
Accession Number: 20190509–5052.
Comments Due: 5 p.m. ET 5/30/19.

Docket Numbers: ER19–1813–000.
Applicants: CED Wistaria Solar, LLC.
Description: § 205(d) Rate Filing: Filing of a Certificate of Concurrence to be effective 5/8/2019.
Filed Date: 5/9/19.
Accession Number: 20190509–5079.
Comments Due: 5 p.m. ET 5/30/19.

Docket Numbers: ER19–1814–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original ISA SA No. 5359; Queue No. AB1–141/AB1–142 to be effective 4/9/2019.
Filed Date: 5/9/19.
Accession Number: 20190509–5081.
Comments Due: 5 p.m. ET 5/30/19.

Docket Numbers: ER19–1815–000.
Applicants: Southern California Edison Company.
Description: Tariff Cancellation: Cancel Letter Agmt Southern California Renewable Partners—Vision Wind Project to be effective 3/21/2019.
Filed Date: 5/9/19.
Accession Number: 20190509–5083.
Comments Due: 5 p.m. ET 5/30/19.

Docket Numbers: ER19–1816–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: TO Tariff Revision to Formula Capital Structure Calculation to be effective 7/8/2019.
Filed Date: 5/9/19.
Accession Number: 20190509–5084.
Comments Due: 5 p.m. ET 5/30/19.

Docket Numbers: ER19–1817–000.
Applicants: Virginia Electric and Power Company.
Description: Compliance filing: Informational Filing—Amend PPA with Birchwood Power Partners, L.P. to be effective N/A.
Filed Date: 5/9/19.
Accession Number: 20190509–5105.
Comments Due: 5 p.m. ET 5/30/19.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES19–29–000.
Applicants: Golden Spread Electric Cooperative, Inc.
Description: Application under Section 204 of the Federal Power Act for Continue Authorization to Issue Securities of Golden Spread Electric Cooperative, Inc.
Filed Date: 5/9/19.
Accession Number: 20190509–5056.
Comments Due: 5 p.m. ET 5/30/19.

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: May 9, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–10045 Filed 5–14–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1855–000]

Great River Hydro, LLC; Notice of Authorization for Continued Project Operation

On October 31, 2012 Great River Hydro, LLC, licensee for the Bellows Falls Hydroelectric Project, filed an Application for a New License pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The Bellows Falls Hydroelectric Project is located on the Connecticut River in Windham County, VT and Cheshire County, NH.

The license for Project No. 1855 was issued for a period ending April 30, 2019. Section 15(a) (1) of the FPA, 16 U.S.C. 808(a) (1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the

Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 1855 is issued to the licensee for a period effective May1, 2019 through April 30, 2020, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before April 30, 2020, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that the licensee, Great River Hydro, LLC, is authorized to continue operation of the Bellows Falls Hydroelectric Project until such time as the Commission acts on its application for a subsequent license.

Dated: May 9, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–10043 Filed 5–14–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Falcon and Amistad Projects—Rate Order No. WAPA–186

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of rate order extending firm power formula rate.

SUMMARY: The Under Secretary of Energy approves, on an interim basis, the extension of the existing Falcon and Amistad Projects' (Projects) firm power formula rate through June 7, 2024 and will submit them to the Federal Energy Regulatory Commission (FERC) for confirmation and approval on a final basis. The existing firm power formula rate is set to expire June 7, 2019. This rate extension makes no change to the existing formula rate.

DATES: The firm power formula rate will be placed into effect on an interim basis June 8, 2019.

FOR FURTHER INFORMATION CONTACT: Mr. Steven R. Johnson, Colorado River Storage Project (CRSP) Manager, CRSP Management Center, Western Area Power Administration, 299 South Main Street, Suite 200, Salt Lake City, UT 84111; (970) 252–3000; email *johnsons@wapa.gov,* or Mr. Thomas Hackett, Rates Manager, CRSP Management Center, (801) 524–5503 or email *hackett@wapa.gov.*

SUPPLEMENTARY INFORMATION: By Delegation Order No. 00–037.00B, effective November 19, 2016, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western Area Power Administration's (WAPA) Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to FERC. In Delegation Order No. 00–002.00Q, effective November 1, 2018, the Secretary of Energy also delegated to the Under Secretary of Energy the authority to confirm, approve, and place into effect on an interim basis power and transmission rates for WAPA. This extension is issued in accordance with the Delegation Order and DOE rate extension procedures at 10 CFR 903.23(a).

The Falcon and Amistad Dams are features of international water storage projects located on the Rio Grande between Texas and Mexico. Under the terms of Contract No. 7–07–50–P0890, dated August 9, 1977, as amended (Contract), WAPA markets the power from these dams to South Texas Electric Cooperative, Inc. (STEC). The firm power formula rate for the Projects was approved by the Federal Power Commission, predecessor of FERC, in Docket No. E–9566 on August 12, 1977 (59 FPC 1653), for a 5-year period effective on the date of initial operation of Amistad Power Plant, June 8, 1983.[1]

WAPA calculates the annual installment to be paid by STEC for the power generated at the Falcon and Amistad power plants on or before August 31 of the year preceding the fiscal year to which it pertains, and identifies this amount in a rate schedule. WAPA uses each annual installment to pay the annual amortized portion of the United States' investment in the Falcon and Amistad hydroelectric facilities, with interest, and the associated operation, maintenance, and administrative costs. This repayment schedule is not dependent upon the power and energy made available for sale or the rate of generation each year. STEC, as the sole customer that takes service from the Projects, submitted a letter in support of this rate extension.

Following DOE's review of WAPA's proposal,[2] I hereby approve Rate Order No. WAPA–186 on an interim basis, which extends, without adjustment, the Projects' firm power formula rate through June 7, 2024. Rate Order No. WAPA–186 will be submitted to FERC for confirmation and approval on a final basis.

Dated: May 8, 2019.

Mark W. Menezes,

Under Secretary of Energy.

DEPARTMENT OF ENERGY

UNDER SECRETARY

In the matter of: Western Area Power Administration Extension for Falcon and Amistad Projects' Firm Power Formula Rate)

Rate Order No. WAPA–186

ORDER CONFIRMING, APPROVING, AND PLACING THE FALCON AND AMISTAD PROJECTS' FIRM POWER FORMULA RATE INTO EFFECT ON AN INTERIM BASIS

This Rate Order extends a firm power formula rate. The extension is undertaken pursuant to section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152), which transferred to, and vested in, the Secretary of Energy the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation, under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and specifically includes ''the transmission and disposition of the electric power and energy generated at Falcon Dam and Amistad Dam, international storage reservoir projects on the Rio Grande, pursuant to the Act of June 18, 1954, as amended by the Act of December 23, 1963.''

By Delegation Order No. 00–037.00B, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to the Administrator of the Western Area Power Administration (WAPA); (2) the authority to confirm, approve, and place into effect such rates on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to the Federal Energy Regulatory

[1] FERC subsequently approved multiple 5-year rate extensions of the same formula rate, most recently on April 9, 2015, in Docket No. EF14–9–000, which extended the rate through June 7, 2019 (151 FERC ¶ 62,027).

[2] WAPA's proposal was published on December 26, 2018 (83 FR 66,257).

Commission (FERC). By Delegation Order No. 00–002.00Q, effective November 1, 2018, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary of Energy. This Rate Order's extension is issued under the latter Delegation Order and DOE's rate extension procedures as codified at 10 CFR 903.23(a).[3]

BACKGROUND

On April 9, 2015, FERC confirmed, approved, and placed into effect Rate Order No. WAPA–164 for a 5 year period through June 7, 2019.[4] On December 26, 2018, pursuant to 10 CFR 903.23(a), WAPA filed a notice in the **Federal Register** proposing to extend, without adjustment, the Falcon and Amistad Projects' (Projects) firm power formula rate as Rate Order No. WAPA–186.[5] Consistent with the regulations at 10 CFR 903.23(a), WAPA held a consultation and comment period. WAPA received no comments during the consultation and comment period. WAPA did receive a letter from South Texas Electric Cooperative, the sole customer that takes service from the Projects, in support of extending the firm power formula rate, dated November 15, 2018.

DISCUSSION

The existing formula rate provides sufficient revenue to recover annual expenses, interest, and capital replacements within the cost recovery criteria set forth in DOE Order RA 6120.2. Annual expenses generally include operational expenses, such as salaries and benefits as well as incidental equipment costs. Equipment replacements and maintenance beyond recurring activities are considered capital replacements; these costs, along with the initial Federal investment in the Projects, are amortized with interest and repaid to the U.S. Department of the Treasury. A reconciliation of estimates to actual expenses is accomplished at the end of the rate period, and any differences are included in the following year's revenue requirement.

The requested extension period under Rate Order No. WAPA–186, June 8, 2019 through June 7, 2024, includes no adjustment to the formula rate.

ORDER

In view of the above, and under the authority delegated to me, I hereby extend, on an interim basis, WAPA's existing firm power formula rate through June 7, 2024. This rate shall remain in effect on an interim basis, pending FERC's confirmation and approval of this extension, or substitute rates, on a final basis.

Dated: May 8, 2019

Mark W. Menezes
Under Secretary of Energy

Rate Schedule Falcon and Amistad Projects' Firm Power Formula Rate

UNITED STATES DEPARTMENT OF ENERGY

WESTERN AREA POWER ADMINISTRATION

COLORADO RIVER STORAGE PROJECT MANAGEMENT CENTER

Falcon and Amistad Projects

Firm Power Formula Rate Calculation

EFFECTIVE:

The first day of the first full billing period beginning on or after June 8, 1983, through June 7, 1988, or until superseded by another formula, whichever occurs earlier. Note: Extension of this firm power formula rate, for 5-year increments, was first approved by the Federal Power Commission, predecessor of the Federal Energy Regulatory Commission (FERC), on August 12, 1977. FERC has subsequently approved the firm power formula rate on July 20, 1988, September 29, 1993, June 7, 1998, January 31, 2005, December 17, 2009, and April 9, 2015, for service through June 7, 2019. Rate Order No. WAPA–186 extends this formula rate calculation through June 7, 2024.

Available:

In the area served by the Falcon and Amistad Projects (Projects).

Applicable:

To preference customers who are under contract with Western Area Power Administration (WAPA) to receive electric service from the Projects.

Formula Rate:

The existing formula rate provides sufficient revenue to recover annual expenses, interest, and capital replacements within the cost recovery criteria set forth in DOE Order RA 6120.2. Annual expenses generally include operational expenses, such as salaries and benefits as well as incidental equipment costs. Equipment replacements and maintenance beyond recurring activities are considered capital replacements; these costs, along with the initial Federal investment in the Projects, are amortized with interest and repaid to the U.S. Department of the Treasury. A reconciliation of estimates to actual expenses is accomplished at the end of the rate period, and any differences are included in the following year's revenue requirement.

Billing:

WAPA bills the South Texas Electric Cooperative, the sole customer that takes service from the Projects, on a monthly basis. Each monthly charge is equal to one twelfth of the Projects' annual rate installment, rounded to the penny.

[FR Doc. 2019–10057 Filed 5–14–19; 8:45 am]

BILLING CODE 6450–01–P

[3] 84 FR 5347 (2019).

[4] Order Confirming and Approving Rate Schedule on a Final Basis, FERC Docket No. EF14–9–000, 151 FERC ¶ 62,027 (2015).

[5] 83 FR 66257 (2018).

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2016–0426; FRL–9993–61]

TSCA Inventory Notification (Active-Inactive) Requirements; Availability of a Signed Action Identifying Chemical Substances for Inactive Designation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA is announcing the availability of a signed action identifying chemical substances for inactive designation according to the Toxic Substances Control Act (TSCA) Inventory Notification (Active-Inactive) Requirements rule. The signed action is a companion to the first version of the TSCA Chemical Substance Inventory with all listings designated as active or identified as inactive, which was posted on the EPA TSCA inventory web page on February 19, 2019. The signed action, dated May 6, 2019, initiates a 90-day period after which substances identified as inactive will be designated as inactive.

DATES: Inactive designations for chemical substances on the TSCA Chemical Substance Inventory are effective on Monday, August 5, 2019.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Tracy Williamson, Chemistry, Economics, and Sustainable Strategies Division (Mailcode 7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8569; email address: *williamson.tracy@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422

South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be affected by this action if you currently domestically manufacture, import, or process for nonexempt commercial purpose a chemical substance identified as inactive on the TSCA Chemical Substance Inventory (''TSCA Inventory''). You may also be affected by this action if you intend in the future to domestically manufacture, import, or process a chemical substance identified as inactive on the TSCA Inventory.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2016–0426, is available online at *http://www.regulations.gov* or in person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket that is available at *http://www.epa.gov/dockets.* You also will find related information at *http://www.epa.gov/tsca-inventory.*

II. Authority

As amended in June 2016, TSCA section 8(b), 15 U.S.C. 2607(b), requires that EPA designate chemical substances on the TSCA Inventory as active or inactive in U.S. commerce. TSCA section 8(b)(4) directs EPA to promulgate a rule that requires manufacturers, and may require processors, to notify EPA of each chemical substance on the TSCA Inventory that they manufactured or processed (as applicable) for a nonexempt commercial purpose during the 10-year period ending on the day before June 22, 2016. Following this retrospective reporting, EPA must designate chemical substances for which notices are received to be active substances on the TSCA Inventory and must designate chemical substances for which no notices are received to be inactive substances on the TSCA Inventory.

TSCA section 8(b) establishes a forward-looking reporting requirement that goes into effect upon EPA's designation of a chemical substance as inactive. Specifically, anyone intending to manufacture or process for a nonexempt commercial purpose a chemical substance that is designated as an inactive substance must notify EPA before the inactive substance is manufactured or processed. On receiving this forward-looking notification, EPA must designate the substance as active.

EPA implemented the TSCA section 8(b) requirements through the TSCA Inventory Notification (Active-Inactive) Requirements rule (82 FR 37520, Aug. 11, 2017) (FRL–9964–22), which established retrospective and forward-looking reporting procedures in 40 CFR part 710, subpart B. Retrospective commercial activity reporting closed on October 5, 2018. EPA subsequently compiled the first version of the TSCA Inventory with all substances either designated as active in commerce or identified as inactive in commerce.

EPA regulations at 40 CFR 710.23 provide that EPA's designation of a chemical substance as inactive becomes effective 90 days after EPA identifies the chemical substance for such designation. EPA explained in the preamble to the final rule that EPA will identify chemical substances for inactive designation in a signed action accompanying the first version of the Inventory with all finalized active-inactive listings. See 82 FR at 37525. Subject to certain exceptions, once a chemical substance is designated as inactive, any person who intends to manufacture (including import) or process that substance must submit a Notice of Activity Form B to EPA prior to such manufacturing or processing. See 40 CFR 710.25(c) and 710.30(b). EPA regulations also allow a Form B to be submitted during the 90-day period between EPA's identification of a chemical substance for inactive designation and the effective date for such designation. See 40 CFR 710.30(b)(2).

III. Notice of Inactive Designations

EPA is announcing the availability of an EPA memorandum signed on May 6, 2019. This signed action is a companion to the first version of the TSCA Inventory with all listings designated as active or identified as inactive, which was posted on the EPA TSCA Inventory web page on February 19, 2019. The TSCA Inventory can be accessed at *https://www.epa.gov/tsca-inventory.* The signed action is available in docket ID number *EPA–HQ–OPPT–2016–0426* at *http://www.regulations.gov.*

The signed action initiates the 90-day period after which substances identified as inactive will be designated as inactive. Because the action was signed on May 6, 2019, inactive designations will become effective on Monday, August 5, 2019. Accordingly, the obligation described in 40 CFR 710.25(c) and 710.30(b) to submit a Notice of Activity Form B before manufacturing or processing an inactive substance will arise beginning on Monday August 5, 2019.

Authority: 15 U.S.C. 2607(b).

Dated: May 9, 2019.

Alexandra Dapolito Dunn,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2019–10070 Filed 5–14–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2018–0258; FRL–9993–59]

RIN 2070–ZA21

Pesticides; Draft Guidance for Pesticide Registrants on Plant Regulator Label Claims, Including Plant Biostimulants; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice, extension of comment period.

SUMMARY: In response to public requests for an extension of the comment period, EPA is extending the comment period for the draft guidance document that was released for public comment in the **Federal Register** of March 27, 2019, for an additional 60 days.

DATES: Comments, identified by docket identification (ID) number EPA–HQ–OPP–2018–0258, must be received on or before July 28, 2019.

ADDRESSES: Follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of March 27, 2019 (84 FR 11538) (FRL–9986–27).

FOR FURTHER INFORMATION CONTACT:

For general information contact: Prasad Chumble, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–8367;

email address: *chumble.prasad@epa.gov.*

For technical information contact: Russell Jones, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703)308–5071; email address: *jones.russell@epa.gov.*

SUPPLEMENTARY INFORMATION: This document extends the public comment period established in the **Federal Register** of March 27, 2019 (84 FR 11538) (FRL–9986–27). In that document, EPA announced the availability of and sought public comment on a draft guidance document entitled ''Guidance for Plant Regulator Label Claims, Including Plant Biostimulants.'' EPA is hereby extending the comment period that was set to end on May 28, 2019 to July 28, 2019.

To submit comments, or access the docket, please follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of March 27, 2019. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 7 U.S.C. 136 *et seq.*

Dated: May 8, 2019.

Alexandra Dapolito Dunn,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2019–10071 Filed 5–14–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0751; FRL–9993–16]

Interim Registration Review Decisions and Case Closures for Several Pesticides; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's interim registration review decision for the following chemicals: 2,4-xylenol, *Bacillus popilliae,* barium metaborate, biobor, cyhalofop-butyl, emamectin benzoate, german cockroach pheromone, gibberellins, *m*-cresol, methyl eugenol, methyl isopropenyl, prodiamine, rhamnolipid biosurfactant, and salicylic acid.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the pesticide specific contact person listed under **FOR FURTHER INFORMATION CONTACT**: *For pesticide specific information, contact:* The Chemical Review Manager for the pesticide of interest identified in the Table in Unit IV.

For general information on the registration review program, contact: Dana Friedman, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–8827; email address: *friedman.dana@epa.gov.*

II. Background

Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed interim decisions for all pesticides listed in the Table in Unit IV. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

EPA is conducting its registration review of the chemicals listed in the Table in Unit IV pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. What action is the Agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's interim registration review decisions for the pesticides shown in the following table. The interim registration review decisions are supported by rationales included in the docket established for each chemical.

TABLE—REGISTRATION REVIEW INTERIM DECISIONS BEING ISSUED

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
2,4-Xylenol, Case Number 4098	EPA–HQ–OPP–2010–0240	Jonathan Williams, *williams.jonathanr@epa.gov*, (703) 347–0670.
Bacillus popilliae, Case Number 4102.	EPA–HQ–OPP–2016–0043	Daniel Schoeff, *schoeff.daniel@epa.gov*, (703) 347–0143.
Barium Metaborate, Case Number 0632.	EPA–HQ–OPP–2008–0047	Daniel Halpert, *halpert.daniel@epa.gov*, (703) 347–0133.
Biobor, Case Number 3029	EPA–HQ–OPP–2008–0453	Megan Snyderman, *snyderman.megan@epa.gov*, (703) 347–0671.
Cyhalofop-butyl, Case Number 7255.	EPA–HQ–OPP–2014–0115	Rachel Fletcher, *flethcer.rachel@epa.gov*, (703) 347–0512.
Emamectin Benzoate, Case Number 7607.	EPA–HQ–OPP–2011–0483	Susan Bartow, *bartow.susan@epa.gov*, (703) 603–0065.
German Cockroach Pheromone, Case Number 6023.	EPA–HQ–OPP–2017–0261	Daniel Schoeff, *schoeff.daniel@epa.gov*, (703) 347–0143.
Gibberellins, Case Number 4110	EPA–HQ–OPP–2012–0939	Cody Kendrick, *kendrick.cody@epa.gov*, (703) 347–0468.

TABLE—REGISTRATION REVIEW INTERIM DECISIONS BEING ISSUED—Continued

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
meta-Cresol (*m*-Cresol), Case Number 4027.	EPA–HQ–OPP–2010–0244	Jonathan Williams, *williams.jonathanr@epa.gov*, (703) 347–0670.
Methyl Eugenol, Case Number 6203.	EPA–HQ–OPP–2016–0173	Alexandra Boukedes, *boukedes.alexandra@epa.gov*, (703) 347–0305.
Prodiamine, Case Number 7201 ...	EPA–HQ–OPP–2010–0920	Jordan Page, *page.jordan@epa.gov*, (703) 347–0467.
Methyl Isopropenyl, Case Number 6090.	EPA–HQ–OPP–2017–0253	Alexandra Boukedes, *boukedes.alexandra@epa.gov*, (703) 347–0305.
Rhamnolipid Biosurfactant, Case Number 6085.	EPA–HQ–OPP–2017–0275	Cody Kendrick, *kendrick.cody@epa.gov*, (703) 347–0468.
Salicylic Acid and Methyl Salicylate, Case Number 4080.	EPA–HQ–OPP–2017–0328	Donna Kamarei, *kamarei.donna@epa.gov*, (703) 347–0443.

The proposed interim registration review decisions for the chemicals in the table above were posted to the docket and the public was invited to submit any comments or new information. EPA addressed the comments or information received during the 60-day comment period for the proposed interim decisions in the discussion for each pesticide listed in the table. Comments from the 60-day comment period that were received may or may not have affected the Agency's interim decision. Pursuant to 40 CFR 155.58(c), the registration review case docket for the chemicals listed in the Table will remain open until all actions required in the interim decision have been completed.

Background on the registration review program is provided at: *http://www.epa.gov/pesticide-reevaluation.*

Authority: 7 U.S.C. 136 *et seq.*

Dated: May 1, 2019.

Charles Smith,

Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2019–10004 Filed 5–14–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Item From May 9, 2019 Open Meeting

May 8, 2019.

The following item has been adopted by the Commission and deleted from the list of items scheduled for consideration at the Thursday, May 9, 2019, Open Meeting. The item was previously listed in the Commission's Notice of Thursday, May 2, 2019.

Item No.	Bureau	Subject
5	OFFICE OF MANAGING DIRECTOR	TITLE: Assessment and Collection of Regulatory Fees for Fiscal Year 2019 (MD Docket No. 19–105). SUMMARY: The Commission will consider a Notice of Proposed Rulemaking to seek comment on proposed regulatory fees for Fiscal Year 2019.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2019–10023 Filed 5–14–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Thursday, May 9, 2019

The Federal Communications Commission held an Open Meeting on the subjects listed below on Thursday, May 9, 2019 which scheduled to commence at 10:30 a.m. in Room TW–C305, at 445 12th Street SW, Washington, DC.

Item No.	Bureau	Subject
1	INTERNATIONAL	*Title:* China Mobile International (USA) Inc., Application for Global Facilities-Based and Global Resale International Telecommunications Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended (File No. ITC–214–20110901–00289). *Summary:* The Commission will consider a Memorandum Opinion and Order that would deny the application of China Mobile USA for a Section 214 authorization to provide international telecommunications services between the United States and foreign destinations.
2	WIRELESS TELECOMMUNICATIONS	*Title:* Allocation and Service Rules for the 1675–1680 MHz Band (WT Docket No. 19–116). *Summary:* The Commission will consider a Notice of Proposed Rulemaking that would seek comment on reallocating spectrum in the 1675–1680 MHz band for shared use between incumbent federal operations and non-federal fixed or mobile (except aeronautical mobile) operations.
3	MEDIA	*Title:* Amendment of Part 74 of the Commission's Rules Regarding FM Translator Interference (MB Docket No. 18–119). *Summary:* The Commission will consider a Report and Order that would adopt streamlined rules relating to interference caused by FM translators and expedite the translator interference complaint resolution process.

Item No.	Bureau	Subject
4	WIRELINE COMPETITION	*Title:* Auction of Toll-Free Numbers in the 833 Code; Comment Sought on Competitive Bidding Procedures (AU Docket No. 19–101, WC Docket No. 17–192, and CC Docket No. 95–155). *Summary:* The Commission will consider a Public Notice seeking comment on proposed procedures for conducting and participating in an auction of toll-free numbers in the 833 code.
5	OFFICE OF MANAGING DIRECTOR	*Title:* Assessment and Collection of Regulatory Fees for Fiscal Year 2019 (MD Docket No. 19–105). *Summary:* The Commission will consider a Notice of Proposed Rulemaking to seek comment on proposed regulatory fees for Fiscal Year 2019.
6	INTERNATIONAL	*Title:* Theia Holdings A, Inc. Request for Authority to Launch and Operate a Non-Geostationary Satellite Orbit System in the Fixed-Satellite Service, Mobile-Satellite Service, and Earth-Exploration Satellite Service (File Nos. SAT–LOA–20161115–00121, SAT–AMD–20170301–00029; Call Sign S2986). *Summary:* The Commission will consider a Memorandum Opinion Order and Authorization that would grant Theia's request to deploy and operate a proposed non-geostationary satellite constellation to provide earth imaging services around the world.
7	CONSUMER & GOVERNMENTAL AFFAIRS.	*Title:* Structure and Practices of the Video Relay Service Program (CG Docket No. 10–51); Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities (CG Docket No. 03–123). *Summary:* The Commission will consider a Report and Order and Further Notice of Proposed Rulemaking that would adopt measures, and seek comment on others, to improve Video Relay Service (VRS), expand access to direct video communications, and protect the VRS program against waste, fraud, and abuse.

* * * * *

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the internet from the FCC Live web page at *www.fcc.gov/live.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the internet. To purchase these services, call (703) 993–3100 or go to *www.capitolconnection.gmu.edu.*

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison, Office of the Secretary.

[FR Doc. 2019–10075 Filed 5–14–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0394]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before July 15, 2019. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0394.

Title: Section 1.420, Additional Procedures in Proceedings for Amendment of FM, TV or Air-Ground Table of Allotments.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 30 respondents; 30 responses.

Estimated Time per Response: 0.33 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority is contained in Section 154(i)

of the Communications Act of 1934, as amended.

Total Annual Burden: 10 hours.

Total Annual Cost: $13,500.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The information collection requirements contained in 47 CFR 1.420(j) require a petitioner seeking to withdraw or dismiss its expression of interest in allotment proceedings to file a request for approval. This request would include a copy of any related written agreement and an affidavit certifying that neither the party withdrawing its interest nor its principals has received any consideration in excess of legitimate and prudent expenses in exchange for dismissing/withdrawing its petition, the exact nature and amount of consideration received or promised, an itemization of the expenses for which it is seeking reimbursement, and the terms of any oral agreement. Each remaining party to any written or oral agreement must submit an affidavit within five (5) days of petitioner's request for approval stating that it has paid no consideration to the petitioner in excess of the petitioner's legitimate and prudent expenses and provide the terms of any oral agreement relating to the dismissal or withdrawal of the expression of interest.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–10024 Filed 5–14–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Tuesday, May 21, 2019 at 10:00 a.m. and its continuation at the conclusion of the open meeting on May 23, 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.

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. 2019–10216 Filed 5–13–19; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202)-523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 201301.

Agreement Name: ''K'' Line/Liberty Global Logistics LLC U.S./Japan Car Carrier Space Charter Agreement.

Parties: Kawasaki Kisen Kaisha, Ltd. and Liberty Global Logistics LLC.

Filing Party: John Meade; ''K'' Line America, Inc.

Synopsis: The Agreement authorizes the Parties to charter space to/from one another in the trade between Japan and the U.S.

Proposed Effective Date: 5/8/2019.

Location: *https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/22396.*

Agreement No.: 201302.

Agreement Name: ''K'' Line/Liberty Global Logistics LLC U.S./Middle East Car Carrier Space Charter Agreement.

Parties: Kawasaki Kisen Kaisha, Ltd. and Liberty Global Logistics LLC.

Filing Party: John Meade; ''K'' Line America, Inc.

Synopsis: The Agreement authorizes the Parties to charter space to/from one another in the trade between the U.S. and the Middle East.

Proposed Effective Date: 5/9/2019.

Location: *https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/22397.*

Agreement No.: 201303.

Agreement Name: ''K'' Line/Liberty Global Logistics LLC U.S./Mexico Car Carrier Space Charter Agreement.

Parties: Kawasaki Kisen Kaisha, Ltd. and Liberty Global Logistics LLC.

Filing Party: John Meade; ''K'' Line America, Inc.

Synopsis: The Agreement authorizes the Parties to charter space to/from one another in the trade between Mexico and the U.S. East Coast.

Proposed Effective Date: 5/9/2019.

Location: *https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/22398.*

Agreement No.: 201304.

Agreement Name: ''K'' Line/Liberty Global Logistics LLC U.S./Belgium/Germany Car Carrier Space Charter Agreement.

Parties: Kawasaki Kisen Kaisha, Ltd. and Liberty Global Logistics LLC.

Filing Party: John Meade; ''K'' Line America, Inc.

Synopsis: The Agreement authorizes the Parties to charter space to/from one another in the trade between Belgium and Germany on the one hand, and the U.S. East Coast on the other hand.

Proposed Effective Date: 5/9/2019.

Location: *https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/22399.*

Dated: May 10, 2019.

Rachel Dickon,

Secretary.

[FR Doc. 2019–10055 Filed 5–14–19; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, with revision, the Suspicious Activity Report (FR 2230; OMB No. 7100–0212).

DATES: The revisions were applicable as of July 27, 2018.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW,

Washington, DC 20503 or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Board may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Final approval under OMB delegated authority of the extension for three years, with revision, of the following information collections:

Report title: Suspicious Activity Report.

Agency form number: FR 2230.

OMB control number: 7100–0212.

Effective Date: July 27, 2018.

Frequency: On occasion.

Respondents: State member banks, bank holding companies and their nonbank subsidiaries, Edge and agreement corporations, and the U.S. branches and agencies, representative offices, and nonbank subsidiaries of foreign banks supervised by the Board.

Estimated number of respondents: 6,698.

Estimated average hours per response: 1.5.

Estimated annual burden hours: 439,520.

General description of report: Since 1996, the federal banking agencies [1] and the Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) have required certain types of financial institutions to report known or suspected violations of law and suspicious transactions. To fulfill these requirements, supervised banking organizations file Bank Secrecy Act—Suspicious Activity Reports (BSA–SARs).[2] Law enforcement agencies use the information submitted in the reports to initiate investigations and the Board uses the information in the examination and oversight of supervised institutions.

Legal authorization and confidentiality: The FR 2230 is authorized pursuant to the Federal Reserve Act (12 U.S.C. 248(a)(1), 602, 625), the Federal Deposit Insurance Act (12 U.S.C. 1818(s)), the Bank Holding Company Act (12 U.S.C. 1844(c)), and the International Banking Act (12 U.S.C. 3105(c)(2) and 3106(a)). The FR 2230 is mandatory. SARs are confidential and may be withheld pursuant to exemption 3 of the Freedom of Information Act (5 U.S.C. 552(b)(3)), which protects information ''specifically exempted from disclosure'' by another statute, and by the Bank Secrecy Act (31 U.S.C. 5319), which provides that SARs ''are exempt from disclosure under section 552 of title 5.''

Current actions: On February 5, 2019, the Board published a notice in the **Federal Register** (84 FR 1732) requesting public comment for 60 days on the extension, with revision, of the Suspicious Activity Report.

The Board's has revised the FR 2230 to be consistent with changes implemented by FinCEN, which had added, removed, or revised several data fields on the electronically filed SAR. In addition, FinCEN had changed the file format for electronic submission of the SAR by batch filers from ASCII based fixed-length delimited file to an XML based file. The Board has not adopted any changes to the SAR regulatory reporting criteria. Institutions will continue to follow Regulation H (12 CFR 208.62) and filing instructions in determining when to file a report and what information should be included on the report.

The comment period for this notice expired on April 8, 2019. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, May 9, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019–09972 Filed 5–14–19; 8:45 am]

BILLING CODE 6210–01–P

[1] These agencies include the Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the National Credit Union Administration.

[2] In 1996, the Board together with the other federal banking agencies issued nearly identical regulations to implement the SAR process for banking organizations.

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Recordkeeping Provisions Associated with the Interagency Statement on Complex Structured Finance Activities (FR 4022; OMB No. 7100–0311). This collection of information was formerly titled ''Recordkeeping Requirements Associated with the Interagency Statement on Complex Structured Finance Activities.'' The Board has changed the title of the collection of information to reflect that the information collections that are the subject of this supporting statement are voluntary.

DATES: Comments must be submitted on or before July 15, 2019.

ADDRESSES: You may submit comments, identified by FR 4022, by any of the following methods:

- *Agency website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include Office of Management and Budget (OMB) number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available on the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act (PRA) OMB submission, including the proposed reporting form and

instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

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

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

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

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

Report title: Recordkeeping Provisions Associated with the Interagency Statement on Complex Structured Finance Activities.

Agency form number: FR 4022.

OMB control number: 7100–0311.

Frequency: Annual.

Respondents: State member banks, bank holding companies (other than foreign banking organizations), savings and loan holding companies (SLHCs), and U.S. branches and agencies of foreign banks.

Estimated number of respondents: 18.

Estimated average hours per response: 10.

Estimated annual burden hours: 180.

General description of report: The guidance provides that state member banks, bank holding companies (other than foreign banking organizations), SLHCs, and U.S. branches and agencies of foreign banks supervised by the Board should establish and maintain policies and procedures for identifying, evaluating, assessing, documenting, and controlling risks associated with certain complex structured finance transactions (CSFTs). The guidance states that supervised entities should provide sufficient information and convey reports to the institution's management and board of directors concerning elevated risks from CSFTs.

Legal authorization and confidentiality: The Board is authorized to issue the recordkeeping guidance associated with the Interagency Statement with respect to state member banks pursuant to sections 9(7), 11(a), 21(4), and 25(4) of the Federal Reserve Act (12 U.S.C. 325, 248(a), 483, and 602); with respect to bank holding companies pursuant to section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)); with respect to SLHCs pursuant to section 10(b) and (g) of the Home Owners' Loan Act (12 U.S.C. 1467a(b) and (g)); and with respect to U.S. branches and agencies of foreign banks pursuant to sections 7(c) and 13(a) of the International Banking Act of 1978 (12 U.S.C. 3105(c) and 3108(a)).

Because the recordkeeping provisions are contained within guidance, which is nonbinding, these provisions are voluntary. There are no reporting forms associated with the recordkeeping provisions of the Interagency Statement. Because any policies, procedures, or other records that were voluntarily created pursuant to the guidance in the Interagency Statement would be maintained at each financial institution, the Freedom of Information Act (FOIA) would only be implicated if the Board obtained such records as part of the examination or supervision of a financial institution. In the event the records are obtained by the Board as part of an examination or supervision of a financial institution, this information is considered confidential pursuant to exemption 8 of the FOIA, which protects information contained in ''examination, operating, or condition reports'' obtained in the bank supervisory process (5 U.S.C. 552(b)(8)). In addition, the information may also be kept confidential under exemption 4 of the FOIA, which protects trade secrets or confidential commercial or financial information that is reasonably likely to result in substantial competitive harm if disclosed (5 U.S.C. 552(b)(4)).

Board of Governors of the Federal Reserve System, May 9, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019–09962 Filed 5–14–19; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Recordkeeping Requirements of Regulation H and Regulation K Associated with the Procedures for Monitoring Bank Secrecy Act Compliance (FR K; OMB No. 7100–0310). The internal Agency Tracking Number previously assigned by the Board to this information collection was ''Reg K.'' The Board is changing the internal Agency Tracking Number to ''FR K'' for the purpose of consistency.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and

Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Board may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Report title: Recordkeeping Requirements of Regulation H and Regulation K Associated with the Procedures for Monitoring Bank Secrecy Act Compliance.

Agency form number: FR K.

OMB control number: 7100–0310.

Frequency: Annually.

Respondents: State member banks; Edge and agreement corporations; and certain U.S. branches, agencies, and representative offices of foreign banks supervised by the Board.

Estimated number of respondents: Establish compliance program—1; maintenance of compliance program—957.

Estimated average hours per response: Establish compliance program—16; maintenance of compliance program—4.

Estimated annual burden hours: Establish compliance program—16; maintenance of compliance program—3,828.

General description of report: The Board's Regulation K and Regulation H require state member banks, Edge and agreement corporations and, except for a federal branch or a federal agency or a state branch that is insured by the Federal Deposit Insurance Corporation, the U.S. branches, agencies, and representative offices of foreign banks supervised by the Board to establish a written Bank Secrecy Act (BSA) compliance program that includes the following components: (1) A system of internal controls to assure ongoing compliance, (2) independent testing of compliance by the institution's personnel or by an outside party, (3) the designation of an individual or individuals for coordinating and monitoring day-to-day compliance, and (4) training for appropriate personnel.[1] The compliance program must be approved by the board of directors of the state member bank, Edge corporation, or agreement corporation and must be noted in the institution's minutes. In the case of a branch, agency, or representative office of a foreign bank, the compliance program may be approved by the foreign bank's board of directors and noted in the minutes or approved by a delegee acting under the express authority of the foreign bank's board of directors.

Legal authorization and confidentiality: The FR K is authorized pursuant to the Federal Deposit Insurance Act (12 U.S.C. 1818(s)), which requires the federal banking agencies, including the Board, to (1) prescribe regulations requiring the institutions they regulate to establish and maintain procedures reasonably designed to assure and monitor compliance with the BSA and (2) to review such procedures during the course of their examinations.[2] The FR K is mandatory.

Because the Federal Reserve will not collect this information, confidentiality issues would normally not arise. Because the records will be retained at banking organizations, the Freedom of Information Act (FOIA) will only be implicated if the Board's examiners retain a copy of the record as part of an examination or supervision of a banking institution. In that case, the records would be exempt from disclosure under exemption 8 of the FOIA, which protects examination materials from disclosure (5 U.S.C. 552(b)(8)). Exemption 4 of the FOIA, which protects confidential financial information, may also be applicable (5 U.S.C. 552(b)(4)).

Current actions: On February 5, 2019, the Board published a notice in the **Federal Register** (84 FR 1731) requesting public comment for 60 days on the extension, without revision, of the FR K. The comment period for this notice expired on April 8, 2019. The Board did not receive any comments.

[1] See 12 CFR 208.63(c); these specific requirements are incorporated by reference in 12 CFR 211.5(m)(1) and 211.24(j)(1).

[2] The Board's authority in 12 U.S.C. 1818(s) to prescribe regulations includes the entities required to comply with section 208.63 of the Board's Regulation H (12 CFR 208.63) and sections 211.5(m)(1) and 211.24(j)(1) of the Board's Regulation K (12 CFR 211.5(m)(1) and 12 CFR 211.24(j)(1)).

Board of Governors of the Federal Reserve System, May 9, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019–09970 Filed 5–14–19; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, with revision, the Application to Become a Savings and Loan Holding Company or to Acquire a Savings Association or Savings and Loan Holding Company (FR LL–10(e); OMB No. 7100–0336).

DATES: The revisions are applicable as of May 1, 2019.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC, 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Board may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after

October 1, 1995, unless it displays a currently valid OMB control number.

Final approval under OMB delegated authority of the extension for three years, with revision, of the following information collection:

Report title: Application to Become a Savings and Loan Holding Company or to Acquire a Savings Association or Savings and Loan Holding Company.

Agency form number: FR LL–10(e).

OMB control number: 7100–0336.

Effective Date: May 1, 2019

Frequency: Event generated.

Respondents: Entities seeking prior approval to become or acquire a savings and loan holding company (SLHC).

Estimated number of respondents: 15.

Estimated average hours per response: 60.

Estimated annual burden hours: 900.

General description of report: This collection of information consists of information that must be filed in connection with certain proposals involving the formation, acquisition, or merger of an SLHC. The Board requires the submission of this filing from an applicant for regulatory and supervisory purposes and to allow the Board to fulfill its statutory obligations to review these transactions under section l0(e) of the Home Owners' Loan Act (HOLA) and the Board's Regulation LL—Savings and Loan Holding Companies. The Board uses the information submitted by applicants to evaluate these transactions with respect to the financial and managerial resources and future prospects of the company(ies) and savings association(s) involved, the effect of the acquisition on the savings association(s), the insurance risk to the Deposit Insurance Fund, the convenience and needs of communities to be served, and competitive effects.[1]

Legal authorization and confidentiality: The FR LL–10(e) is authorized pursuant to Section 10(b)(2) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)) and is mandatory. The information on the FR LL–10(e) is not considered confidential unless the applicant requests confidential treatment pursuant to exemption 4 (confidential business information) or 6 (confidential personal information) of the Freedom of Information Act, 5 U.S.C. 552(b)(4) and (b)(6). All such requests for confidential treatment would be reviewed on a case-by-case basis.

Current actions: On November 30, 2018, the Board published a notice in the **Federal Register** (83 FR 61635) requesting public comment for 60 days on the extension, with revision, of the FR LL–10(e). The comment period for this notice expired on January 29, 2019. The Board did not receive any comments. On March 8, 2019, the Board published an additional notice in the **Federal Register** (84 FR 8527) requesting public comment on the proposed certification page that was mistakenly omitted from the original notice. The comment period for this notice expired on April 8, 2019. The Board did not receive any comments. The revisions will be implemented as proposed.

Board of Governors of the Federal Reserve System, May 9, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019–09951 Filed 5–14–19; 8:45 am]

BILLING CODE 6210–01–P

[1] *See* 12 U.S.C. 1467a(e)(2).

FEDERAL TRADE COMMISSION

[File No. 182 3085]

National Floors Direct, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before June 14, 2019.

ADDRESSES: Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''National Floors Direct; File No. 182 3085'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Carl H. Settlemyer (202–326–2019), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 8, 2019), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before June 14, 2019. Write ''National Floors Direct; File No. 182 3085'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''National Floors Direct; File No. 182 3085'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of

birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before June 14, 2019. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing a consent order as to National Floors Direct, Inc. (''respondent'').

The proposed consent order (''order'') has been placed on the public record for 30 days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the order and the comments received, and will decide whether it should withdraw the order or make it final.

This matter involves the respondent's use of non-disparagement provisions in consumer form contracts in its sale and installation of flooring and carpeting. The complaint alleges that the respondent violated Section 2(c) of the Consumer Review Fairness Act (''CRFA'') by offering to consumers form contracts that contained a non-disparagement provision made void by Section 2(b) of the CRFA. The CRFA defines a form contract as a contract with standardized terms, used in the course of selling or leasing goods or services, and imposed on an individual without a meaningful opportunity for such individual to negotiate the standardized terms.

The order includes injunctive relief that prohibits these alleged violations and fences in similar and related conduct involving the use of contract terms that prohibit, restrict, penalize, or transfer rights in consumer reviews or evaluation of the respondent, its goods, or its services. The CRFA authorizes the Commission to seek civil penalties for knowing violations, but the complaint does not allege that the respondent's violations were knowing, and the order does not provide for monetary relief.

Part I prohibits, in the sale or leasing of any good or service, the respondent from: Offering to any prospective customer a contract, or offering to any customer a renewal contract, that includes a review-limiting term; requiring that a customer accept such a term as a condition of the respondent's fulfillment of its obligations under contracts entered into before the effective date of the order; or attempting to enforce or assert the validity of such a term in a customer contract entered into before the effective date of the order. Part I would not require that the respondent publish or host the content of any person, affect any other legal duty of a party to a contract, or affect any cause of action arising from the breach of such duty.

Part II requires the respondent to notify by mail or email customers with whom it entered into form contracts with a non-disparagement provision on or after March 14, 2017 that the non-disparagement provision is void and cannot be enforced, and that those customers can publish their honest reviews about the respondent, even if their comments are negative.

Part III requires the respondent to submit signed acknowledgments that relevant personnel received the order.

Part IV requires the respondent to file compliance reports with the Commission, and to notify the Commission of bankruptcy filings or changes in corporate structure that might affect compliance obligations.

Part V contains recordkeeping requirements for personnel records, consumer contracts, communications with consumers threatening any legal action relating to any review; and court filings and the company's discovery responses in legal actions over consumer reviews, as well as all records necessary to demonstrate compliance or non-compliance with the order.

Part VI contains other requirements related to the Commission's monitoring of the respondent's order compliance.

Part VII provides the effective dates of the order, including that, with exceptions, the order will terminate in 20 years.

The purpose of this analysis is to facilitate public comment on the order, and it is not intended to constitute an official interpretation of the complaint or order, or to modify the order's terms in any way.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2019–09953 Filed 5–14–19; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 182 3077]

A Waldron HVAC, LLC; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before June 14, 2019.

ADDRESSES: Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the

SUPPLEMENTARY INFORMATION section below. Write: ''A Waldron HVAC, LLC; File No. 182 3077'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Carl H. Settlemyer (202–326–2019), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 8, 2019), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before June 14, 2019. Write ''A Waldron HVAC, LLC; File No. 182 3077'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''A Waldron HVAC, LLC; File No. 182 3077'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before June 14, 2019. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing a consent order as to A Waldron HVAC, LLC and Thomas J. Waldron (''respondents'').

The proposed consent order (''order'') has been placed on the public record for 30 days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the order and the comments received, and will decide whether it should withdraw the order or make it final.

This matter involves the respondents' use of non-disparagement provisions in consumer form contracts in the course of selling their recreational horseback riding services. The complaint alleges that the respondents violated Section 2(c) of the Consumer Review Fairness Act (''CRFA'') by offering to consumers form contracts that contained nondisparagement provisions made void by Section 2(b) of the CRFA. The CRFA defines a form contract as a contract with standardized terms, used in the course of selling or leasing goods or services, and imposed on an individual without a meaningful opportunity for such individual to negotiate the standardized terms.

The order includes injunctive relief that prohibits these alleged violations and fences in similar and related conduct involving the use of contract terms that prohibit, restrict, penalize, or transfer rights in consumer reviews or evaluation of the respondents, their goods, or their services. The CRFA authorizes the Commission to seek civil penalties for knowing violations, but the complaint does not allege that the respondents' violations were knowing, and the order does not provide for monetary relief.

Part I prohibits, in the sale or leasing of any good or service, the respondents from: Offering to any prospective customer a contract, or offering to any customer a renewal contract, that

includes a review-limiting term; requiring that a customer accept such a term as a condition of the respondents' fulfillment of their obligations under contracts entered into before the effective date of the order; or attempting to enforce or assert the validity of such a term in customer contracts entered into before the effective date of the order. Part I would not require that the respondents publish or host the content of any person, affect any other legal duty of a party to a contract, or affect any cause of action arising from the breach of such duty.

Part II requires the respondents to notify by mail or email customers with whom they entered into form contracts with a non-disparagement provision on or after March 14, 2017 that the non-disparagement provision is void and cannot be enforced, and that those customers can publish their honest reviews about the respondents, even if their comments are negative.

Part III requires the respondents to submit signed acknowledgments that relevant personnel received the order.

Part IV requires the respondents to file compliance reports with the Commission, and to notify the Commission of bankruptcy filings or changes in company structure that might affect compliance obligations.

Part V contains recordkeeping requirements for personnel records, consumer contracts, communications with consumers threatening any legal action relating to any review; and court filings and the company's discovery responses in legal actions over consumer reviews, as well as all records necessary to demonstrate compliance or noncompliance with the order.

Part VI contains other requirements related to the Commission's monitoring of the respondents' order compliance.

Part VII provides the effective dates of the order, including that, with exceptions, the order will terminate in 20 years.

The purpose of this analysis is to facilitate public comment on the order, and it is not intended to constitute an official interpretation of the complaint or order, or to modify the order's terms in any way.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

Statement of the Federal Trade Commission

April 24, 2019

Today, the Commission announces cases against Clixsense and i-Dressup,[1] which include allegations that the companies failed to employ reasonable security to protect consumers' sensitive data. The orders obtained in these matters contain strong injunctive provisions, including new requirements that go beyond requirements from previous data security orders. For example, the orders include requirements that a senior officer provide annual certifications of compliance to the Commission, and explicit provisions prohibiting the defendants from making misrepresentations to the third parties conducting assessments of their data security programs. These new requirements will provide greater assurances that consumers' data will be protected going forward.

Since joining the Commission, we have instructed staff to closely review our orders to determine whether they could be strengthened and improved—particularly in the areas of privacy and data security. Through ongoing discussions both internally and with external stakeholders, including through our public *Hearings on Competition and Consumer Protection in the 21st Century* and the comment process,[2] we continue to consider changes to our orders. We will adjust our data security orders, as needed, to reflect our ongoing discussions regarding the FTC's remedial authority and needs, as well as the specific facts and circumstances of each case.

We are particularly committed to strengthening the order provisions regarding data security assessments of companies by third parties. The Commission expects that these third parties will faithfully assess data security practices to identify potential noncompliance with appropriate order provisions. Future orders will better ensure that third-party assessors know they are accountable for providing meaningful, independent analysis of the data practices under examination. The announcements today reflect the beginning of our thinking, but we anticipate further refinements, and these orders may not reflect the approach that we intend to use in every data security enforcement action going forward.

[FR Doc. 2019–09955 Filed 5–14–19; 8:45 am]

BILLING CODE 6750–01–P

[1] Although the Commission's settlement with i-Dressup addresses broader COPPA violations, this statement focuses specifically on the data security requirements set forth in the proposed stipulated order.

[2] *See, e.g., FTC Hearings on Competition and Consumer Protection in the 21st Century* (Session 9—Data Security), Dec. 11–12, 2018, *https://www.ftc.gov/news-events/events-calendar/ftc-hearing-competition-consumer-protection-21st-century-december-2018.*

FEDERAL TRADE COMMISSION

[File No. 182 3098]

LVTR LLC; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before June 14, 2019.

ADDRESSES: Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''LVTR LLC; File No. 182 3098'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Carl H. Settlemyer (202–326–2019), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

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www.ftc.gov/news-events/commission-actions.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before June 14, 2019. Write ''LVTR LLC; File No. 182 3098'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

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If you prefer to file your comment on paper, write ''LVTR LLC; File No. 182 3098'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

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Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before June 14, 2019. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing a consent order as to LVTR LLC and Tomi A. Truax (''respondents'').

The proposed consent order (''order'') has been placed on the public record for 30 days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the order and the comments received, and will decide whether it should withdraw the order or make it final.

This matter involves the respondents' use of non-disparagement provisions in consumer form contracts in the course of selling their recreational horseback riding services. The complaint alleges that the respondents violated Section 2(c) of the Consumer Review Fairness Act (''CRFA'') by offering to consumers form contracts that contained nondisparagement provisions made void by Section 2(b) of the CRFA. The CRFA defines a form contract as a contract with standardized terms, used in the course of selling or leasing goods or services, and imposed on an individual without a meaningful opportunity for such individual to negotiate the standardized terms.

The order includes injunctive relief that prohibits these alleged violations and fences in similar and related conduct involving the use of contract terms that prohibit, restrict, penalize, or transfer rights in consumer reviews or evaluation of the respondents, their goods, or their services. The CRFA authorizes the Commission to seek civil penalties for knowing violations, but the complaint does not allege that the respondents' violations were knowing, and the order does not provide for monetary relief.

Part I prohibits, in the sale or leasing of any good or service, the respondents from: Offering to any prospective customer a contract, or offering to any customer a renewal contract, that includes a review-limiting term; requiring that a customer accept such a term as a condition of the respondents' fulfillment of their obligations under contracts entered into before the effective date of the order; or attempting to enforce or assert the validity of such a term in customer contracts entered into before the effective date of the order. Part I would not require that the respondents publish or host the content of any person, affect any other legal duty of a party to a contract, or affect any cause of action arising from the breach of such duty.

Part II requires the respondents to notify customers via their website that the nondisparagement provisions in their form contracts are void and cannot be enforced, and that customers who entered into contracts with those provisions can publish their honest reviews about the respondents, even if their comments are negative.

Part III requires the respondents to submit signed acknowledgments that relevant personnel received the order.

Part IV requires the respondents to file compliance reports with the Commission, and to notify the Commission of bankruptcy filings or changes in company structure that might affect compliance obligations.

Part V contains recordkeeping requirements for personnel records, consumer contracts, communications with consumers threatening any legal action relating to any review; and court filings and the company's discovery responses in legal actions over consumer reviews, as well as all records necessary to demonstrate compliance or noncompliance with the order.

Part VI contains other requirements related to the Commission's monitoring of the respondents' order compliance.

Part VII provides the effective dates of the order, including that, with exceptions, the order will terminate in 20 years.

The purpose of this analysis is to facilitate public comment on the order, and it is not intended to constitute an official interpretation of the complaint or order, or to modify the order's terms in any way.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2019–09952 Filed 5–14–19; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2019–0045]

Updating Federal Guidelines Used by Public Health Agencies To Assess and Respond to Potential Cancer Clusters in Communities

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Request for information.

SUMMARY: The Centers for Disease Control and Prevention (CDC) in the Department of Health and Human Services (HHS) announces the opening of a docket to obtain public comment on updating federal guidelines used by public health agencies to assess and respond to potential cancer clusters in communities. CDC is working with the Agency for Toxic Substances and Disease Registry (ATSDR) to develop updated guidelines to ensure that state, tribal, local, and territorial (STLT) public health agencies and stakeholders have access to information about current scientific tools and approaches to assess and respond to potential cancer clusters. The purpose of this notice is to solicit feedback on best approaches for assessing and responding to potential cancer clusters in communities.

DATES: Written comments must be received on or before July 15, 2019.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2019–0045 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Division of Environmental Health Science and Practice, National Center for Environmental Health, Centers for Disease Control and Prevention, Attn: Docket No. CDC–2019–0045, 4770 Buford Highway NE, Mailstop F–60, Atlanta, Georgia 30341.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *http://regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Alisha Etheredge, Centers for Disease Control and Prevention, National Center for Environmental Health, Division of Environmental Health Science and Practice, 4770 Buford Highway NE, Mailstop F–60, Atlanta, GA 30341; Telephone: 770–488–4024; Email: *CCGuidelines@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The current guidelines, *Investigating Suspected Cancer Clusters and Responding to Community Concerns: Guidelines from CDC and the Council of State and Territorial Epidemiologists* (2013 Guidelines), were published in the Morbidity and Mortality Weekly Report (MMWR) in September 2013 (see the Supporting & Related Material tab of this docket). The 2013 Guidelines are a tool to assist state, tribal, local, and territorial (STLT) public health agencies in applying a systematic approach when responding to inquiries about suspected cancer clusters in residential or community settings.

Since publication of the 2013 Guidelines, there have been technical and scientific advancements in areas such as data availability, analytic and geospatial methods, and cancer genomics. CDC is updating the 2013 Guidelines to ensure that STLT public health agencies and stakeholders have access to information about current scientific tools and approaches to assess and respond to potential cancer clusters in communities. The updated guidance will also provide members of the public with information about how STLT public health agencies may address individual and community concerns about potential cancer clusters. CDC will update the 2013 Guidelines based on input from subject matter experts, STLT public health agencies, the public, and other stakeholders.

Supporting Material

The 2013 Guidelines can be found in the Supporting Materials tab of this docket or accessed at *https://www.cdc.gov/mmwr/preview/mmwrhtml/rr6208a1.htm.*

Public Participation

Interested persons or organizations are invited to participate by submitting written views, information, recommendations, and data. In addition, CDC invites comments (and supporting data or other material, if applicable) specifically on these following questions:

1. Based on your personal or professional experience, what are the best approaches for public health agencies to:

a. Respond to community concerns about potential cancer clusters?

b. assess and evaluate potential cancer clusters?

c. communicate and engage with affected community members and other stakeholders throughout all stages of assessing and responding to a potential cancer cluster?

2. If you are familiar with the 2013 Guidelines, please answer the following questions:

a. What are the strengths of the 2013 Guidelines? What would you like to see retained in the updated guidelines? Please describe why.

b. What gaps and challenges exist in the 2013 Guidelines? For stated challenges, what are possible solutions to overcoming them?

3. What other factors should CDC consider when updating the 2013 Guidelines? Please describe why these factors are important to consider.

Please note that comments received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. Comments will be posted on *https://www.regulations.gov.* Therefore, do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. If you include your name, contact information, or other information that identifies you in the body of your comments, that information will be on public display. CDC will review all submissions and may choose to redact, or withhold, submissions containing private or proprietary information such as Social Security numbers, medical information, inappropriate language, or duplicate/near duplicate examples of a mass-mail campaign. CDC will carefully consider all comments submitted during the process of updating federal guidelines used by public health agencies to assess and respond to potential cancer clusters in communities.

Dated: May 10, 2019.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2019–09998 Filed 5–14–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HELATH AND HUMAN SERVICES

Administration for Community Living

Intent To Award a Single-Source Supplement to the National Aging Network

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living is announcing its intent to Award a Single-Source Supplement to provide the National Aging Network with timely, relevant, high quality opportunities to further enhance their knowledge and skills related to nutrition services.

FOR FURTHER INFORMATION CONTACT: For further information or comments regarding this program supplement, contact Keri Lipperini, U.S. Department of Health and Human Services, Administration for Community Living, Administration on Aging, Office of Nutrition and Health Promotion Programs, 202–795–7422, email *keri.lipperini@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Administration for Community Living (ACL) announces the intent to award a single-source supplement to the current cooperative agreement held by Meals on Wheels America for the project *Enhancing the Knowledge and Skills of the Aging Network.* The purpose of this supplement is to: (1) Support the development and dissemination of resources for experienced and inexperienced Aging Network Nutrition Program providers; and (2) enhance peer-learning opportunities for State Units on Aging (SUAs), Area Agencies on Aging (AAAs), and Nutrition Program providers.

The administrative supplement for FY 2019 will be in the amount of $257,401, bringing the total award for FY 2019 to $482,390.

The additional funding will not be used to begin new projects, but it will be used to enhance existing efforts. The grantee will continue to provide appropriate, quality nutrition-related resources, address new opportunities to embed nutrition services within the home and community-based service systems, and engage successfully in emerging models of integrated health care.

Program Name: Enhancing the Knowledge and Skills of the Aging Network.

Recipient: Meals on Wheels America.

Period of Performance: The supplement award will be issued for the second year of a three year project period of Sept 1, 2017 to August 31, 2020.

Total Award Amount: $482,390 in FY 2019.

Award Type: Cooperative Agreement Supplement.

Statutory Authority: The Older Americans Act (OAA) of 1965, as amended, Public Law 114–144.

Basis for Award

Meals on Wheels America (MOWA) is currently funded to carry out the objectives of this project through its current project entitled, *National Resource Center on Nutrition and Aging* for the period of September 1, 2017 through August 31, 2020. Since the project's implementation, the grantee has made satisfactory progress toward its approved work plan. The supplement will enable the grantee to carry their work even further, enhancing the support they provide to the Aging Network Nutrition Program Providers. The additional funding will not be used to begin new projects or activities, but rather to continue to enhance efforts specific to tribal populations and congregate meal settings.

MOWA is uniquely positioned to complete the work called for under this project. They have an already established infrastructure and are a known and trusted organization in the Aging Network. They have an established presence within much of the Aging Network. Under this current award period, they are providing educational opportunities for the Aging Network Nutrition Program Providers, including webinars and live trainings. They have a comprehensive, interactive web-based repository (*www.nutritionandaging.org*) with tools and resources, including—but not limited to—issues briefs, policy and practice models, and toolkits. They have also presented to the Aging Network locally and on a national level. They have reached thousands of providers using their: (1) Comprehensive database of SUAs, AAAs, and other Nutrition Program Providers; and (2) Leadership Academy, which provides expert consultation around nutrition program delivery and the use of technology to enhance services. In addition, they have developed partnerships with organizations, universities, and other entities to provide education and support for the Aging Network.

Establishing an entirely new grant project at this time would be potentially disruptive to the current work already well under way. More importantly, it could cause confusion among the Aging Network Nutrition Program Providers, which could have a negative effect on training and support opportunities. If this supplement were not provided, the project would be unable to address the significant unmet educational needs of the Aging Network Nutrition Program Providers.

Dated: May 9, 2019.

Mary Lazare,

Principal Deputy Administrator .

[FR Doc. 2019–10029 Filed 5–14–19; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0386]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Registration and Product Listing for Owners and Operators of Domestic Tobacco Product Establishments and Listing of Ingredients in Tobacco Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (PRA).

DATES: Fax written comments on the collection of information by June 14, 2019.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0650. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations,

Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Registration and Product Listing for Owners and Operators of Domestic Tobacco Product Establishments and Listing of Ingredients in Tobacco Products

OMB Control Number 0910–0650—Extension

On June 22, 2009, the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Pub. L. 111–31) was signed into law. The Tobacco Control Act amended the Federal Food, Drug, and Cosmetic Act (FD&C Act) by adding, among other things, a chapter granting FDA important authority to regulate the manufacture, marketing, and distribution of tobacco products to protect the public health generally and to reduce tobacco use by minors. The Tobacco Control Act created new requirements for the tobacco industry. Section 101 of the Tobacco Control Act amended the FD&C Act by adding sections 905 and 904 (21 U.S.C. 387e and 387d).

Section 905 of the FD&C Act requires the annual registration of any ''establishment in any State engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products.'' Section 905 requires this registration be completed by December 31 of each year. The Secretary of Health and Human Services (Secretary) has delegated to the Commissioner of Food and Drugs the responsibility for administering the FD&C Act, including section 905. Section 905 of the FD&C Act requires owners or operators of each establishment to register: (1) Their name; (2) places of business; (3) a list of all tobacco products that are manufactured by that person; (4) a copy of all labeling and a reference to the authority for the marketing of any tobacco product subject to a tobacco product standard under section 907 of the FD&C Act (21 U.S.C. 387g) or to premarket review under section 910 of the FD&C Act (21 U.S.C. 387j); (5) a copy of all consumer information and other labeling; (6) a representative sampling of advertisements; (7) upon request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and (8) upon request made by the Secretary, if the registrant has determined that a tobacco product contained in the product list is not subject to a tobacco product standard established under section 907 of the FD&C Act, a brief statement of the basis upon which the registrant made such determination.

FDA collects the information submitted pursuant to section 905 of the FD&C Act through an electronic portal, and through paper forms (Forms FDA 3741 and FDA 3741a) for those individuals who choose not to use the electronic portal.

FDA has also published a guidance for industry entitled ''Registration and Product Listing for Owners and Operators of Domestic Tobacco Product Establishments'' (*https://www.fda.gov/downloads/TobaccoProducts/Labeling/RulesRegulationsGuidance/UCM191940.pdf*). This guidance is intended to assist persons making tobacco product establishment registration and product listing submissions to FDA.

Section 904(a)(1) of the FD&C Act requires that each tobacco product manufacturer or importer submit ''a listing of all ingredients, including tobacco, substances, compounds, and additives that are, as of such date, added by the manufacturer to the tobacco, paper, filter, or other part of each tobacco product by brand and by quantity in each brand and subbrand'' by December 22, 2009. This section applies only to those tobacco products manufactured and distributed before June 22, 2009, and which are still manufactured as of the date of the ingredient listing submission.

Section 904(c) of the FD&C Act requires that a tobacco product manufacturer: (1) Provide all information required under section 904(a) of the FD&C Act to FDA ''at least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment'' of the Tobacco Control Act; (2) advise FDA in writing at least 90 days prior to adding any new tobacco additive or increasing in quantity an existing tobacco additive, except for those additives that have been designated by FDA through regulation as not a human or animal carcinogen, or otherwise harmful to health under intended conditions of use; and (3) advise FDA in writing at least 60 days prior to eliminating or decreasing an existing additive, or adding or increasing an additive that has been designated by FDA through regulation as not a human or animal carcinogen, or otherwise harmful to health under intended conditions of use.

FDA collects the information submitted pursuant to sections 904(a)(1) and (c) of the FD&C Act through an electronic portal, and through a paper form (Form FDA 3742) for those individuals who choose not to use the electronic portal.

In addition to the development of the electronic portal and paper form, FDA published a guidance entitled ''Listing of Ingredients in Tobacco Products.'' This guidance is intended to assist persons making tobacco product ingredient listing submissions. FDA also provides a technical guide, embedded hints, and a web tutorial to the electronic portal.

The Tobacco Control Act also gave FDA the authority to issue a regulation deeming all other products that meet the statutory definition of a tobacco product to be subject to chapter 9 of the FD&C Act (section 901(b) (21 U.S.C. 387a(b)). On May 10, 2016, FDA issued that rule, extending FDA's tobacco product authority to all products that meet the definition of tobacco product in the law (except for accessories of newly regulated tobacco products), including electronic nicotine delivery systems, cigars, hookah, pipe tobacco, nicotine gels, dissolvables that were not already subject to the FD&C Act, and other tobacco products that may be developed in the future (81 FR 28974 at 28976) (''the final deeming rule'').

In the **Federal Register** of October 23, 2018 (83 FR 53478), FDA published a 60-day notice requesting public comment on the proposed collection of information. Two comments were received; however, neither were PRA related.

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

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

FDA form/activity/FD&C act section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Tobacco Product Establishment Initial Registration and Listing; Form FDA 3741 Registration and Product Listing for Owners and Operators of Domestic Establishments (Electronic and Paper submissions); Section 905(b), (c), (d), (h), or (i).	100	1	100	1.6	160
Tobacco Product Establishment Renewal Registration and Listing; Form FDA 3741 Registration and Product Listing for Owners and Operators of Domestic Establishments (Electronic and Paper submissions); Section 905(b), (c), (d), (h), or (i).	3,578	1	3,578	0.16 (10 minutes)	572
Tobacco Product Listing; Form FDA 3742 Listing of Ingredients (Electronic and Paper submissions); Section 904(a)(1).	10	1	10	2	20
Tobacco Product Listing; Form FDA 3742 Listing of Ingredients (Electronic and Paper submissions); Section 904(c).	35	2	70	0.40 (24 minutes)	28
Obtaining a Dun and Bradstreet D–U–N–S Number.	100	1	100	0.5 (30 minutes)	50
Total					830

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The PRA burden estimates have been updated to fully incorporate the use of an electronic system known as FURLS for submitting registration and product listing information to FDA. With the FURLS, manufacturers can enter information quickly and easily. For example, product label pictures can be uploaded directly. We anticipate that most, if not all companies, already have electronic versions of their labels for printing, sales, or marketing purposes.

Product listing information is provided at the time of registration. Currently, registration and listing requirements only apply to domestic establishments engaged in the manufacture, preparation, compounding, or processing of a tobacco product. This includes importers to the extent that they engage in the manufacture, preparation, compounding, or processing of a tobacco product, including repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package. Foreign establishments are not required to register and list until FDA issues regulations establish such requirements in accordance with section 905(h) of the FD&C Act. To account for the foregoing, we include both domestic manufacturing establishments and importers in our estimates.

Because the deadline for initial establishment registration and product listing for both statutorily regulated and deemed products has passed, FDA estimates that few (up to 100) new establishments will submit 1 initial establishment registration and product listing report each year. Such new establishments potentially include new vape shop locations that mix or assemble products on the market as of the final deeming rule effective date. The Agency estimates that up to 100 tobacco establishments will each submit 1 initial establishment registration and product listing report each year, which is expected to take 1.6 hours, for a total 160 burden hours.

FDA estimates that the confirmation or updating of establishment registration and product listing information as required by section 905 of the FD&C Act will take 10 minutes annually per confirmation or update per establishment. Based on FDA's experience with current establishment registration and product listings submitted to the Agency, the Agency estimates that on average 3,578 establishments will each submit 1 confirmation or updated report each year, which is expected to take 0.16 hour (10 minutes) for a total 572 burden hours.

FDA estimates that we have received most tobacco product ingredient submissions for large manufacturers of deemed products. Small manufacturers' deadline for ingredient submissions is November 2018. This is based on the counts we have to date (July 2018), including statutorily regulated products (based on information in our tracking system).

FDA estimates that the submission of ingredient listings required by section 904(a)(1) of the FD&C Act for each establishment will take 2 hours initially. Because this burden estimate covers a timeframe of 3 years, we anticipate almost all section 904(a)(1) tobacco ingredient submissions to have been received before the expiration of the current approval (prior to November 8, 2018, for small manufacturers and for large manufacturers, May 8, 2018). We are estimating approximately 30 manufacturers may miss their deadline. This is based on estimates of how many large manufacturers we are aware of that have missed their deadline. Because this burden estimate covers 3 years, we are dividing by 3, to yield 10 respondents as a yearly average for this estimate. Therefore, FDA estimates that 10 establishments will initially submit 1 report annually at 2 hours per report, for a total of 20 hours.

Submissions under 904(c) of the FD&C Act are for any new product that is not yet on the market (*e.g.,* if on the market due to deeming compliance period); newly deemed product manufacturers should have submitted under section 904(a)(1) of the FD&C Act. This includes any statutorily regulated product that would receive a marketing authorization and any new deemed product not subject to the deeming compliance period. For deemed product categories, while we anticipate receiving a large number of premarket applications, there is a portion of these applicants who will have reported their

ingredients under section 904(a)(1) as most of these submissions are expected to be for products subject to the deeming compliance period.

Based on FDA's experience and the actual number of product ingredient listings submitted over the past 3 years, FDA estimates that 35 establishments will each submit 2 reports (1 every 6 months). FDA also estimates that the confirmation or updating of product (ingredient) listing information required by section 904(c) of the FD&C Act is expected to take 0.40 hour (24 minutes) and will take 48 minutes annually for two confirmations or updates per establishment, for a total 28 burden hours. FDA estimates that obtaining a DUNS (data universal numbering system) number will take 30 minutes. FDA assumes that all new establishment facilities that will be required to initially register under section 905 of the FD&C Act would obtain a DUNS number. FDA estimates that up to 100 establishments would need to obtain this number each year. The total industry burden to obtain a DUNS number is 50 hours.

FDA estimates the total burden for this collection to be 830 hours. We have adjusted our burden estimate, which has resulted in a decrease of 93,086 hours to the currently approved burden. Based on data we reviewed from the past 3 years and projecting the number of remaining establishments that have not registered and submitted product ingredient listings, we revised the number of respondents and burden hours in this information collection.

Dated: May 9, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–09997 Filed 5–14–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Information Collection Request Title: HRSA Ryan White HIV/AIDS Program AIDS Education and Training Centers Evaluation Activities, OMB No. 0915–0281—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In compliance with of the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than June 14, 2019.

ADDRESSES: Submit your comments, including the ICR Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer, at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: HRSA Ryan White HIV/AIDS Program AIDS Education and Training Centers Evaluation Activities: (OMB No. 0915–0281) Revision.

Abstract: The RWHAP AETC program, authorized by Title XXVI of the Public Health Service Act, supports a network of regional and national centers that conduct targeted, multidisciplinary education and training programs for health care providers serving people living with HIV (PLWH). The purpose of the RWHAP AETC program is to increase the size and strengthen the skills of the current and novice HIV clinical workforce in the United States and to develop and disseminate information on treatment and prevention of HIV to at-risk populations. Through the provision of specialized professional education and training, the RWHAP Regional AETCs aim to improve outcomes along the HIV care continuum including diagnosis, linkage, retention, and viral suppression and to reduce HIV incidence by improving the achievement and maintenance of viral load suppression of PLWH. In addition, the RWHAP AETC program includes the National Coordinating Resource Center (NCRC), which offers a virtual library of online training resources for adaptation by HIV care providers and other healthcare professionals to meet local training needs. The RWHAP AETC NCRC works closely with the HRSA HIV/AIDS Bureau (HAB) to coordinate cross-regional collaborative efforts, manage the NCRC website, plan and execute the national RWHAP Clinical Conference, and develop an online curriculum for clinical learners.

The RWHAP AETC proposes several revisions to the Event Records (ER) and the Participant Information Form (PIF). The ER will have 11 new data elements; however, only 7 data elements will require responses from all respondents. The option to respond to the other four data elements will depend on how participants respond to previous questions. There are four data element deletions to the ER.

The PIF will have one new data element that asks whether respondents prescribe antiretroviral therapy to their patients. Two data elements were deleted. These revisions reflect changes in the National AETC program guidance on reporting sources of funding and multi-session events.

Despite a net increase of eight data elements across both the ER and PIF instruments, pilot respondents reported a decrease in burden. HRSA HAB modified the data instruments to help inform the evaluation of AETC outcomes, improve the logical flow of questions within each instrument and to improve the overall clarity of each of the questions being asked.

A 60-day **Federal Register** Notice was published in the **Federal Register** on December 18, 2018, vol. 83, No. 242; pp. 64845–47. There were no public comments.

Need and Proposed Use of the Information: As part of an ongoing effort to evaluate RWHAP AETC activities, information is needed on AETC training sessions, clinical consultations, and technical assistance activities. Each regional center collects information on RWHAP AETC training events and is required to report aggregate data on their activities to HRSA's HAB. The goal of national data collection efforts is to create a uniform set of data elements that will produce an accurate summary of the national scope of RWHAP AETC professional training, consultation, and events. The elements included in the national database have been selected for their relevance in demonstrating the RWHAP AETCs' efforts in achieving the program's stated goals: To improve care for PLWH by providing education, training, and clinical consultation; and to provide support to clinicians and other providers. HRSA HAB uses the data collected when conducting programmatic assessments and to determine future program needs. The national data elements are intended to be a meaningful core set of elements that individual RWHAP AETCs can use in programmatic and strategic planning. HRSA HAB also uses this information to

respond to requests from HHS, Congress, and others.

Likely Respondents: RWHAP AETC trainees are asked to complete the PIF either at the start or at conclusion of an event. Trainers are asked to complete an ER for each training event they conduct during the year. In addition, each regional RWHAP AETC (eight total) and the RWHAP AETC National Coordinating Resource Center will compile these data into a data set and submit to HRSA HAB once a year.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

The estimated annual response burden to trainers, as well as trainees of training programs is follows:

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Participant Information Form (PIF)	61,288	1	61,288	0.05	3,064
Event Record (ER)	10,522	1	10,522	0.13	1,368
Total	71,810		71,810		4,432

The estimated annual burden to RWHAP AETCs is as follows:

	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Aggregate Data Set	9	1	9	10	90

Amy P. McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2019–09976 Filed 5–14–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that a meeting is scheduled to be held for the Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria (Advisory Council). The meeting will be open to the public; a public comment session will be held during the meeting. Pre-registration is required for members of the public who wish to attend the meeting and who wish to participate in the public comment session. Individuals who wish to attend the meeting and/or send in their public comment via email should send an email to *CARB@hhs.gov.* Registration information is available on the website *http://www.hhs.gov/ash/carb/* and must be completed by July 2, 2019; all in-person attendees must pre-register by this date. Additional information about registering for the meeting and providing public comment can be obtained at *http://www.hhs.gov/ash/carb/* on the Meetings page.

DATES: The meeting is scheduled to be held on July 10, 2019, from 9:00 a.m. to 5:00 p.m. and July 11, 2019, from 9:00 a.m. to 5:00 p.m. ET (times are tentative and subject to change). The confirmed times and agenda items for the meeting will be posted on the website for the Advisory Council at *http://www.hhs.gov/ash/carb/* when this information becomes available. Pre-registration for attending the meeting in person is required to be completed no later than July 2, 2019; public attendance at the meeting is limited to the available space.

ADDRESSES: Hilton McLean Tysons Corner, International Ballroom C, 7920 Jones Branch Dr., McLean, VA 22102.

The meeting can also be accessed through a live webcast and via teleconference on the day of the meeting. For more information, visit *http://www.hhs.gov/ash/carb/.*

FOR FURTHER INFORMATION CONTACT: Jomana Musmar, Designated Federal Officer, Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria, Office of the Assistant Secretary for Health, U.S. Department of Health and Human Services, Room L133, Switzer Building, 330 C St. SW, Washington, DC 20201. Phone Number: (202) 795–7678. Email: *CARB@hhs.gov.*

SUPPLEMENTARY INFORMATION: Under Executive Order 13676, dated September 18, 2014, authority was given to the Secretary of HHS to establish the Advisory Council, in consultation with the Secretaries of Defense and Agriculture. Activities of the Advisory Council are governed by the provisions of Public Law 92–463, as amended (5 U.S.C. App.), which sets forth standards for the formation and use of federal advisory committees.

The Advisory Council will provide advice, information, and recommendations to the Secretary of HHS regarding programs and policies intended to support and evaluate the implementation of Executive Order 13676, including the National Strategy for Combating Antibiotic-Resistant Bacteria and the National Action Plan for Combating Antibiotic-Resistant Bacteria. The Advisory Council shall function solely for advisory purposes.

In carrying out its mission, the Advisory Council will provide advice, information, and recommendations to the Secretary regarding programs and policies intended to preserve the effectiveness of antibiotics by optimizing their use; advance research to develop improved methods for combating antibiotic resistance and conducting antibiotic stewardship; strengthen surveillance of antibiotic-resistant bacterial infections; prevent the transmission of antibiotic-resistant bacterial infections; advance the development of rapid point-of-care and agricultural diagnostics; further research on new treatments for bacterial infections; develop alternatives to antibiotics for agricultural purposes; maximize the dissemination of up-to-date information on the appropriate and proper use of antibiotics to the general public and human and animal healthcare providers; and improve international coordination of efforts to combat antibiotic resistance.

The public meeting will be dedicated to the council's deliberation and vote on the National Action Plan (NAP) on Combating Antibiotic Resistance Bacteria (CARB) 2019 Working Group's (WG) report out on their draft response to the Secretary of the Department of Health and Human Services (HHS) on identifying priority areas for the next iteration of the NAP on CARB, 2020–2025. The remainder of the two-day public meeting will include panel presentations and council discussions surrounding emerging antifungals, and provider challenges and educational solutions to influence antibiotic stewardship and One Health. The meeting agenda will be posted on the Advisory Council website at *http://www.hhs.gov/ash/carb/* when it has been finalized. All agenda items are tentative and subject to change.

Public attendance at the meeting is limited to the available space. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Advisory Council at the address/telephone number listed above at least one week prior to the meeting. For those unable to attend in person, a live webcast will be available. More information on registration and accessing the webcast can be found at *http://www.hhs.gov/ash/carb/.*

Members of the public will have the opportunity to provide comments prior to the Advisory Council meeting by emailing *CARB@hhs.gov.* Public comments should be sent in by midnight July 2, 2019, and should be limited to no more than one page. All public comments received prior to July 2, 2019, will be provided to Advisory Council members; comments are limited to five minutes per speaker.

Dated: May 2, 2019.

Jomana F. Musmar,

Designated Federal Officer, Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria, Committee Manager.

[FR Doc. 2019–09971 Filed 5–14–19; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Establishment of the Interdepartmental Substance Use Disorders Coordinating Committee and Solicitation of Nominations for Committee Members

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, U.S. Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The U.S. Department of Health and Human Services (HHS) hereby announces the establishment of the Interdepartmental Substance Use Disorders Coordinating Committee (Committee) pursuant to Section 7022 of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act. The Committee will consist of representatives of specific federal agencies and non-federal individuals and entities who represent diverse disciplines and views. The Committee will identify areas for improved coordination related to substance abuse, including research, services, supports and prevention activities across all relevant Federal agencies. In identifying areas for coordination, the committee will provide recommendations for improving Federal programs for the prevention and treatment of, and recovery from, substance use disorders, including by expanding access to prevention, treatment and recovery services. They will also analyze substance use disorder prevention and treatment strategies in different regions of and populations in the United States and evaluate the extent to which Federal substance use disorder and treatment strategies are aligned with State and local substance disorder and treatment strategies.

Through this notice, HHS is also requesting nominations of individuals who are interested in being considered for appointment to the Committee. Resumes or curricula vitae from qualified individuals who wish to be considered for appointment as a member of the Committee are currently being accepted.

DATES: Nominations must be received no later than 11:59 p.m. June 14, 2019.

ADDRESSES: All nominations must be submitted via email at *SUDCommittee@hhs.gov* with the subject line: Interdepartmental SUD Coordinating Committee.

FOR FURTHER INFORMATION CONTACT: Roula K. Sweis, Psy.D., M.A., Chief, Operations and Management, Office of the Assistant Secretary for Health; U.S. Department of Health and Human Services; Telephone: 202–260–6619; Fax: 202–690–4631; Email address: *SUDCommittee@hhs.gov* (please indicate in the subject line: Interdepartmental SUD Coordinating Committee). The Committee charter may be accessed online at *https://www.hhs.gov/ash/advisory-committees/substance-use-disorders/index.html.* The charter includes detailed information about the purpose, function, and structure of the Committee.

SUPPLEMENTARY INFORMATION: Section 7022 of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act, Pub. L. 115–271) requires the HHS Secretary, in coordination with the Director of National Drug Control Policy, to establish the Interdepartmental Substance Use Disorders Coordinating Committee. The Committee will consist of representatives of specific federal agencies and non-federal individuals and entities who represent diverse disciplines and views. The Committee will identify areas for improved coordination related to substance abuse, including research, services, supports and prevention activities across all relevant Federal agencies. In identifying areas for coordination, the committee will provide recommendations for improving Federal programs for the prevention and treatment of, and recovery from, substance use disorders, including by expanding access to prevention, treatment and recovery services. They will also analyze substance use disorder prevention and treatment strategies in different regions of and populations in the United States and evaluate the extent to which Federal substance use disorder and treatment strategies are aligned with State and local substance disorder and treatment strategies.

Objectives and Scope of Activities. The Committee will perform the following duties:

(1) Identify areas for improved coordination of activities, if any, related to substance use disorders, including research, services, supports, and prevention activities across all relevant Federal agencies;

(2) identify and provide to the Secretary recommendations for improving Federal programs for the prevention and treatment of, and recovery from, substance use disorders, including by expanding access to prevention, treatment, and recovery services;

(3) analyze substance use disorder prevention and treatment strategies in different regions of and populations in the United States and evaluate the extent to which Federal substance use disorder prevention and treatment strategies are aligned with State and local substance use disorder prevention and treatment strategies;

(4) make recommendations to the Secretary regarding any appropriate changes with respect to the activities and strategies described in paragraphs (1) through (3);

(5) make recommendations to the Secretary regarding public participation in decisions relating to substance use disorders and the process by which public feedback can be better integrated into such decisions; and

(6) make recommendations to ensure that substance use disorder research, services, supports, and prevention activities of the Department of Health and Human Services and other Federal agencies are not unnecessarily duplicative.

Membership and Designation. The Committee shall be composed of the following Federal (ex-officio) members: The Secretary of HHS or designee, who shall serve as the Chair of the Committee; the Attorney General of the United States or designee; the Secretary of Labor or designee; the Secretary of Housing and Urban Development or designee; the Secretary of Education or designee; the Secretary of Veterans Affairs or designee; the Commissioner of Social Security or designee; the Assistant Secretary for Mental Health and Substance Use or designee; and the Director of National Drug Control Policy or designee. Representatives of other Federal agencies that support or conduct activities or programs related to substance abuse disorders, as determined appropriate by the Secretary.

The Committee shall include a minimum of 15 non-Federal members appointed by the Secretary as special government employees (SGEs). These members will be appointed to terms of three years and may be reappointed for one or more additional three-year terms. A vacancy on the Committee will be filled in the same manner in which the original appointment was made. Any individual appointed to fill a vacancy for an unexpired term will be appointed for the remainder of such a term and may serve after the expiration of such term until a successor has been appointed. No member of the Committee shall serve as a Representative member.

At least two members shall be individuals who have received treatment for a diagnosis of substance use disorder; at least two members shall be directors of State substance abuse agencies; at least two members shall be representatives of leading research, advocacy or service organizations for individuals with substance use disorders; at least two members shall be a physician, licensed mental health professional, advance practice registered nurse, or physician assistant; and have experience in treating individuals with substance use disorders; at least one member shall be a substance use disorder treatment professional who provides treatment services at a certified opioid treatment program; at least one member shall be a substance use disorder treatment professional who has research or clinical experience in working with racial and ethnic minority populations; at least one member shall be a substance use disorder treatment professional who has research or clinical mental health experience in working with medically underserved populations; at least one member shall be a State certified substance use disorder peer support specialist; at least one member shall be a drug court judge or judge with experience in adjudicating cases related to substance use disorders; and at least one member shall be an individual with experience providing services for homeless individuals with a substance use disorder.

Pursuant to advance written agreement, each non-federal member of the Committee will waive his or her right to compensation for performing services as a member of the Committee. However, non-federal members shall receive per diem and reimbursement for travel expenses incurred in relation to performing duties for the Commission, as authorized by the Federal Advisory Committee Act (FACA) and 5 U.S.C. 5703 for persons who are employed intermittently to perform services for the Federal government and in accordance with Federal travel regulations. Ex-officio members of the Commission remain covered under their current compensation system.

Estimated Number and Frequency of Meetings. The Committee will meet not less than two times a year each year, and these may be conducted by teleconference or video conference at the discretion of the DFO. The meetings will be open to the public, except as determined otherwise by the Secretary, or other official to whom authority has been delegated, in accordance with the guidelines under Government in the Sunshine Act, 5 U.S.C. 552b(c). Notice of all meetings will be provided to the public in accordance with the FACA. Meetings will be conducted and records of the proceedings will be kept, as required by applicable laws and departmental policies. A quorum for the conduct of business by the full Committee will consist of a majority of current appointed members.

When the Secretary or Secretary's designee determines that a meeting will be closed or partially closed to the public, in accordance with stipulations of Government in the Sunshine Act, 5 U.S.C. 552b(c), then a report will be prepared by the DFO that includes, at a minimum, a list of members and their business addresses, the Committee's functions, date and place of the meeting, and a summary of the Committee's activities and recommendations made during the fiscal year. A copy of the report will be provided to the Department Committee Management Officer.

Nominations. Nominations, including self-nominations, of individuals who have the specified expertise and knowledge will be considered for appointment as members of the Committee. A nomination should include, at a minimum, the following for each nominee: (1) A letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination, and a statement from the nominee that indicates that the individual would be willing to serve as a member of the Committee (if being nominated by someone else); (2) the address, telephone number, and email address of the individual being nominated and the nominator (if applicable); and (3) a current copy of the nominee's curriculum vitae or resume, which should be limited to no more than 10 pages. Incomplete nomination packages will not be reviewed.

Every effort will be made to ensure that the composition of the Committee includes individuals from various geographic locations, including rural and underserved areas; racial and ethnic minorities; genders, and persons living with disabilities. Individuals other than officers or employees of the United States government being considered for

appointment as members of the Committee will be required to complete and submit a report of their financial holdings. An ethics review must be conducted to ensure that individuals appointed as members of the Committee are not involved in any activity that may pose a potential conflict of interest for the official duties that are to be performed. This is a federal ethics requirement that must be satisfied upon entering the position and annually throughout the established term of appointment on the Committee.

Authority: The Interdepartmental Substance Use Disorders Coordinating Committee (hereafter referred to as the Committee) is required under Section 7022 of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act, Pub. L. 115–271). The Committee is governed by the provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App), which sets forth standards for the formation and use of federal advisory committees.

Dated: May 6, 2019.

Roula K. Sweis,

Designated Federal Official.

[FR Doc. 2019–09969 Filed 5–14–19; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Psychosocial Risk and Disease Prevention (PRDP).

Date: June 10, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Weijia Ni, Ph.D., Chief/Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3100, MSC 7808, Bethesda, MD 20892, (301) 594–3292, *niw@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group, Molecular and Integrative Signal Transduction Study Section.

Date: June 11–12, 2019.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Charles Selden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 5187 MSC 7840, Bethesda, MD 20892, 301–451–3388, *seldens@mail.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Dissemination and Implementation Research in Health Study Section.

Date: June 12–13, 2019.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance New Orleans Pere Marquette, 817 Common Street, New Orleans, LA 1855201.

Contact Person: Yvonne Owens Ferguson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3139, Bethesda, MD 20892, 301–827–3689, *fergusonyo@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Biophysical, Physiological, Pharmacological and Bioengineering Neuroscience.

Date: June 13–14, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Sussan Paydar, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 5222, Bethesda, MD 20817, (301) 827–4994, *sussan.paydar@nih.gov.*

Name of Committee: Oncology 1-Basic Translational Integrated Review Group; Cancer Genetics Study Section.

Date: June 13–14, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Juraj Bies, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, 301 435 1256, *biesj@mail.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroimmunology and Brain Tumors Study Section.

Date: June 13–14, 2019

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance, Washington, DC Hotel, 999 Ninth Street NW, Washington, DC 20001–4427.

Contact Person: Wei-Qin Zhao, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7846, Bethesda, MD 20892–7846, 301–435–1236, *zhaow@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group; Vaccines Against Microbial Diseases Study Section.

Date: June 13–14, 2019.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Washington DC Franklin Square, 815 14th Street NW, Washington, DC 20005.

Contact Person: Jian Wang, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7812, Bethesda, MD 20892, (301) 435–2778, *wangjia@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group, Intercellular Interactions Study Section.

Date: June 13–14, 2019.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Thomas Y Cho, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–4179, *thomas.cho@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Clinical Neuroscience and Neurodegeneration.

Date: June 13, 2019.

Time: 12:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Samuel C Edwards, Ph.D., Chief, BDCN IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Cellular and Molecular Biology of Complex Brain Disorders.

Date: June 14, 2019.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Villa Florence Hotel, 225 Powell Street, San Francisco, CA 94102.

Contact Person: Afia Sultana, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701

Rockledge Drive, Room 4189, Bethesda, MD 20892, (301) 827–7083, *sultanaa@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Radiation Biology and Cancer Therapeutics.

Date: June 14, 2019.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Nicholas J Donato, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040, Bethesda, MD 20892, 301–827–4810, *nick.donato@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 10, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–10058 Filed 5–14–19; 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; Leadership Group for a Clinical Research Network on Antibacterial Resistance (UM1 Clinical Trial Required).

Date: June 10, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Brenda Lange-Gustafson, Ph.D., Scientific Review Officer, NIAID/NIH/DHHS, Scientific Review Program, 5601 Fishers Lane, Room 3G13, Rockville, MD 20852, 240–669–5047, *bgustafson@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 10, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–10062 Filed 5–14–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Epigenomic changes in Aging and Risks ZAG1–ZIJ G O3.

Date: July 8, 2019.

Time: 12:01 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Maurizio Grimaldi, MD, Ph.D., Scientific Review Officer, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Room 2C218, Bethesda, MD 20892, 301–496–9374, *grimaldim2@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 10, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–10060 Filed 5–14–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health 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 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 Environmental Health Sciences Special Emphasis Panel; Peer Review of R01 Award Applications.

Date: May 30–31, 2019.

Time: 8:30 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Durham Southpoint, 7007 Fayetteville Road, Durham, NC 27713.

Contact Person: Laura A. Thomas, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, Research Triangle Park, NC 27709, 919–541–2824, *laura.thomas@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: May 10, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–10066 Filed 5–14–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Alzheimer Centers for Discovery of New Medicines ZAG1 ZIJ–1 A1.

Date: June 19, 2019.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Birgit Neuhuber, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2W–200, Bethesda, MD 20892, 301–827–6548, *birgit.neuhuber@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 10, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–10061 Filed 5–14–19; 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; Vaccine and Treatment Evaluation Units (VTEUs) (UM1 Clinical Trial Required).

Date: June 17–18, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda One Bethesda Metro Center 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Maryam Feili-Hariri, Ph.D., Scientific Review Officer, Scientific Review Program Division of Extramural Activities, National Institutes of Health/NIAID, 5601 Fishers Lane, Rockville, MD 20852, 240–669–5026, *haririmf@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 10, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–10063 Filed 5–14–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Psychosocial Interventions.

Date: May 28, 2019.

Time: 8:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center Building (NSC), 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: David I. Sommers, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892, 301–443–7861, *dsommers@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NIMH Clinical Trials to Test the Effectiveness of Treatment, Preventive, and Services Interventions (R01).

Date: May 29, 2019.

Time: 11:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center Building (NSC), 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Marcy Ellen Burstein, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892, 301–443–9699, *bursteinme@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; BRAIN Initiative: Research on the Ethical Implications of Advancements in Neurotechnology and Brain Science (R01).

Date: June 4, 2019.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center Building (NSC), 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Rebecca Steiner Garcia, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9608, Bethesda, MD 20892, 301–443–4525, *steinerr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: May 10, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–10067 Filed 5–14–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Vascular and Hematology Integrated Review Group; Molecular and Cellular Hematology Study Section.
Date: June 10–11, 2019.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Luis Espinoza, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6183, MSC 7804, Bethesda, MD 20892, 301–495–1213, *espinozala@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Evaluation and Implementation of Patient Care.
Date: June 13, 2019.
Time: 7:30 a.m. to 10:00 a.m.
Agenda: To review and evaluate grant applications.
Place: Renaissance New Orleans Pere Marquette, 817 Common Street, New Orleans, LA 1855201.
Contact Person: Sheba King Dunston, Ph.D., Scientific Review Officer, Center for Scientific of Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, Bethesda, MD 20892, *dunstonsk@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Innovative Immunology.
Date: June 13, 2019.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Courtyard Silver Spring Downtown, 8506 Fenton Street, Silver Spring, MD 20910.
Contact Person: David B. Winter, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, 301–435–1152, *dwinter@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Orthopedic, Skeletal Muscle and Oral Sciences.
Date: June 13–14, 2019.
Time: 8:30 a.m. to 10:30 a.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.
Contact Person: Aftab A. Ansari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, 301–237–9931, *ansaria@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 10, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–10059 Filed 5–14–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; R13 Conference Grant Applications.
Date: June 27, 2019.
Time: 11:00 a.m. to 12:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Jian Yang, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7111, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *yangj@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Type 1 Diabetes TrialNet Coordinating Center and Clinical Network Hub (U01).
Date: June 28, 2019.
Time: 12:00 p.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Dianne Camp, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7013, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–5947682, *campd@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 10, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–10065 Filed 5–14–19; 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; Exploring Epigenomic or Non-Coding RNA Regulation in the Development, Maintenance, or Treatment of Chronic Pain (R61/R33 Clinical Trial Optional).
Date: May 24, 2019.
Time: 12:00 p.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center Building (NSC), 6001

Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Ipolia R. Ramadan, 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 4228, MSC 9550, Bethesda, MD 20892, 301–827–5842, *ramadanir@mail.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIH Pathway to Independence Award (K99/R00).

Date: June 5, 2019.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center Building (NSC), 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Susan O. McGuire, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Blvd., Room 4245, Rockville, MD 20852, (301) 827–5817, *mcguireso@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: May 10, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–10064 Filed 5–14–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[CBP Dec. 19–04]

Tuna Tariff-Rate Quota for Calendar Year 2019 Tuna Classifiable Under Subheading 1604.14.22, Harmonized Tariff Schedule of the United States (HTSUS)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Announcement of the quota quantity of tuna in airtight containers for Calendar Year 2019.

SUMMARY: Each year, the tariff-rate quota for tuna described in subheading 1604.14.22, Harmonized Tariff Schedule of the United States (HTSUS), is calculated as a percentage of the tuna in airtight containers entered, or withdrawn from warehouse, for consumption during the preceding calendar year. This document sets forth the tariff-rate quota for Calendar Year 2019.

DATES: The 2019 tariff-rate quota is applicable to tuna in airtight containers entered, or withdrawn from warehouse, for consumption during the period January 1, 2019 through December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Julia Peterson, Headquarters Quota and Agricultural Branch, Interagency Collaboration Division, Trade Policy and Programs, Office of Trade, U.S. Customs and Border Protection, Washington, DC 20229–1155, (202) 384–8905.

Background

It has been determined that 14,945,117 kilograms of tuna in airtight containers may be entered, or withdrawn from warehouse, for consumption during Calendar Year 2019, at the rate of 6.0 percent *ad valorem* under subheading 1604.14.22, Harmonized Tariff Schedule of the United States (HTSUS). Any such tuna which is entered, or withdrawn from warehouse, for consumption during the current calendar year in excess of this quota will be dutiable at the rate of 12.5 percent *ad valorem* under subheading 1604.14.30, HTSUS.

Dated: May 9, 2019.

Brenda Smith,

Executive Assistant Commissioner, Office of Trade.

[FR Doc. 2019–10012 Filed 5–14–19; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border in Cochise County and Pima County, Arizona.

DATES: This determination takes effect on May 15, 2019.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international land border. Secure Fence Act of 2006, Public Law 109–367, 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate from Congress, the President's Executive Order on Border Security and Immigration Enforcement Improvements directed executive departments and agencies to deploy all lawful means to secure the southern border. Executive Order 13767, § 1. In order to achieve that end, the President directed, among other things, that I take immediate steps to prevent all unlawful entries into the United States, including the immediate construction of physical infrastructure to prevent illegal entry. Executive Order 13767, § 4(a).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, § 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated the installation of additional fencing, barriers, roads, lighting, cameras, and sensors on the southwest border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the

authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol's (Border Patrol) Tucson Sector is an area of high illegal entry. In fiscal year 2018, the Border Patrol apprehended over 52,000 illegal aliens attempting to enter the United States between border crossings in the Tucson Sector. Also in fiscal year 2018, the Border Patrol had over 1,900 separate drug-related events between border crossings in the Tucson Sector, through which it seized over 134,000 pounds of marijuana, 62 pounds of cocaine, over 91 pounds of heroin, and over 902 pounds of methamphetamine. Additionally, Cochise and Pima Counties, which are within the Tucson Sector, have been identified as High Intensity Drug Trafficking Areas by the Office of National Drug Control Policy.

During the high levels of illegal entry of people and drugs within the Tucson Sector, I must use my authority under Section 102 of IIRIRA to install additional physical barriers and roads in the Tucson Sector. Therefore, DHS will take immediate action to replace existing barriers in the Tucson Sector. Construction will occur along four separate segments of the border, which are referred to herein as the ''project areas'' and more specifically described in Section 2 below.

The existing barriers within the project areas include both vehicle fencing and outmoded pedestrian fencing that no longer satisfy Border Patrol's operational needs. Transnational criminal organizations known for smuggling drugs and aliens into United States from Mexico are known to operate in the area. These transnational criminal organizations have been able to use the lack of adequate infrastructure and the surrounding terrain, which provides high ground for scouts seeking to protect and warn smugglers moving through the area, to their advantage. Therefore, Border Patrol requires a more effective barrier. The existing vehicle barriers and outmoded pedestrian fencing will be replaced with an 18 to 30 foot barrier that employs a more operationally effective design. In addition, roads will be constructed or improved and lighting will be installed.

To support DHS's action under Section 102 of IIRIRA, DHS requested that the Department of Defense, pursuant to 10 U.S.C. 284(b)(7), assist by constructing fence, roads, and lighting within the Tucson Sector in order to block drug smuggling corridors across the international boundary between the United States and Mexico. The Acting Secretary of Defense has concluded that the support requested satisfies the statutory requirements of 10 U.S.C. 284(b)(7) and that the Department of Defense will provide such support in the project areas described in Section 2 below.

Section 2

I determine that the following areas in the vicinity of the United States border, located in the State of Arizona within the United States Border Patrol's Tucson Sector, are areas of high illegal entry (the ''project areas''):

- Starting approximately one-half (.5) mile west of Border Monument 178 and extending east to Border Monument 162;
- Starting at Border Monument 100 and extending east for approximately one (1) mile;
- Starting at Border Monument 98 and extending east to Border Monument 97; and
- Starting approximately one-half (.5) mile west of Border Monument 83 and extending east to Border Monument 74.

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States in the project areas pursuant to sections 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of the barriers and roads in the project areas, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA.

Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive in their entirety, with respect to the construction of physical barriers and roads (including, but not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the project areas, all of the following statutes, including all federal, state, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of, the following statutes, as amended: The National Environmental Policy Act (Pub. L. 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*)); the Endangered Species Act (Pub. L. 93–205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*)); the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act (33 U.S.C. 1251 *et seq.*)); the National Historic Preservation Act (Pub. L. 89–665, 80 Stat. 915 (Oct. 15, 1966), as amended, repealed, or replaced by Public Law 113–287, 128 Stat. 3094 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 470 *et seq.,* now codified at 54 U.S.C. 100101 note and 54 U.S.C. 300101 *et seq.*)); the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*); the Migratory Bird Conservation Act (16 U.S.C. 715 *et seq.*); the Clean Air Act (42 U.S.C. 7401 *et seq.*); the Archeological Resources Protection Act (Pub. L. 96–95, 93 Stat. 721 (Oct. 31, 1979) (16 U.S.C. 470aa *et seq.*)); the Paleontological Resources Preservation Act (16 U.S.C. 470aaa *et seq.*); the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*); the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*); the Noise Control Act (42 U.S.C. 4901 *et seq.*); the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*); the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*); the Archaeological and Historic Preservation Act (Pub. L. 86–523, 74 Stat. 220 (June 27, 1960) as amended, repealed, or replaced by Public Law 113–287, 128 Stat. 3094 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 469 *et seq.,* now codified at 54 U.S.C. 312502 *et seq.*)); the Antiquities Act (formerly codified at 16 U.S.C. 431 *et seq.,* now codified 54 U.S.C. 320301 *et seq.*); the Historic Sites, Buildings, and Antiquities Act (formerly codified at 16 U.S.C. 461 *et seq.,* now codified at 54 U.S.C. 3201–320303 & 320101–320106); Wild and Scenic Rivers Act (Pub. L. 90–542, 82 Stat. 906 (Oct. 2, 1968) (16 U.S.C. 1271 *et seq.*)); the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*); the Federal Land Policy and Management Act (Pub. L. 94–579, 90 Stat. 2743 (Oct. 21, 1976) (43 U.S.C. 1701 *et seq.*)); the Wilderness Act (Pub. L. 88–577, 78 Stat. 890 (Sept. 3, 1964) (16 U.S.C. 1131 *et seq.*)); 43 U.S.C. 387; the National Wildlife Refuge System Administration Act (Pub. L. 89–669, 80 Stat. 926 (Oct. 15, 1966) (16 U.S.C. 668dd–668ee)); National Fish and Wildlife Act of 1956 (Pub. L. 84–1024, 70 Stat. 1119 (Aug. 8, 1956) (16 U.S.C. 742a, *et seq.*)); the Fish and Wildlife Coordination Act (Pub. L. 73–121, 48 Stat. 401 (March 10, 1934) (16 U.S.C. 661 *et seq.*)); the National Trails System Act (16 U.S.C. 1241 *et seq.*); the Administrative Procedure Act (5 U.S.C.

551 *et seq.*); the Wild Horse and Burro Act (16 U.S.C. 1331 *et seq.*); the Rivers and Harbors Act of 1899 (33 U.S.C. 403); the National Park Service Organic Act and the National Park Service General Authorities Act (Pub. L. 64–235, 39 Stat. 535 (Aug. 25, 1916) and Public Law 91–383, 84 Stat. 825 (Aug. 18, 1970) as amended, repealed, or replaced by Public Law 113–287, 128 Stat. 3094 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 1, 2–4 and 16 U.S.C. 1a–1 *et seq.,* now codified at 54 U.S.C. 100101–100102, 54 U.S.C. 100301–100303, 54 U.S.C. 100501–100507, 54 U.S.C. 100701–100707, 54 U.S.C. 100721–100725, 54 U.S.C. 100751–100755, 54 U.S.C. 100901–100906, 54 U.S.C. 102101–102102)); Sections 401(7), 403, and 404 of the National Parks and Recreation Act of 1978 (Pub. L. 95–625, 92 Stat. 3467 (Nov. 10, 1978)); 50 Stat. 1827 (April 13, 1937); Sections 301(a)–(f) of the Arizona Desert Wilderness Act (Pub. L. 101–628, 104 Stat. 4469 (Nov. 28, 1990)); Arizona-Idaho Conservation Act of 1988 (Pub. L. 100–696, 102 Stat. 4571 (Nov. 18, 1988) (16 U.S.C. 460xx)); 16 U.S.C. 450y (Pub. L. 77–216, 55 Stat. 630 (Aug. 18, 1941), as amended by Public Law 82–478, 66 Stat. 510 (July 9, 1952)); 67 Stat. c18 (Nov. 5, 1952); National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*); Multiple-Use and Sustained-Yield Act of 1960 (16 U.S.C. 528–531); the Eagle Protection Act (16 U.S.C. 668 *et seq.*); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*); and the American Indian Religious Freedom Act (42 U.S.C. 1996).

This waiver does not revoke or supersede the previous waivers published in the **Federal Register** on October 26, 2007 (72 FR 60870), and April 8, 2008 (73 FR 19078), which shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Kevin K. McAleenan,

Acting Secretary of Homeland Security.

[FR Doc. 2019–10079 Filed 5–14–19; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border in Imperial County, California.

DATES: This determination takes effect on May 15, 2019.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international land border. Secure Fence Act of 2006, Public Law 109–367, 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate from Congress, the President's Executive Order on Border Security and Immigration Enforcement Improvements directed executive departments and agencies to deploy all lawful means to secure the southern border. Executive Order 13767, § 1. In order to achieve that end, the President directed, among other things, that I take immediate steps to prevent all unlawful entries into the United States, including the immediate construction of physical infrastructure to prevent illegal entry. Executive Order 13767, § 4(a).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, § 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated the installation of additional fencing, barriers, roads, lighting, cameras, and sensors on the southwest border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol's (Border Patrol) El Centro Sector is an area of high illegal entry. In fiscal year 2018, the Border Patrol apprehended over 29,000 illegal aliens attempting to enter the United States between border crossings in the El Centro Sector. Also in fiscal year 2018, the Border Patrol had approximately 200 separate drug-related events between border crossings in the El Centro Sector, through which it seized over 620 pounds of marijuana, over 165 pounds of cocaine, over 56 pounds of heroin, and over 1,600 pounds of methamphetamine. Additionally, Imperial County, California, which is located in the El Centro Sector, has been identified as High Intensity Drug Trafficking Areas by the Office of National Drug Control Policy.

During the high levels of illegal entry of people and drugs within the El Centro Sector, I must use my authority under section 102 of IIRIRA to install additional physical barriers and roads in the El Centro Sector. Therefore, DHS will take immediate action to replace existing vehicle barriers in the El Centro Sector. The segment within which such construction will occur is referred to herein as the ''project area'' and is more

specifically described in Section 2 below.

The existing vehicle barriers within the project area no longer satisfy the Border Patrol's operational needs. Transnational criminal organizations known for smuggling drugs into United States from Mexico are known to operate in the area. Further, due to the close proximity of urban areas on both sides of the border, the El Centro Sector experiences some of the quickest vanishing times—that is, the time it takes to illegally cross into the United States and assimilate into local, legitimate traffic—on the border. The vanishing times facilitate the illegal activities of transnational criminal organizations, whether they are smuggling people or narcotics. Therefore, the Border Patrol requires a more effective barrier. The existing vehicle barriers will be replaced with an 18 to 30 foot barrier that employs a more operationally effective design. In addition, roads will be constructed or improved and lighting will be installed.

To support DHS's action under Section 102 of IIRIRA, DHS requested that the Department of Defense, pursuant to 10 U.S.C. 284(b)(7), assist by constructing fence, roads, and lighting within the El Centro Sector in order to block drug smuggling corridors across the international boundary between the United States and Mexico. The Acting Secretary of Defense has concluded that the support requested satisfies the statutory requirements of 10 U.S.C. 284(b)(7) and that the Department of Defense will provide such support in the project area described in Section 2 below.

Section 2

I determine that the following area in the vicinity of the United States border, located in the State of California within the Border Patrol's El Centro Sector, is an area of high illegal entry (the ''project area''): Starting at Border Monument 229 and extending east to approximately one and one-half miles (1.5) west of Border Monument 223.

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States in the project area pursuant to sections 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of the barriers and roads in the project area, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA.

Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive in their entirety, with respect to the construction of physical barriers and roads (including, but not limited to, accessing the project area, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the project area, all of the following statutes, including all federal, state, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of, the following statutes, as amended: The National Environmental Policy Act (Pub. L. 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*)); the Endangered Species Act (Pub. L. 93–205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*)); the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act (33 U.S.C. 1251 *et seq.*)); the National Historic Preservation Act (Pub. L. 89–665, 80 Stat. 915 (Oct. 15, 1966), as amended, repealed, or replaced by Public Law 113–287, 128 Stat. 3094 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 470 *et seq.,* now codified at 54 U.S.C. 100101 note and 54 U.S.C. 300101 *et seq.*)); the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*); the Migratory Bird Conservation Act (16 U.S.C. 715 *et seq.*); the Clean Air Act (42 U.S.C. 7401 *et seq.*); the Archeological Resources Protection Act (Pub. L. 96–95, 93 Stat. 721 (Oct. 31, 1979) (16 U.S.C. 470aa *et seq.*)); the Paleontological Resources Preservation Act (16 U.S.C. 470aaa *et seq.*); the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*); the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*); the Noise Control Act (42 U.S.C. 4901 *et seq.*); the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*); the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*); the Archaeological and Historic Preservation Act (Pub. L. 86–523, 74 Stat. 220 (June 27, 1960) as amended, repealed, or replaced by Public Law113–287, 128 Stat. 3094 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 469 *et seq.,* now codified at 54 U.S.C. 312502 *et seq.*)); the Antiquities Act (formerly codified at 16 U.S.C. 431 *et seq.,* now codified 54 U.S.C. 320301 *et seq.*); the Historic Sites, Buildings, and Antiquities Act (formerly codified at 16 U.S.C. 461 *et seq.,* now codified at 54 U.S.C. 3201–320303 & 320101–320106); the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*); the Federal Land Policy and Management Act (Pub. L. 94–579, 90 Stat. 2743 (Oct. 21, 1976) (43 U.S.C. 1701 *et seq.*)); National Fish and Wildlife Act of 1956 (Pub. L. 84–1024, 70 Stat. 1119 (Aug. 8, 1956) (16 U.S.C. 742a, *et seq.*)); the Fish and Wildlife Coordination Act (Pub. L. 73–121, 48 Stat. 401 (March 10, 1934) (16 U.S.C. 661 *et seq.*)); the National Trails System Act (16 U.S.C. 1241 *et seq.*); the Administrative Procedure Act (5 U.S.C. 551 *et seq.*); the Wild Horse and Burro Act (16 U.S.C. 1331 *et seq.*); the Rivers and Harbors Act of 1899 (33 U.S.C. 403); the Eagle Protection Act (16 U.S.C. 668 *et seq.*); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*); the American Indian Religious Freedom Act (42 U.S.C. 1996); 43 U.S.C. 387; the Wilderness Act (Pub. L. 88–577, 78 Stat. 890 (Sept. 3, 1964) (16 U.S.C. 1131 *et seq.*)); and sections 102(29) and 103 of Title I of the California Desert Protection Act (Pub. L. 103–433, 108 Stat. 4471 (Oct. 31, 1994)).

This waiver does not revoke or supersede the previous waiver published in the **Federal Register** on April 8, 2008 (73 FR 19078), which shall remain in full force and effect in accordance with its terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Kevin K. McAleenan,

Acting Secretary of Homeland Security.

[FR Doc. 2019–10080 Filed 5–14–19; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border near Tecate and Calexico, California.

DATES: This determination takes effect on May 15, 2019.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department

of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain operational control of the international land border. Secure Fence Act of 2006, Public Law 109–367, 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate from Congress, the President's Executive Order on Border Security and Immigration Enforcement Improvements directed executive departments and agencies to deploy all lawful means to secure the southern border. Executive Order 13767, § 1. In order to achieve that end, the President directed, among other things, that I take immediate steps to prevent all unlawful entries into the United States, including the immediate construction of physical infrastructure to prevent illegal entry. Executive Order 13767, § 4(a).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, § 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated the installation of additional fencing, barriers, roads, lighting, cameras, and sensors on the southwest border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol's (Border Patrol) San Diego and El Centro Sectors are areas of high illegal entry. In fiscal year 2018 alone, the Border Patrol apprehended over 38,000 illegal aliens attempting to enter the United States between border crossings in the San Diego Sector. In that same year, the Border Patrol had over 500 separate drug-related events between border crossings in the San Diego Sector, through which it seized approximately 8,700 pounds of marijuana, approximately 1,800 pounds of cocaine, over 175 pounds of heroin, and over 5,100 pounds of methamphetamine. In fiscal year 2018, the Border Patrol apprehended over 29,000 illegal aliens attempting to enter the United States between border crossings in the El Centro Sector. Also in fiscal year 2018, the Border Patrol had approximately 200 separate drug-related events between border crossings in the El Centro Sector, through which it seized over 620 pounds of marijuana, over 165 pounds of cocaine, over 56 pounds of heroin, and over 1,600 pounds of methamphetamine.

Due to the high levels of illegal entry within the San Diego and El Centro Sectors, I must use my authority under section 102 of IIRIRA to install additional physical barriers and roads in the San Diego and El Centro Sectors. Therefore, DHS will take immediate action to replace existing barriers in the San Diego and El Centro Sectors. The segments of the border within which such construction will occur are referred to herein as the ''project areas'' and are more specifically described in Section 2 below. Congress provided funding for these projects in the Fiscal Year 2018 DHS Appropriations Act, Public Law 115–141, Division F, Title II, § 230.

The replacement of primary fencing within the project areas will further the Border Patrol's ability to deter and prevent illegal crossings. The existing barriers were constructed between the early-to-mid 1990s and mid-to-late 2000s. The existing barriers will be replaced with 18 to 30 foot barriers that employ a more operationally effective design that is intended to meet the Border Patrol's operational requirements. In addition, DHS will, where necessary, make improvements to existing roads within the project areas.

Section 2

I determine that the following areas in the vicinity of the United States border, located in the State of California within the Border Patrol's San Diego and El Centro Sectors, are areas of high illegal entry (the ''project areas''):

- Within the San Diego Sector, starting approximately one mile west of Border Monument 245 and extending east to approximately one mile east of Border Monument 243;
- Within the El Centro Sector, starting approximately one and one-half (1.5) miles west of Border Monument 223 and extending east approximately eight miles; and
- Within the El Centro Sector, starting at Border Monument 221 and extending east to Border Monument 219.

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States in the project areas pursuant to sections 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of the barriers and roads in the project areas, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA.

Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive in their entirety, with respect to the construction of roads and physical barriers (including, but not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the project areas, all of the following statutes, including all federal, state, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of, the following statutes, as amended:

The National Environmental Policy Act (Pub. L. 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*)); the Endangered Species Act (Pub. L. 93–205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*)); the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act (33 U.S.C. 1251 *et seq.*)); the National Historic Preservation Act (Pub. L. 89–665, 80 Stat. 915 (Oct. 15, 1966), as amended, repealed, or replaced by Pub. L. 113–287 (Dec. 19, 2014) (formerly

codified at 16 U.S.C. 470 *et seq.,* now codified at 54 U.S.C. 100101 note and 54 U.S.C. 300101 *et seq.*)); the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*); the Migratory Bird Conservation Act (16 U.S.C. 715 *et seq.*); the Clean Air Act (42 U.S.C. 7401 *et seq.*); the Archeological Resources Protection Act (Pub. L. 96–95, 93 Stat. 721 (Oct. 31, 1979) (16 U.S.C. 470aa *et seq.*)); the Paleontological Resources Preservation Act (16 U.S.C. 470aaa *et seq.*); the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*); the National Trails System Act (16 U.S.C. 1241 *et seq.*); the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*); the Noise Control Act (42 U.S.C. 4901 *et seq.*); the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*); the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*); the Archaeological and Historic Preservation Act (Pub. L. 86–523, 74 Stat. 220 (June 27, 1960) as amended, repealed, or replaced by Pub. L. 113–287, 128 Stat. 3094 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 469 *et seq.,* now codified at 54 U.S.C. 312502 *et seq.*)); the Antiquities Act (formerly codified at 16 U.S.C. 431 *et seq.,* now codified 54 U.S.C. 320301 *et seq.*); the Historic Sites, Buildings, and Antiquities Act (formerly codified at 16 U.S.C. 461 *et seq.,* now codified at 54 U.S.C. 3201–320303 & 320101–320106); the Wild and Scenic Rivers Act (Pub. L. 90–542 (16 U.S.C. 1281 *et seq.*)); the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*); the Federal Land Policy and Management Act (Pub. L. 94–579, 90 Stat. 2743 (Oct. 21, 1976) (43 U.S.C. 1701 *et seq.*)); National Fish and Wildlife Act of 1956 (Pub. L. 84–1024, 70 Stat. 1119 (Aug. 8, 1956) (16 U.S.C. 742a, *et seq.*)); the Fish and Wildlife Coordination Act (Pub. L. 73–121, 48 Stat. 401 (March 10, 1934) (16 U.S.C. 661 *et seq.*)); the Wild Horse and Burro Act (16 U.S.C. 1331 *et seq.*); the Administrative Procedure Act (5 U.S.C. 551 *et seq.*); the Rivers and Harbors Act of 1899 (33 U.S.C. 403); the Eagle Protection Act (16 U.S.C. 668 *et seq.*); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*); the American Indian Religious Freedom Act (42 U.S.C. 1996); and 43 U.S.C. 387.

This waiver does not revoke or supersede the previous waivers published in the **Federal Register** on April 8, 2008 (73 FR 19078), and on September 12, 2017 (82 FR 42829), which shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Kevin K. McAleenan,

Acting Secretary of Homeland Security.

[FR Doc. 2019–10078 Filed 5–14–19; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0027788: PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Kansas State Historical Society, Topeka, KS

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Kansas State Historical Society has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Kansas State Historical Society. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Kansas State Historical Society at the address in this notice by June 14, 2019.

ADDRESSES: Dr. Robert J. Hoard, Kansas State Historical Society, 6425 SW 6th Avenue, Topeka, KS 66615, telephone (785) 272–8681 Ext. 269, email *Robert.Hoard@ks.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Kansas State Historical Society, Topeka, KS. The human remains and associated funerary objects were removed from archeological site 14RP1, Republic County, KS.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Kansas State Historical Society professional staff in consultation with representatives of the Pawnee Nation of Oklahoma.

History and Description of the Remains

Removal of human remains and associated funerary objects from the Pawnee Indian Village site (also known as Kansas Monument site and Kansas archeological site number 14RP1) occurred in several instances.

In 1996 and 1997, human remains representing, at minimum, seven individuals were removed from archeological site 14RP1, the Pawnee Indian Village site, in Republic County, KS. The human remains and associated funerary objects were taken from burial pits within and near the site. Some of the burial had been disturbed variously, by intentional looting and excavation by professional archeologists before burial law protection had been enacted. Burial 1 consists of one adult represented by 38 skeletal elements. Burial 2 consists of one adult represented by fragmentary cranial bones, phalanges, mandible fragments, long bone diaphysis, and teeth. Burial 3 consists of one adult male represented by 74 badly damaged and decomposed cranial elements, long bones, and scapula, clavicle, and pelvic elements. Burial 4 consists of one adult represented by fragmented long bones and a patella. Burial 5 consists of one adult female represented by over 140 small bone fragments that include one pelvic fragment and several identifiable long bone fragments. Burial 6 consists of one four-to-six month old infant represented by 15 bone fragments and two teeth. Burial 7 consists of seven element fragments. No known individuals were identified. The 90 associated funerary objects include one chipped stone scraper, ochre, flakes,

beads and beads fragments, one smoking pipe fragment, two iron fragments, and multiple wood fragments. These cultural items are identified by the designation UBS 1990–12.

At an unknown date, human remains representing, at minimum, five individuals were removed from archeological site 14RP1 in Republic County KS. The human remains and associated funerary objects were donated to the Kansas State Historical Society in 1896, by Mrs. George Johnson. The fragmentary elements belong to one infant represented by 69 elements; one two-to-five-year-old represented by 21 bone fragments; and three adults represented by 54 bone fragments. No known individuals were identified. The 40 associated funerary objects include six pottery fragments, 10 flakes, one quartzite grinding stone, five grinding stone fragments, four red quartzite mortar fragments, one wooden post fragment, five scraps of copper, one hammer stone, one horse tooth, three sandstone fragments, one projectile point blank, and two pieces of pyrite. These cultural items are identified by the designation UBS 1991–05.

In 1966, human remains representing, at minimum, one individual were removed from Area 662, excavation 326, Feature 584 at archeological site 14RP1 by state archeologist Thomas Witty. Twenty fragments of human bone representing one adult were found in Kansas State Historical Society collections by Robert Hoard in June 2008, and include fragments of the temporal, maxilla, maxilla or mandible, vertebrae, patella, tarsals, and unidentifiable fragments. No known individuals were identified. No associated funerary objects were present. These cultural items are identified by the designation UBS 2018–02.

Archeological site 14RP1 was occupied between approximately 1770 and 1810 C.E., and is well known to the Pawnee Nation of Oklahoma. Ethnographically, Zebulon Pike, Pedro (Pierre) Vial, and Lewis and Clark all document the presence of the Kitkahaki band of the Pawnee in the region encompassing site 14RP1 during the 1770–1810 C.E. timeframe. Geographically, the site lies within the historically documented territory of the Pawnee (see summaries in Roper 2006 and Wedel 1936; 1959:40–41, 58–60). Pawnee oral history supports these findings (see Weltfish 1965). Furthermore, excavations conducted in the 1960s by the Kansas State Historical Society and in 2007 by the University of Kansas corroborate the above statements.

Determinations Made by the Kansas State Historical Society

Officials of the Kansas State Historical Society have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 13 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 130 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Pawnee Nation of Oklahoma.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Robert J. Hoard, State Archeologist, Kansas State Historical Society, 6425 SW 6th Avenue, Topeka, KS 66615–1099, telephone 785–272–8681 Ext. 269, email *Robert.Hoard@ks.gov,* by June 14, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Pawnee Nation of Oklahoma may proceed.

The Kansas State Historical Society is responsible for notifying the Pawnee Nation of Oklahoma that this notice has been published.

Dated: April 25, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–09994 Filed 5–14–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0027785; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Robert S. Peabody Institute of Archaeology, Andover, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Robert S. Peabody Institute of Archaeology has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Robert S. Peabody Institute of Archaeology. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Robert S. Peabody Institute of Archaeology at the address in this notice by June 14, 2019.

ADDRESSES: Ryan Wheeler, Robert S. Peabody Institute of Archaeology, Phillips Academy, 180 Main Street, Andover, MA 01810, telephone (978) 749–4490, email *rwheeler@andover.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Robert S. Peabody Institute of Archaeology, Andover MA. The human remains and associated funerary objects were removed from the Chequesset Inn-Taylor Hill site (19BN106), Wellfleet, Barnstable County, MA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

An invitation to consult was extended to the Mashpee Wampanoag Tribe (previously listed as the Mashpee Wampanoag Indian Tribal Council, Inc.)

and the Wampanoag Tribe of Gay Head (Aquinnah), hereafter referred to as ''The Invited Tribes.'' The Assonet Band of the Wampanoag Nation, a non-federally recognized Indian group, was also invited, but chose not to participate.

The Invited Tribes either did not consult or engaged in limited communication. Determinations of cultural affiliation are based on prior and extensive consultation with these Indian Tribes and groups for other human remains and associated funerary objects from the same site and vicinity.

History and Description of the Remains

At an unknown date early in the twentieth century, human remains representing, at minimum, one individual were removed from the Chequesset Inn-Taylor Hill site (19–BN–106) in Barnstable County, MA. Research by archeologist James W. Bradley (2008) indicates that avocational archeologist Howard Torrey removed human remains from the Chequesset Inn-Taylor Hill site, and gave some of these human remains to avocational archeologist Fred Luce in 1915. During an inventory project in 2018, staff members of the Robert S. Peabody Institute of Archaeology located 6 boxes of objects from Cape Cod area sites that had been amassed by Fred Luce in the early twentieth century. Examination by physical anthropologist Harley Erickson found that the human remains consist of two heavily eroded human bone fragments—a distal end of a metatarsal and a medial hand phalanx. Both are from an adult of indeterminate sex and age. No known individuals were identified. The 56 associated funerary objects are six modified animal bone fragments; 22 ceramic fragments, some decorated (including small bag of ceramic dust and debris); and 28 small, unmodified shells. (Three other individuals and eight associated funerary objects from Taylor Hill and excavated by Howard Torrey and archeologist Ripley R. Bullen in 1946 and 1949 were listed by the Robert S. Peabody Institute of Archaeology in a Notice of Inventory Completion published in 2005, and have already been repatriated.)

The Chequesset Inn-Taylor Hill site is reported in archeologist James W. Bradley's 2008 article ''Taylor Hill: A Middle Woodland Mortuary Site in Wellfleet, MA,'' in the *Bulletin of the Massachusetts Archaeological Society.* The site dates to the late Middle Woodland era (circa 1100 to 1300 years B.P.), and is described by Bradley as a ''concentration of late Middle Woodland habitation and mortuary sites located at the head of Wellfleet Harbor on Cape Cod.'' These sites lie within the historically documented territory of the Wampanoag. In his 1928 monograph, ''Territorial Subdivisions and Boundaries of the Wampanoag, Massachusett, and Nauset Indians,'' (*Indian Notes and Monographs* No. 44, 1928) Frank Speck places the area around Wellfleet within the traditional territory of the Wampanoag. Linguistically, this area is within the so-called n-dialect shared by Massachusett, Wampanoag, and Pokanoket speakers (see map and discussion in Kathleen J. Bragdon's 2009 book *Native Peoples of Southern New England, 1650–1775,* pages 22–23). Sociopolitical and economic patterns in the coastal area of Rhode Island and Massachusetts were established by the late Woodland period circa A.D. 1000, and the coastal groups in this area are likely the ancestors of the Wampanoag people encountered by the English in the seventeenth century. Archeology, ethno-history, linguistics, and oral history provide multiple lines of evidence that demonstrate longstanding ties between the Wampanoag and the area around the Chequesset Inn-Taylor Hill site and affirm affiliation with the burial at the site.

Determinations Made by the Robert S. Peabody Institute of Archaeology

Officials of the Robert S. Peabody Institute of Archaeology have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 56 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and The Invited Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Ryan Wheeler, Robert S. Peabody Institute of Archaeology, Phillips Academy, 180 Main Street, Andover, MA 01810, telephone (978) 749–4490, email *rwheeler@andover.edu,* by June 14, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Invited Tribes may proceed.

The Robert S. Peabody Institute of Archaeology is responsible for notifying The Invited Tribes and the Assonet Band of the Wampanoag Nation, a non-federally recognized Indian group, that this notice has been published.

Dated: April 25, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–09993 Filed 5–14–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0027787; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Tennessee Department of Environment and Conservation, Division of Archaeology, Nashville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Tennessee Department of Environment and Conservation, Division of Archaeology has completed an inventory of human remains and associated funerary objects in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Tennessee Department of Environment and Conservation, Division of Archaeology. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Tennessee Department of

Environment and Conservation, Division of Archaeology at the address in this notice by June 14, 2019.

ADDRESSES: Tennessee Department of Environment and Conservation, Division of Archaeology, Michael C. Moore, 1216 Foster Avenue, Cole Building 3, Nashville, TN 37243, telephone (615) 687–4776, email *mike.c.moore@tn.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Tennessee Department of Environment and Conservation, Division of Archaeology, Nashville, TN. The human remains and associated funerary objects were removed from Monroe County, TN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Tennessee Department of Environment and Conservation, Division of Archaeology professional staff in consultation with representatives of the Cherokee Nation; Eastern Band of Cherokee Indians; and the United Keetoowah Band of Cherokee Indians (hereafter referred to as ''The Tribes'').

History and Description of the Remains

Between 1958 and 1959, human remains representing, at minimum, one individual were removed from the Ft. Loudoun historic site (40MR1) in Monroe County, TN during test excavations. The partial human remains represent one adult male. Ft. Loudoun (40MR1) is an 18th-century fort located on the south side of the Little Tennessee River in Monroe County, TN. Construction of the fort was begun in 1756, and substantially finished in 1757; final features were completed in 1758. The Cherokee town of Tuskegee was located just south of Ft. Loudoun, and the relationship and interactions between Ft. Loudoun and the Cherokee Indians are well documented (see *https://www.tn.gov/content/dam/tn/environment/archaeology/documents/researchseries/arch_rs17_fort_loudoun_2010.pdf*). The Fort Loudoun Association sponsored the test excavations, and the work was conducted by a University of Tennessee student, who removed the partial human remains of an adult male from Structure 7 fill (Burial 1 in the 2010 site report). No known individuals were identified. No associated funerary objects are present.

In 1975–1976, human remains representing, at minimum, one individual were removed from the Ft. Loudoun historic site (40MR1) in Monroe County, TN. The human remains of an adult female were recovered during the Tennessee Division of Archaeology (TDOA) excavations (Burial 2 in the 2010 site report). According to the site report, the human remains of this individual were turned over to the McClung Museum at the University of Tennessee, and were reburied at a grave site constructed at the Sequoia Museum (near Ft. Loudoun) along with other Cherokee burial remains from the Little Tennessee Valley. The human remains from Burial 2 in the Division's possession consist of one box of long bones still in dirt. Apparently, these human remains had been excluded from the reburial. No known individuals were identified. The 13 associated funerary objects are three heart-shaped broaches, two circular broaches, one silver cuff bracelet, one iron snuff box, two silver teardrop earrings, and four brass thimbles with holes. Until recently, these associated funerary objects were on display at the Ft. Loudoun State Historic Park. Although the 2010 site report states that five thimbles were recovered during the excavations, only four thimbles were present when the associated funerary objects were returned to the TDOA in 2018. The location of the fifth thimble is unknown. Based upon the range and style of artifacts (broaches, earrings, and thimbles with holes), the associated funerary objects are consistent with previously identified historic period Native American objects used as personal adornments.

Determinations Made by the Tennessee Department of Environment and Conservation, Division of Archaeology

Officials of the Tennessee Department of Environment and Conservation, Division of Archaeology have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 13 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and The Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Michael C. Moore, Tennessee Department of Environment and Conservation, Division of Archaeology, 1216 Foster Avenue, Cole Building 3, Nashville, TN 37243, telephone (615) 687–4776, email *mike.c.moore@tn.gov,* by June 14, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The Tennessee Department of Environment and Conservation, Division of Archaeology is responsible for notifying The Tribes that this notice has been published.

Dated: April 25, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–09996 Filed 5–14–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0027786; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Pueblo Grande Museum, Phoenix, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Pueblo Grande Museum, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural item listed in this notice meets the definition of a sacred object. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request to the Pueblo Grande Museum. If no additional claimants come forward,

transfer of control of the cultural item to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to the Pueblo Grande Museum at the address in this notice by June 14, 2019.

ADDRESSES: Lindsey Vogel-Teeter, Pueblo Grande Museum, 4619 E Washington Street, Phoenix, AZ 85331, telephone (602) 495–0901, email *lindsey.vogel-teeter@phoenix.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item under the control of the Pueblo Grande Museum, Phoenix, AZ, that meets the definition of a sacred object under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural item. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item

Around 1983, a Butterfly Dance Tablita (headdress) was donated to the Pueblo Grande Museum by Holley Swan, a patron of the Museum. No additional information is known about the collecting history of this object.

During consultation on January 10, 2017, representatives of the Hopi Tribe of Arizona demonstrated the Tribe's cultural affiliation with this object, and established that the object was needed for use by girls during a traditional Hopi ceremony, the Butterfly dance.

Determinations Made by the Pueblo Grande Museum

Officials of the Pueblo Grande Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the one cultural item described above is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred object and the Hopi Tribe of Arizona.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to Lindsey Vogel-Teeter, Pueblo Grande Museum, 4619 E Washington Street, Phoenix, AZ 85331, telephone (602) 495–0901, email *lindsey.vogel-teeter@phoenix.gov,* by June 14, 2019. After that date, if no additional claimants have come forward, transfer of control of the sacred object to the Hopi Tribe of Arizona may proceed.

The Pueblo Grande Museum is responsible for notifying the Hopi Tribe of Arizona that this notice has been published.

Dated: April 25, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–09995 Filed 5–14–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Rhodes Technologies

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before June 14, 2019. Such persons may also file a written request for a hearing on the application on or before June 14, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on March 11, 2019, Rhodes Technologies, 498 Washington Street, Coventry, Rhode Island 02816 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Tetrahydrocannabinols	7370	I
Methylphenidate	1724	II
Oxycodone	9143	II
Hydromorphone	9150	II
Hydrocodone	9193	II
Morphine	9300	II
Opium, raw	9600	II
Oxymorphone	9652	II
Poppy Straw Concentrate.	9670	II

The company plans to import Opium, raw (9600), and Poppy Straw Concentrate (9670) in order to bulk manufacture controlled substances in Active Pharmaceutical Ingredient (API) form. The company distributes the manufactured APIs in bulk to its customers.

The company plans to import the other listed controlled substances for internal reference standards use only. The comparisons of foreign reference standards to the company's domestically manufactured API will allow the company to export domestically manufactured API to foreign markets.

Dated: April 27, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–10010 Filed 5–14–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Raquel Skidmore, M.D.; Decision and Order

On December 14, 2018, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause to Raquel Skidmore, M.D. (hereinafter, Registrant), of Panama City, Florida. Order to Show Cause (hereinafter, OSC), at 1. The OSC proposes the revocation of Registrant's Certificate of Registration on the ground that she does ''not have authority to handle controlled substances in the State of Florida, the state in which . . . [she is] registered with the DEA.'' *Id.* (citing 21 U.S.C. 823(f) and 824(a)(3)).

Regarding jurisdiction, the OSC alleges that Registrant holds DEA Certificate of Registration No. BS7985623 at the registered address of Gulf Coast Holistic and Primary Care, 219 Forest Park Circle, Panama City, Florida 32405. OSC, at 1. It alleges that this registration authorizes Registrant to dispense controlled substances in schedules II through V as a practitioner. *Id.* The OSC alleges that this registration expires on February 29, 2020. *Id.*

The substantive ground for the proceeding, as alleged in the OSC, is that Registrant is ''without authority to handle controlled substances in Florida, the state in which . . . [she is] registered with the DEA.'' *Id.* Specifically, the OSC alleges that the Florida Department of Health issued an ''Order of Emergency Restriction of License'' on April 5, 2018. *Id.* This Order, according to the OSC, immediately restricted Registrant's ''license to practice in areas of critical need'' because her ''continued practice of medicine would constitute 'an immediate, serious danger to the health, safety, or welfare of the citizens of Florida.' '' *Id.* at 1–2. On July 5, 2018, the OSC alleges, ''the Florida Board of Medicine adopted the findings of fact in the Order of Emergency Restriction and issued a Final Order revoking . . . [Registrant's] license to practice medicine in the State of Florida.'' *Id.* at 2.

The Show Cause Order notifies Registrant of her right to request a hearing on the allegations or to submit a written statement while waiving her right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* at 2 (citing 21 CFR 1301.43). The OSC also notifies Registrant of the opportunity to submit a corrective action plan. OSC, at 3 (citing 21 U.S.C. 824(c)(2)(C)).

Adequacy of Service

In a Declaration dated February 26, 2019, a Diversion Investigator (hereinafter, DI) assigned to the Miami Field Division, Tallahassee Resident Office, describes herself as the ''lead DI assigned'' to the matter involving Registrant. Request for Final Agency Action dated February 28, 2019 (hereinafter, RFAA), App. 4, at 1. The DI states that she and a Group Supervisor found Registrant's registered office address ''abandoned'' when they visited it on November 14, 2018. *Id.* at 2. According to the DI, the ''building manager . . . stated that Registrant had not been at the registered location for well over a year, and that she had heard Registrant had left the country.'' *Id.* Registrant's Facebook account indicates that she ''now resides in St. Thomas, U.S. Virgin Islands.'' *Id.* at 3.

The DI states that she tried to serve the OSC on Registrant in five different ways: (1) By emailing it to Registrant's registered email address; (2) by contacting the attorney who represented Registrant before the Florida Board of Medicine; (3) by utilizing Registrant's Facebook page to contact Registrant's husband; (4) by sending the OSC registered mail to Registrant's registered address; and (5) by sending a ''private message through Facebook to Registrant.'' *Id.* at 2. The DI states that, on January 24, 2019, she ''finally received an email response from Registrant, which indicated she had received and reviewed'' the OSC. *Id.*

> I don't communicate through phone, I communicate through email. Anything you want to tell me it has to be through this email. I lost my license very unfairly, I lost my job and couldn't afford a lawyer anymore. I would love to go to that hearing in February but I can't even afford a plane ticket. What do you want from me?

Id. at Exh. 1, at 2.

In its RFAA, the Government represents that ''more than thirty days have passed since the . . . [OSC] was served on . . . [Registrant] and no request for hearing has been received by DEA.[1] RFAA, at 1. The Government requests that Registrant's ''Certificate of Registration as a practitioner be revoked, based on . . . [her] lack of state authority.'' *Id.* at 5.

Based on the DI's Declaration, the Government's written representations, and my review of the record, I find that the Government accomplished service of the OSC on Registrant on or before January 24, 2019. I also find that more than 30 days have now passed since the Government accomplished service of the OSC. Further, based on the Government's written representations, I find that neither Registrant, nor anyone purporting to represent her, requested a hearing, submitted a written statement while waiving Registrant's right to a hearing, or submitted a corrective action plan. Accordingly, I find that Registrant has waived her right to a hearing and her right to submit a written statement and corrective action plan. 21 CFR 1301.43(d) and 21 U.S.C. 824(c)(2)(C). I, therefore, issue this Decision and Order based on the record submitted by the Government, which constitutes the entire record before me. 21 CFR 1301.43(e).

Findings of Fact

Registrant's DEA Registration

Registrant is the holder of DEA Certificate of Registration No. BS7985623 at the registered address of Gulf Coast Holistic and Primary Care, 219 Forest Park Circle, Panama City, Florida 32405. RFAA, App. 5, at 2. Pursuant to this registration, Registrant is authorized to dispense controlled substances in schedules II through V as a practitioner. *Id.* Registrant's registration expires on February 29, 2020 and is ''in an active pending status.'' *Id.* at 1.

The Status of Registrant's State License

On April 5, 2018, the Florida Department of Health issued an Order of Emergency Restriction of License No. ACN 244 (hereinafter, Emergency Restriction). RFAA, App. 2, at 1. According to the Emergency Restriction, Registrant suffered a severe manic episode on February 19, 2017 that involved her jumping out of her bathroom window, running naked through the streets, and screaming that she was god and was going to save the world. *Id.* at 2. The Emergency Restriction also states that Registrant grabbed her infant grandchild and claimed that the infant was her deceased grandmother. *Id.* According to the Emergency Restriction, Registrant believed that ''her manic episode may have been the result of the stressors involved with practicing medicine,'' admitted to smoking approximately one ''bowl'' of marijuana every day for about the last two years, and ''submitted hair and urine samples for toxicology screening.''[2] *Id.* at 3.

[1] The Government also represents that DEA has not received ''any other correspondence of [sic] filing'' from Registrant. RFAA, at 3.

[2] The toxicological tests of Registrant's hair and urine samples indicated the presence of marijuana.

The Emergency Restriction states that, as of the date of the Emergency Restriction, Registrant ''has failed to enter into a contract with . . . [the Professionals Resource Network, (hereinafter, PRN)] that encompasses the necessary treatment to address . . . [Registrant's] psychiatric and substance abuse issues.'' *Id.* at 4. It concludes that (1) Registrant ''is not capable of caring for patients in a manner that is correct and safe;'' (2) Registrant's continued unrestricted practice as a physician presents an immediate, serious danger to the health, welfare, and safety of the public;'' (3) ''there is a significant likelihood that . . . [Registrant's] inability to practice medicine with reasonable skill and safety to patients will continue without appropriate treatment and monitoring;'' and that (4) there are no less restrictive means, other than the terms of . . . [the Emergency Restriction], that will adequately protect the public from . . . [Registrant's] continued unrestricted practice of medicine.'' *Id.* at 4–5. The Emergency Restriction orders the immediate restriction of Registrant's medical license ''until PRN or a PRN-approved evaluator notifies the Department that she is safe to resume the practice of medicine.'' *Id.* at 7.

On July 2, 2018, the Florida Board of Medicine denied all of the Exceptions that Registrant filed concerning the Emergency Restriction, adopted the Emergency Restriction's findings of fact, and revoked Registrant's license to practice medicine in the State of Florida. Final Order of the Florida Board of Medicine (filed date: July 5, 2018) (hereinafter, Final Order), at 2–6.

According to Florida's online records, of which I take official notice, Registrant's license is still revoked.[3] Florida Board of Medicine Lookup, *https://flboardofmedicine.gov/* (last visited May 3, 2019). Florida's online records show that Registrant's medical license remains revoked and that she is not authorized in Florida to prescribe controlled substances. *Id.*

Accordingly, I find that Registrant currently is neither licensed to engage in the practice of medicine nor registered to dispense controlled substances in Florida, the State in which she is registered with the DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (hereinafter, CSA), ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71,371 (2011), *pet. for rev. denied,* 481 Fed. Appx. 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27,616, 27,617 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess State authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the State in which he practices. *See, e.g., Hooper, supra,* 76 FR at 71,371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51,104, 51,105 (1993); *Bobby Watts, M.D.,* 53 FR 11,919, 11,920 (1988); *Blanton, supra,* 43 FR at 27,617.

According to Florida statute, ''A practitioner, in good faith and in the course of his or her professional practice only, may prescribe, administer, [or] dispense . . . a controlled substance.'' Fla. Stat. Ann. § 893.05(1)(a) (West, Westlaw current with chapters from the 2019 First Regular Session of the 26th Legislature in effect through April 26, 2019). Further, ''practitioner,'' as defined by Florida statute, includes ''a physician licensed under chapter 458.'' Fla. Stat. Ann. § 893.02(23) (West, Westlaw current with chapters from the 2019 First Regular Session of the 26th Legislature in effect through April 26, 2019).[4]

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice medicine in Florida. As already discussed, a physician must be a licensed practitioner to dispense a controlled substance in Florida. Thus, since Registrant lacks authority to practice medicine in Florida and, therefore, is not authorized to handle controlled substances in Florida, I will order that Registrant's DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I order that DEA Certificate of Registration No. BS7985623 issued to Raquel Skidmore, M.D., be, and it hereby is, revoked. This Order is effective June 14, 2019.

Dated: May 3, 2019.

Uttam Dhillon,

Acting Administrator.

[FR Doc. 2019–10015 Filed 5–14–19; 8:45 am]

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Id. at 3. According to the Emergency Restriction, Registrant ''does not have a valid order for medical marijuana. *Id.*

[3] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' Accordingly, Registrant may dispute my finding by filing a properly supported motion for reconsideration within 15 calendar days of the date of this Order. Any such motion shall be filed with the Office of the Administrator and a copy shall be served on the Government. In the event Registrant files a motion, the Government shall have 15 calendar days to file a response.

[4] Chapter 458 concerns medical practice and addresses, among other things, the licensure of physicians.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Wildlife Laboratories, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before June 14, 2019. Such persons may also file a written request for a

hearing on the application on or before June 14, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on March 12, 2019, Wildlife Laboratories, Inc., 1230 West Ash, Suite D, Windsor, Colorado 80550–4677 applied to be registered as an importer of the following basic class of controlled substances:

Controlled substance	Drug code	Schedule
Etorphine HCL	9059	II
Thiafentanil	9729	II

The company plans to import the listed controlled substances for distribution to its customers.

Dated: April 27, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–10030 Filed 5–14–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: AMPAC Fine Chemicals Virginia, LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before July 15, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on March 6, 2019, AMPAC Fine Chemicals Virginia, LLC, 2820 North Normandy Drive, Petersburg, Virginia 23805 applied to be registered as a bulk manufacturer of the following basic class of controlled substances:

Controlled substance	Drug code	Schedule
Methylphenidate	1724	II
Phenylacetone	8501	II
Levomethorphan	9210	II
Levorphanol	9220	II
Morphine	9300	II
Thebaine	9333	II
Noroxymorphone	9668	II
Tapentadol	9780	II

The company plans to manufacture the listed controlled substances in bulk for distribution to its customers.

Dated: April 27, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–10013 Filed 5–14–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Registration

ACTION: Notice of registration.

SUMMARY: Registrants listed below have applied for and been granted registration by the Drug Enforcement Administration (DEA) as bulk manufacturers of schedule I and II controlled substances.

SUPPLEMENTARY INFORMATION: The companies listed below applied to be registered as bulk manufacturers of schedule I or schedule II controlled substances. Information on previously published notices is listed in the table below. No comments or objections were submitted for these notices.

Company	FR docket	Published
Johnson Matthey Pharmaceutical Materials Inc.	84 FR 2579	February 7, 2019.
IsoSciences, LLC	84 FR 2570	February 7, 2019.

The DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of these registrants to manufacture the applicable basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated each company's maintenance of effective controls against diversion by inspecting and testing each company's physical security systems, verifying each company's compliance with state and local laws, and reviewing each company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the DEA has granted a registration as a bulk manufacturer to the above listed companies.

Dated: April 27, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–10014 Filed 5–14–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: AndersonBrecon Inc. DBA PCI of Illinois

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before June 14, 2019. Such persons may also file a written request for a hearing on the application on or before June 14, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on March 5, 2019, AndersonBrecon Inc., DBA PCI of Illinois, 5775 Logistics Parkway, Rockford, Illinois 61109 applied to be registered as an importer of the following basic class of controlled substance:

Controlled substance	Drug code	Schedule
Tetrahydrocannabinols ..	7370	I

The company plans to import the listed controlled substance for clinical trials only. Approval of permit application will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: April 27, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–10006 Filed 5–14–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Fred J. Powell, M.D.; Decision and Order

On January 25, 2018, the Acting Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause to Fred J. Powell. (hereinafter, Registrant), of St. Augustine, Florida. Order to Show Cause (hereinafter, OSC), at 1. The OSC proposes the revocation of Registrant's Certificate of Registration (hereinafter, COR) on the ground that he is without authority to handle controlled substances in Florida, the State in which he is registered with the DEA. *Id.* at 2. The OSC cites the operative statutory provisions that spell out the requirements for registration upon which the DEA alleges that Registrant is deficient, and the DEA's authority to revoke his registration. *Id.,* at 1–2 (citing 21 U.S.C. 824(a)(3)).

Jurisdiction

This Agency has jurisdiction to decide this case based upon the OSC allegation that Registrant holds a DEA COR (No. AP8271138) at the registered address of 35 Townsend Pl., St. Augustine, FL 32092–3209. OSC, at 1. That registration authorizes Registrant, as a practitioner, to dispense controlled substances in schedules II through V and expires on March 31, 2020. *Id.*

Substantive Ground for Revocation of COR Alleged in OSC

The substantive ground for the proceeding, as alleged in the OSC, is that Registrant agreed to a permanent restriction prohibiting him from prescribing and ordering Schedule I through V controlled substances and thus is ''currently without authority to handle controlled substances in the State of Florida,'' the State in which he is registered with the DEA under DEA COR No. AP8271138. OSC, at 2.

The OSC notified Registrant of his right to request a hearing on the allegations or to submit a written statement if he chooses to waive his right to a hearing, the procedures for electing each option, and the consequences for failing to elect one of those options. *Id.* (citing 21 CFR 1301.43). The OSC also notified Registrant of the opportunity to submit a corrective action plan, the specific procedures for filing a corrective action plan, and the statutory provision that governs such a plan. *Id.* at 2–3 (citing 21 U.S.C. 824(c)(2)(C)).

By letter dated March 27, 2018, Registrant timely submitted a corrective action plan (hereinafter, CAP). Request for Final Agency Action dated April 10, 2018 (hereinafter, RFAA), Exhibit (hereinafter, Exh.) 5.[1] Registrant's CAP consists of thirteen paragraphs containing assertions. The Assistant Administrator of the Diversion Control Division denied Registrant's CAP by letter dated April 6, 2018. Exh. 6.

In its RFAA, the Government represents that, ''At least 30 days have passed since the time the . . . [OSC] was served on Registrant. Registrant has not requested a hearing.'' RFAA, at 2. The Government requests the issuance of a ''Final Order revoking Registrant's DEA registration.'' *Id.* at 4.

The very existence of the CAP evidences that service of the OSC on Registrant was adequate. In addition, Registrant did not dispute service. Based on the Government's written representations and my review of the record, I find that more than thirty days have now passed since the date the Government served the OSC. I find that Registrant timely submitted a CAP and that the Assistant Administrator of the Diversion Control Division denied Registrant's CAP by letter dated April 6, 2018. Further, based on the Government's written representations, I find that neither Registrant, nor anyone purporting to represent him, requested a hearing or submitted a written statement while waiving Registrant's right to a hearing. Accordingly, I find that Registrant has waived his right to a hearing and his right to submit a written statement. 21 CFR 1301.43(d). I, therefore, issue this Decision and Order based on the record submitted by the Government, which constitutes the entire record before me. 21 CFR 1301.43(e).

[1] Also attached to the RFAA is a ''Declaration'' of a DEA Diversion Investigator (hereinafter, DI Declaration). Exh. 4. According to the DI Declaration, two Diversion Investigators personally served the OSC on Registrant on January 26, 2018.

Findings of Fact

Registrant's DEA Registration

Registrant is the holder of DEA COR No. AP8271138, pursuant to which he is authorized to dispense controlled substances in schedules II through V as a practitioner, at the registered address of 35 Townsend Pl., St. Augustine, Florida 32092–3209. Certification of Registration History (Exh. 1), at 1.

On December 15, 2017, the State of Florida, Board of Medicine (hereinafter, Florida Board) issued a Final Order approving and adopting in full the Settlement Agreement that Registrant entered into on October 3, 2017, with the State of Florida, Department of Health. Exh. 3, at 68–70. The Florida Board's Final Order, therefore, adopted each provision of the Settlement Agreement, including Registrant's voluntary permanent restriction from ''prescribing, ordering, and/or delegating the prescribing or ordering of, any substances listed in Schedules I–V, as defined in Section 893.03, Florida Statutes (2016), and may from time-to-time be redefined in Florida Statutes and/or the Florida Administrative Code.'' *Id.* at 63. Thus, Registrant currently lacks authority to handle controlled substances in the State of Florida, the State in which he is licensed to practice medicine and where he is registered with DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (hereinafter, CSA), ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, the DEA has long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 Fed. Appx. 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27616, 27617 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . ., to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess State authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the State in which he practices. *See, e.g., Hooper, supra,* 76 FR at 71371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.,* 53 FR 11919, 11920 (1988); *Blanton, supra,* 43 FR at 27617.

Registrant has voluntarily agreed permanently to stop prescribing and ordering controlled substances, and to stop delegating the prescribing or ordering of controlled substances. Exh. 3, at 63. He has also voluntarily agreed that these permanent restrictions are ''fair, appropriate and acceptable'' to him.[2] *Id.* at 60.

The CSA has consistently been interpreted to mean that the DEA does not have statutory authority to maintain a registration if the registrant is without State authority to handle controlled substances in the State in which he practices. *E.g., Alaaeldin A. Babiker, M.D.,* 81 FR 50723, 50725 (2016); *Yeates, supra,* 71 FR at 39131; *Abraham A. Chaplan, M.D.,* 57 FR 55280, 55280 (1992). Very simply, because Registrant is not authorized to handle controlled substances in Florida, he is not eligible for a DEA registration. As such, I will order that Registrant's COR be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I order that DEA Certificate of Registration No. AP8271138 issued to Fred J. Powell, M.D., be, and it hereby is, revoked. Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I further order that any pending application of Fred J. Powell, M.D., to renew or modify this registration (AP8271138), as well as any other pending application by him for registration in the State of Florida, be, and it hereby is, denied. This order is effective June 14 2019.

Dated: April 23, 2019.

Uttam Dhillon,

Acting Administrator.

[FR Doc. 2019–10019 Filed 5–14–19; 8:45 am]

BILLING CODE 4410–09–P

[2] Registrant also agreed to support these permanent restrictions before the Florida Board. *Id.* at 65.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration

ACTION: Notice of registration.

SUMMARY: The registrants listed below have applied for and been granted registration by the Drug Enforcement Administration (DEA) as importers of schedule I and schedule II controlled substances.

SUPPLEMENTARY INFORMATION: The companies listed below applied to be registered as importers of various basic classes of controlled substances. Information on previously published notices is listed in the table below. No comments or objections were submitted and no requests for hearing were submitted for these notices.

Company	FR docket	Published
PerkinElmer, Inc	84 FR 3246	February 11, 2019.
Stepan Company	84 FR 3250	February 11, 2019.

The DEA has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of the listed registrants to import the applicable basic classes of schedule I and II controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated each of the company's maintenance of effective controls against diversion by inspecting and testing each company's physical security systems, verifying each company's compliance with state and local laws, and reviewing each company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the DEA has granted a registration as an importer for schedule I or schedule II controlled substances to the above listed companies.

Dated: April 27, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–10028 Filed 5–14–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Registration

ACTION: Notice of registration.

SUMMARY: The registrant listed below has applied for and been granted a registration by the Drug Enforcement Administration (DEA) as a bulk manufacturer of various classes of schedule I controlled substances.

SUPPLEMENTARY INFORMATION: The company listed below has applied to be registered as a bulk manufacturer of various basic classes of controlled substances. Information on the previously published notice is listed below. No comments or objections were submitted for the notice.

Company	FR docket	Published
Kinetochem, LLC	84 FR 2579	February 7, 2019

The DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of this registrant to manufacture the applicable basic class of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the DEA has granted a registration as a bulk manufacturer to the above listed company.

Dated: April 27, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–10025 Filed 5–14–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: S & B Pharma, Inc

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before June 14, 2019. Such persons may also file a written request for a hearing on the application on or before June 14, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on December 24, 2018, S & B Pharma, Inc., dba: Norac Pharma, 405 South Motor Avenue, Azusa, California 91702–3232 applied to be registered as an importer of the following basic class of controlled substances:

Controlled substance	Drug code	Schedule
4-Anilino-N-phenethyl-4-piperidine (ANPP).	8333	II
Tapentadol	9780	II

The company plans to import the listed controlled substances in bulk for the manufacture of controlled substances for distribution to its customers.

Dated: April 27, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–10008 Filed 5–14–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: AndersonBrecon, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before June 14, 2019. Such persons may also file a written request for a hearing on the application on or before June 14, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been

redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on March 05, 2019, AndersonBrecon, Inc., 4545 Assembly Drive, Rockford, Illinois 61109–3081 applied to be registered as an importer of the following basic class of controlled substance:

Controlled substance	Drug code	Schedule
Tetrahydrocannabinols	7370	I

The company plans to import the listed controlled substances for clinical trial only. Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2).

Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: April 27, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–10007 Filed 5–14–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Registration

ACTION: Notice of registration.

SUMMARY: The registrants listed below have applied for and been granted registration by the Drug Enforcement Administration (DEA) as bulk manufacturers of schedule I and II controlled substances.

SUPPLEMENTARY INFORMATION: The companies listed below applied to be registered as bulk manufacturers of schedule I or schedule II controlled substances. Information on previously published notices is listed in the table below. No comments or objections were submitted for these notices.

Company	FR docket	Published
Johnson Matthey, Inc	84 FR 5477	February 21, 2019.
Stepan Company	84 FR 5499	February 21, 2019.
Research Triangle Institute	84 FR 5501	February 21, 2019.

The DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of the registrants to manufacture the applicable basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated each company's maintenance of effective controls against diversion by inspecting and testing each company's physical security systems, verifying each company's compliance with state and local laws, and reviewing each company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the DEA has granted a registration as a bulk manufacturer to the above listed companies.

Dated: April 27, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–10026 Filed 5–14–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0023]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice, Office on Violence Against Women (OVW) 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 14, 2019.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov.* Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

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:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from the Sexual Assault Services Program—Grants to Culturally Specific Programs (SASP-Culturally Specific Program).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0023. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 11 grantees of the SASP Culturally Specific Program. This program supports projects that create, maintain and expand sustainable sexual assault services provided by culturally specific organizations, which are uniquely situated to respond to the needs of sexual assault victims within culturally specific populations.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 11 respondents (SASP-Culturally Specific Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which

grantees may engage. A SASP-Culturally Specific Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 22 hours, that is 11 grantees completing a form twice a year with an estimated completion time for the form being one hour.

Dated: May 10, 2019.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2019–10077 Filed 5–14–19; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Administrator of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing provided such request is filed in writing with the Administrator, Office of Trade Adjustment Assistance, at the address shown below, no later than May 28, 2019.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Administrator, Office of Trade Adjustment Assistance, at the address shown below, not later than May 28, 2019.

The petitions filed in this case are available for inspection at the Office of the Administrator, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW, Washington, DC 20210.

Signed at Washington, DC, this 12th day of April 2019.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

Appendix

105 TAA PETITIONS INSTITUTED BETWEEN 3/1/19 AND 3/31/19

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
94572	Bank of the West (State/One-Stop)	City of Industry, CA	03/01/19	02/28/19
94573	RCO Engineering (State/One-Stop)	Warren, MI	03/01/19	02/28/19
94574	Hanesbrands, Inc. (Workers)	New York, NY	03/01/19	02/27/19
94575	Nucor Skyline Steel, LLC (State/One-Stop)	Newton, IL	03/01/19	03/01/19
94576	Optum Technology (State/One-Stop)	Eden Prairie, MN	03/01/19	02/28/19
94577	Valmont Microflect Company (State/One-Stop)	Salem, OR	03/01/19	02/28/19
94578	ATT (Union)	Kalamazoo, MI	03/04/19	03/01/19
94579	Beckman Coulter, Inc. (State/One-Stop)	Brea, CA	03/04/19	03/01/19
94580	Faurecia (Workers)	Dexter, MO	03/04/19	03/01/19
94581	KEMET Blue Powder Corporation (Company)	Mound House, NV	03/04/19	03/03/19
94582	Liberty Mutual Group, Inc. (State/One-Stop)	Tigard, OR	03/04/19	03/01/19
94583	Molina Healthcare (State/One-Stop)	Long Beach, CA	03/04/19	03/02/19
94584	Wireless Seismic (Workers)	Sugar Land, TX	03/04/19	01/26/19
94585	A360 Firm Solutions, LLC (Company)	Jacksonville, FL	03/05/19	03/01/19
94586	EVRAZ Oregon Steel Mill (State/One-Stop)	Portland, OR	03/05/19	03/04/19
94587	Ford Flat Rock Assembly Plant (Union)	Flat Rock, MI	03/05/19	03/04/19
94588	Husqvarna Consumer Outdoor Products N.A., Inc. (Company).	McRae, GA	03/05/19	03/04/19
94589	Startek (State/One-Stop)	Lynchburg, VA	03/05/19	03/04/19
94590	Austin Foam Plastic, Inc. (Company)	El Paso, TX	03/06/19	03/05/19
94591	Dakkota Integrated Systems, LLC (Union)	Brownstown, MI	03/06/19	03/05/19
94592	Entergy Nuclear Operations, Inc. (Company)	Plymouth, MA	03/06/19	03/05/19
94593	General Motors (Customer Care and Aftercare) (State/One-Stop).	West Chester, OH	03/06/19	03/05/19
94594	New Holland Apparel-Tegra (Workers)	New Holland, PA	03/06/19	03/05/19
94595	The Travelers Indemnity Company (State/One-Stop)	Elmira, NY	03/06/19	03/05/19
94596	GMI Holdings Inc. (State/One-Stop)	Baltic, OH	03/07/19	03/06/19
94597	FCA US LLC (Union)	Belvidere, IL	03/07/19	03/06/19
94598	Dart Industries Inc. (Tupperware Brands) (Workers)	Orlando, FL	03/07/19	03/06/19
94599	Alliance Rubber Company (State/One-Stop)	Salinas, CA	03/08/19	03/07/19
94600	General Electric Company (State/One-Stop)	Erie, PA	03/08/19	03/07/19
94601	GTT (Workers)	Lemont Furnace, PA	03/08/19	03/07/19
94602	Parker Hannifin (State/One-Stop)	Lynchburg, VA	03/08/19	03/07/19
94603	Planar Systems, Inc. (State/One-Stop)	Hillsboro, OR	03/08/19	03/07/19
94604	Bear Island Paper WB LLC (State/One-Stop)	Ashland, VA	03/11/19	03/08/19
94605	Ingersoll Rand (Union)	Cheektowaga, NY	03/11/19	03/08/19
94606	PPG Coatings Services (State/One-Stop)	Livonia, MI	03/11/19	03/08/19

105 TAA PETITIONS INSTITUTED BETWEEN 3/1/19 AND 3/31/19—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
94607	State Street Corporation (State/One-Stop)	Hadley, MA	03/11/19	03/08/19
94608	JW Aluminum Co. (State/One-Stop)	Russellville, AR	03/12/19	03/11/19
94609	QBE Americas, Inc. (Workers)	Sun Prairie, WI	03/12/19	03/11/19
94610	ATT (Union)	Indianapolis, IN	03/13/19	03/12/19
94611	Collard Rose (State/One-Stop)	Whittier, CA	03/13/19	03/12/19
94612	Frank Morrow Company (State/One-Stop)	Providence, RI	03/13/19	03/12/19
94613	Hawkins Architectural Products, LLC (State/One-Stop).	Stafford, VA	03/13/19	03/08/19
94614	Airespring (State/One-Stop)	Van Nuys, CA	03/14/19	03/13/19
94615	Allied Global LLC (Workers)	Johnstown, PA	03/14/19	03/13/19
94616	BiTech Bikes/Performance Bicycles (State/One-Stop)	Vienna, VA	03/14/19	03/13/19
94617	Bose Corporation—Park Place facility (Company)	Framingham, MA	03/14/19	02/28/19
94618	Columbus Bakery (State/One-Stop)	Columbus, OH	03/14/19	03/13/19
94619	Connexions Loyalty (Workers)	Boise, ID	03/14/19	03/11/19
94620	Cotiviti USA, LLC (Workers)	Wilton, CT	03/14/19	03/13/19
94621	Lumina Datamatics Inc. (Company)	Plymouth, MA	03/14/19	03/13/19
94622	Micron Technology, Inc. (State/One-Stop)	Boise, ID	03/14/19	03/13/19
94623	Aptiv (State/One-Stop)	Warren, MI	03/15/19	03/15/19
94624	The Goodyear Tire & Rubber Company (State/One-Stop).	Danville, VA	03/15/19	03/13/19
94625	KGP Telecommunications, LLC (State/One-Stop)	Warsaw, IN	03/15/19	03/14/19
94626	Nordson Xaloy (State/One-Stop)	Pulaski, VA	03/15/19	03/14/19
94627	Toppan Merrill (State/One-Stop)	Saint Paul, MN	03/15/19	03/12/19
94628	UPS-Global Business Services (GBS) (State/One-Stop).	Visalia, CA	03/15/19	03/14/19
94629	Deluxe Entertainment Service Group (Distribution Group) (State/One-Stop).	Burbank, CA	03/18/19	03/15/19
94630	Emerald Performance Materials (Workers)	Akron, OH	03/18/19	03/11/19
94631	Formation Capital Corporation (State/One-Stop)	Salmon, ID	03/18/19	03/15/19
94632	GigaMedia Access Corporation (State/One-Stop)	Herndon, VA	03/18/19	03/15/19
94633	Masonite Corporation (Company)	Denmark, SC	03/18/19	03/17/19
94634	Mersen USA (State/One-Stop)	Newburyport, MA	03/18/19	03/15/19
94635	Porcelain Industries, Inc. (Company)	Dickson, TN	03/18/19	03/15/19
94636	Superwinch, LLC (State/One-Stop)	Tualatin, OR	03/18/19	03/15/19
94637	Survey.com (Bet Informations Systems Inc.) (State/One-Stop).	Portland, OR	03/18/19	03/15/19
94638	The TJX Companies (State/One-Stop)	New Albany, OH	03/18/19	03/15/19
94639	Adair Printing Co., Inc. (State/One-Stop)	Standish, MI	03/19/19	03/18/19
94640	American Tire Distributors (Workers)	Wytheville, VA	03/19/19	03/18/19
94641	CDI Corporation (Workers)	Cross Lanes, WV	03/19/19	03/18/19
94642	Maxim Integrated Products Inc. (State/One-Stop)	Beaverton, OR	03/19/19	03/18/19
94643	Netflix (State/One-Stop)	Los Gatos, CA	03/19/19	03/18/19
94644	Georgia Pacific DBA: Baton Rouge Parish Plant (State/One-Stop).	Baton Rouge, LA	03/20/19	03/19/19
94645	Sensata Technologies, Inc. (State/One-Stop)	Thousand Oaks, CA	03/20/19	03/19/19
94646	Smith & Nephew (Company)	Austin, TX	03/20/19	03/19/19
94647	Stearns Lending, LLC (State/One-Stop)	Santa Ana, CA	03/20/19	03/19/19
94648	Faurecia Interior Systems (State/One-Stop)	Lansing, MI	03/21/19	03/20/19
94649	Gannett Satellite Information Network, LLC (State/One-Stop).	Louisville, KY	03/21/19	03/20/19
94650	International Automotive Components (Union)	Greencastle, IN	03/21/19	03/20/19
94651	Kerry Inc. (State/One-Stop)	Kentwood, MI	03/21/19	03/21/19
94652	Natera (State/One-Stop)	Austin, TX	03/21/19	03/20/19
94653	Biomedica Diagnostics/Biomedica ADI Inc. (State/One-Stop).	Stamford, CT	03/22/19	03/20/19
94654	Resolute FP US Inc. (Workers)	Catawba, SC	03/22/19	03/13/19
94655	Lowe's Home Center (State/One-Stop)	Kirkland, WA	03/25/19	03/22/19
94656	Alliance (State/One-Stop)	Hot Springs, AR	03/26/19	03/25/19
94657	Hanesbrands, Inc. (State/One-Stop)	Clarksville, AR	03/26/19	03/25/19
94658	Reynolds Consumer Products (State/One-Stop)	Malvern, AR	03/26/19	03/25/19
94659	TTEC Healthcare Solutions (State/One-Stop)	Morrilton, AR	03/26/19	03/25/19
94660	Warne Scope Mounts (State/One-Stop)	Tualatin, OR	03/26/19	03/25/19
94661	Winchester Interconnect Corporation (Workers)	Middlebury, CT	03/26/19	03/14/19
94662	Aleris (State/One-Stop)	Lincolnshire, IL	03/27/19	03/26/19
94663	Assurant (State/One-Stop)	Woodbury, MN	03/27/19	03/26/19
94664	The Goodyear Tire & Rubber Company (Union)	Gadsden, AL	03/27/19	03/26/19
94665	San Juan Unified Schools (State/One-Stop)	Carmichael, CA	03/27/19	03/26/19
94666	TAHARI ASL, LLC (Workers)	New York, NY	03/27/19	02/28/19
94667	Welspun Tubular LLC (State/One-Stop)	Little Rock, AR	03/27/19	03/26/19
94668	ATT Mobility (Union)	Oklahoma City, OK	03/28/19	03/27/19
94669	Gannett Co, Inc. (State/One-Stop)	McLean, VA	03/28/19	03/27/19

105 TAA PETITIONS INSTITUTED BETWEEN 3/1/19 AND 3/31/19—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
94670	Harsco Rail (Company)	Ludington, MI	03/28/19	03/27/19
94671	Lear Corporation (Company)	Morristown, TN	03/28/19	03/27/19
94672	Outsource Management Services (State/One-Stop)	Costa Mesa, CA	03/28/19	03/27/19
94673	Liberty Mutual Insurance Company (Workers)	Allentown, PA	03/29/19	03/28/19
94674	LSC Communications US, LLC (State/One-Stop)	St. George, UT	03/29/19	03/28/19
94675	Wells Fargo Vendor Financial Services (Workers)	Macon, GA	03/29/19	03/28/19
94676	Wells Fargo Vendor Financial (Workers)	Macon, GA	03/29/19	03/28/19

[FR Doc. 2019–09987 Filed 5–14–19; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Post-Initial Determinations Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with Sections 223 and 284 (19 U.S.C. 2273 and 2395) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor herein presents Notice of Affirmative Determinations Regarding Application for Reconsideration, summaries of Negative Determinations Regarding Applications for Reconsideration, summaries of Revised Certifications of Eligibility, summaries of Revised Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Negative Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Revised Determinations (on remand from the Court of International Trade), and summaries of Negative Determinations (on remand from the Court of International Trade) regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) number issued during the period of *March 1st 2019 through March 31st 2019.* Post-initial determinations are issued after a petition has been certified or denied. A post-initial determination may revise a certification, or modify or affirm a negative determination.

Affirmative Determinations Regarding Applications for Reconsideration

The following Applications for Reconsideration have been received and granted. See 29 CFR 90.18(d). The group of workers or other persons showing an interest in the proceedings may provide written submissions to show why the determination under reconsideration should or should not be modified. The submissions must be sent no later than ten days after publication in **Federal Register** to the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW, Washington, DC 20210. See 29 CFR 90.18(f).

TA–W No.	Subject firm	Location
94,132	REC Solar Grade Silicon LLC	Moses Lake, WA.

Summary of Statutory Requirement

(This Notice primarily follows the language of the Trade Act. In some places however, changes such as the inclusion of subheadings, a reorganization of language, or ''and,'' ''or,'' or other words are added for clarification.)

Section 222(a)—Workers of a Primary Firm

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements under Section 222(a) of the Act (19 U.S.C. 2272(a)) must be met, as follows:

(1) The first criterion (set forth in Section 222(a)(1) of the Act, 19 U.S.C. 2272(a)(1)) is that a significant number or proportion of the workers in such workers' firm (or ''such firm'') have become totally or partially separated, or are threatened to become totally or partially separated;

AND (2(A) or 2(B) below)

(2) The second criterion (set forth in Section 222(a)(2) of the Act, 19 U.S.C. 2272(a)(2)) may be satisfied by either (A) the Increased Imports Path, or (B) the Shift in Production or Services to a Foreign Country Path/Acquisition of Articles or Services from a Foreign Country Path, as follows:

(A) Increased Imports Path:

(i) The sales or production, or both, of such firm, have decreased absolutely;

AND (ii and iii below)

(ii) (I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased; OR

(II)(aa) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased; OR

(II)(bb) imports of articles like or directly competitive with articles which are produced directly using the services supplied by such firm, have increased; OR

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

AND

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; OR

(B) Shift in Production or Services to a Foreign Country Path OR Acquisition of Articles or Services from a Foreign Country Path:

(i)(I) There has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; OR

(II) such workers' firm has acquired from a foreign country articles or

services that are like or directly competitive with articles which are produced or services which are supplied by such firm;

AND

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Section 222(b)—Adversely Affected Secondary Workers

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(b) of the Act (19 U.S.C. 2272(b)) must be met, as follows:

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

AND

(2) the workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act (19 U.S.C. 2272(a)), and such supply or production is related to the article or service that was the basis for such certification (as defined in subsection 222(c)(3) and (4) of the Act (19 U.S.C. 2272(c)(3) and (4));

AND

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; OR

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

Section 222(e)—Firms Identified by the International Trade Commission

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(e) of the Act (19 U.S.C. 2272(e)) must be met, by following criteria (1), (2), and (3) as follows:

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1) of the Act (19 U.S.C. 2252(b)(1)); OR

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1) of the Act (19 U.S.C. 2436(b)(1)); OR

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

AND

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) of the Trade Act (19 U.S.C. 2252(f)(1)) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3) (19 U.S.C. 2252(f)(3)); OR

(B) notice of an affirmative determination described in subparagraph (B) or (C) of paragraph (1) is published in the **Federal Register**;

AND

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); OR

(B) notwithstanding section 223(b) of the Act (19 U.S.C. 2273(b)), the 1-year period preceding the 1-year period described in paragraph (2).

Revised Certifications of Eligibility

The following revised certifications of eligibility to apply for TAA have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination, and the reason(s) for the determination.

The following revisions have been issued.

TA–W No.	Subject firm	Location	Impact date	Reason(s)
93,917	General Electric Company	Erie, PA	6/24/2018	Ownership Change of a Successor Firm.
93,917A	Association of Corporate Counsel America Chicago Chapter, Capgemini, etc.	Erie, PA	6/22/2017	Ownership Change of a Successor Firm.

I hereby certify that the aforementioned determinations were issued during the period of *March 1st 2019 through March 31st 2019.* These determinations are available on the Department's website *https://www.doleta.gov/tradeact/petitioners/taa_search_form.cfm* under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 12th day of April 2019.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2019–09986 Filed 5–14–19; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with the Section 223 (19 U.S.C. 2273) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) number issued

during the period of March 1, 2019 through March 31, 2019. (This Notice primarily follows the language of the Trade Act. In some places however, changes such as the inclusion of subheadings, a reorganization of language, or ''and,'' ''or,'' or other words are added for clarification.)

Section 222(a)—Workers of a Primary Firm

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements under Section 222(a) of the Act (19 U.S.C. 2272(a)) must be met, as follows:

(1) The first criterion (set forth in Section 222(a)(1) of the Act, 19 U.S.C. 2272(a)(1)) is that a significant number or proportion of the workers in such workers' firm (or ''such firm'') have become totally or partially separated, or are threatened to become totally or partially separated;

AND (2(A) or 2(B) below)

(2) The second criterion (set forth in Section 222(a)(2) of the Act, 19 U.S.C. 2272(a)(2)) may be satisfied by either (A) the Increased Imports Path, or (B) the Shift in Production or Services to a Foreign Country Path/Acquisition of Articles or Services from a Foreign Country Path, as follows:

(A) *Increased Imports Path:*

(i) The sales or production, or both, of such firm, have decreased absolutely;

AND (ii and iii below)

(ii) (I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased; OR

(II) (aa) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased; OR

(II) (bb) imports of articles like or directly competitive with articles which are produced directly using the services supplied by such firm, have increased; OR

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

AND

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; OR

(B) Shift in Production or Services to a Foreign Country Path OR Acquisition of Articles or Services from a Foreign Country Path:

(i) (I) There has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; OR

(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm;

AND

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Section 222(b)—Adversely Affected Secondary Workers

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(b) of the Act (19 U.S.C. 2272(b)) must be met, as follows:

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

AND

(2) the workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act (19 U.S.C. 2272(a)), and such supply or production is related to the article or service that was the basis for such certification (as defined in subsection 222(c)(3) and (4) of the Act (19 U.S.C. 2272(c)(3) and (4));

AND

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; OR

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

Section 222(e)—Firms Identified by the International Trade Commission

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(e) of the Act (19 U.S.C. 2272(e)) must be met, by following criteria (1), (2), and (3) as follows:

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1) of the Act (19 U.S.C. 2252(b)(1)); OR

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1) of the Act (19 U.S.C. 2436(b)(1)); OR

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

AND

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) of the Trade Act (19 U.S.C. 2252(f)(1)) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3) (19 U.S.C. 2252(f)(3)); OR

(B) notice of an affirmative determination described in subparagraph (B) or (C)of paragraph (1) is published in the **Federal Register**;

AND

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); OR

(B) notwithstanding section 223(b) of the Act (19 U.S.C. 2273(b)), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section

222(a)(2)(A) (Increased Imports Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
94,427	General Motors Lordstown Complex, General Motors Company, Development Dimensions International.	Warren, OH	March 8, 2019.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (Shift in Production or Services to a Foreign Country Path or Acquisition of Articles or Services from a Foreign Country Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
94,281	Caterpillar Inc., Mining Hauling and Underground Division, Aerotek, DVA Consulting.	Montgomery, IL	October 26, 2017.
94,453	GY Agemni, LLC, DNN Corp, ESW Capital, AdvanStaff, Inc	Salt Lake City, UT	January 11, 2018.
94,471	Lexmark International, Inc., Finance, Managed Print Services (MPS) Business Operations, etc.	Lexington, KY	January 21, 2018.
94,473	Sugarfina, Inc., Express Employment Professionals, Aerotek, First Rate Staffing.	El Segundo, CA	January 18, 2018.
94,476	AXA Equitable Life Insurance Company, AXA Financial, Inc., Group Retirement Operations Department, Kelly Services.	Syracuse, NY	January 22, 2018.
94,479	Renwood Acquisitions, LLC, Heckethorn Manufacturing, Metro Industrial Services, Personnel Placements.	Dyersburg, TN	January 22, 2018.
94,482	Xerox Corporation, North American Finance, Global Procurement Departments.	Webster, NY	January 23, 2018.
94,483	Xerox Corporation, Information Management, Tata Consultancy Services.	Webster, NY	January 23, 2018.
94,509	Bureau of National Affairs, Inc., Bloomberg BNA Holdings, Inc	Arlington, VA	February 4, 2018.
94,513	R1 RCM	Austin, TX	February 5, 2018.
94,515	Windstream Services, LLC, Little Rock Division, IT and Accounts Payable Divisions.	Little Rock, AR	February 5, 2018.
94,530	Jabil Circuit, Inc., Nypro Division, Fountain Group LLC, Adecco	Rochester, NY	April 14, 2019.
94,534	Elavon, Inc., U.S. Bank, National Association, Department of Account Reconciliations.	Knoxville, TN	February 11, 2018.
94,538.	ABC–I Corporation	Dexter, NY	February 13, 2018.
94,538A	ABC–I Corporation	Jacksonville, FL	February 13, 2018.
94,541	A.L.P. Lighting Components, Inc., Olive Branch, A.L.P. Lighting Components, Select Staffing, Millennium Search.	Olive Branch, MS	February 12, 2018.
94,550	CA Technologies, Broadcom Inc	Santa Clara, CA	February 19, 2018.
94,552	RBIII Associates, Inc. dba Teamwork Athletic Apparel, Badger Sportswear, Inc.	San Marcos, CA	February 19, 2018.
94,554	Jagger Brothers	Springvale, ME	February 20, 2018.
94,572	Bank of the West, Banc West Holding, I.T. Application Support Group, Allegis Global Solutions.	City of Industry, CA	February 28, 2018.
94,574	Hanesbrands, Inc., NYC Design	New York, NY	February 27, 2018.
94,579	Beckman Coulter, Inc., Danaher, Manufacturing for Statspin, Immage and Microscan, Kelly Services.	Brea, CA	March 1, 2018.
94,581	KEMET Blue Powder Corporation, KEMET Corporation, ResourceMFG/ProLogistix, Aerotek.	Mound House, NV	March 3, 2018.
94,585	A360 Firm Solutions, LLC, A360Inc, Outsourcing Division	Jacksonville, FL	March 1, 2018.
94,585A	A360 Firm Solutions, LLC, A360Inc, Outsourcing Division	Mount Laurel, NJ	March 1, 2018.
94,590	Austin Foam Plastic, Inc., Lifestyle Staffing	El Paso, TX	March 5, 2018.
94,595	The Travelers Indemnity Company, Small Commercial Operations Group.	Elmira, NY	March 5, 2018.
94,596	GMI Holdings Inc., Overhead Door Corp., Mancan, Randstad, Flex Team.	Baltic, OH	March 6, 2018.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
94,504	Populus Group, Caterpillar Corporate Account Group	Troy, MI	January 31, 2018.
94,525	REO Distribution Services, Inc., Allied Realty Company, Adams & Garth.	Waynesboro, VA	February 7, 2018.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for TAA have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs (a)(2)(A)(i) (decline in sales or production, or both), or (a)(2)(B) (shift in production or services to a foreign country or acquisition of articles or services from a foreign country), (b)(2) (supplier to a firm whose workers are certified eligible to apply for TAA or downstream producer to a firm whose workers are certified eligible to apply for TAA), and (e) (International Trade Commission) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
94,276	Faneuil, Inc., ALJ Regional Holdings, Inc., Resource Management Inc.	Vienna, VA.	
94,478	Keystone Tailored Manufacturing LLC	Brooklyn, OH.	

The investigation revealed that the criteria under paragraphs(a)(2)(A) (increased imports), (a)(2)(B) (shift in production or services to a foreign country or acquisition of articles or services from a foreign country), (b)(2) (supplier to a firm whose workers are certified eligible to apply for TAA or downstream producer to a firm whose workers are certified eligible to apply for TAA), and (e) (International Trade Commission) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
94,201	Culp Woven Velvet, Culp Upholstery Fabric Division, Culp Inc., Manpower.	Anderson, SC.	
94,251	Ernest Industries, Advance Staffing	Westland, MI.	
94,409	Verizon Data Services, LLC, Member Technical Staff (MTS)	Temple Terrace, FL.	

Determinations Terminating Investigations of Petitions for Trade Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's website, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the worker group on whose behalf the petition was filed is covered under an existing certification.

TA–W No.	Subject firm	Location	Impact date
94,600	General Electric Company, GE Transportation Parts, Transportation Division, etc.	Erie, PA.	

The following determinations terminating investigations were issued because the Department issued a negative determination applicable to the petitioning group of workers. No new information or change in circumstances is evident which would result in a reversal of the Department's previous determination.

TA–W No.	Subject firm	Location	Impact date
93,972	Toys R Us—Delaware, Inc., Toys R Us, Inc	Newport News, VA.	
93,972A	Toys R Us—Delaware, Inc., Toys R Us, Inc	Fredericksburg, VA.	
93,972B	Toys R Us—Delaware, Inc., Toys R Us, Inc	Chesapeake, VA.	
93,972C	Toys R Us—Delaware, Inc., Toys R Us, Inc., 400 N. Military Highway.	Norfolk, VA.	
93,972D	Toys R Us—Delaware, Inc., Toys R Us, Inc., 1600 Premium Outlets Boulevard.	Norfolk, VA.	
93,972E	Toys R Us—Delaware, Inc., Toys R Us, Inc	Virginia Beach, VA.	
93,972F	Babies R Us, Toys R Us—Delaware, Inc., Toys R Us, Inc	Newport News, VA.	
93,972G	Babies R Us, Toys R Us—Delaware, Inc., Toys R Us, Inc	Chesapeake, VA.	

I hereby certify that the aforementioned determinations were issued during the period of March 1, 2019 through March 31, 2019. These determinations are available on the Department's website *https://www.doleta.gov/tradeact/petitioners/taa_search_form.cfm* under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 11th day of April 2019.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2019–09985 Filed 5–14–19; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2015–0024]

Jardon and Howard Technologies, Incorporated; Grant of a Permanent Variance

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA grants a permanent variance to Jardon and Howard Technologies, Incorporated from several provisions of OSHA standards that regulate commercial diving operations in Subpart T of OSHA's general industry standards.

DATES: The permanent variance specified by this notice becomes effective on May 15, 2019 and shall remain in effect until it is modified or revoked.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone: (202) 693–1999 or email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor; telephone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION: *Copies of this* **Federal Register** *notice.* Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This **Federal Register** notice, as well as news releases and other relevant information, also are available at OSHA's web page at *http://www.osha.gov.*

I. Notice of Application

Jardon and Howard Technologies, Incorporated, (''JHT'' or ''applicant''), submitted on September 25, 2015, an application for a permanent multi-state variance and interim order under Section 6(d) of the Occupational Safety and Health Act of 1970 (''OSH Act''; 29 U.S.C. 655) and 29 CFR 1905.11 (''Variances and other relief under section 6(d)''). JHT's application seeks a permanent variance from the provisions in OSHA's standards that regulate commercial diving operations (CDO), located in Subpart T of 29 CFR 1910, that require:

(1) A buoyancy compensator to have a inflation source separate from the breathing gas supply when used for SCUBA diving (29 CFR 1910.430(d)(3));

(2) use of an inflatable flotation device capable of maintaining the diver at the surface in a face-up position, having a manually activated inflation source independent of the breathing supply, an oral inflation device, and an exhaust valve (29 CFR 1910.430(d)(4));

(3) the employer to instruct the diver to remain awake and in the vicinity of the decompression chamber which is at the dive location for at least one hour after the dive (including decompression or treatment as appropriate) for any dive outside the no-decompression limits, deeper than 100 feet of sea water (FSW), or using mixed gas as a breathing mixture (29 CFR 1910.423(b)(2));

(4) the employer to make available at the dive location a decompression chamber capable of recompressing the diver at the surface to a minimum of 165 FSW (6 ATA) (29 CFR 1910.423(c)(1)); [1]

(5) the employer to make available within 5 minutes of the dive location a dual-lock, multiplace decompression chamber (29 CFR 1910.423(c)(3)); and

(6) that self-contained underwater breathing apparatus (SCUBA) diving not be conducted at depths deeper than 100 FSW or outside the no-decompression limits unless a decompression chamber is ready for use (29 CFR 1910.424(b)(2)).

JHT is a contractor for the U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), a federal government agency that conducts and promotes undersea research using a variety of modes, including diving operations. On September 5, 2014, OSHA granted NOAA alternate standards [2] regulating its use of inflatable flotation devices and decompression chambers during NOAA diving operations (Exhibit OSHA–2015–0024–0003, OSHA's Comments and Decisions to NOAA's Request for an Alternate Standard on Diving) (''NOAA Alternate Diving Standards'') (see Section II.A. for further information on NOAA's Alternate Diving Standards). To account for the technological advances and design improvements that have been made to buoyancy compensatory devices (BCD) since OSHA first published the CDO standard in 1977 (*see* 42 FR 37662 (July 22, 1977)), the NOAA Alternate Diving Standards permit NOAA to use modern BCD during diving operations that deviate from the configuration requirements in OSHA's CDO standard, but provide equal or greater safeguards to the diver. The NOAA Alternate Diving Standards also provide NOAA with modified requirements regarding the use of decompression chambers, including expanding the depth limit for SCUBA dives within the no-decompression limits [3] (from 100 to 130 FSW), and modifying decompression chamber availability requirements for certain no-decompression dives up to 130 FSW in depth.

JHT stated in the application that divers who conduct diving operations for NOAA typically dive from NOAA-operated ''uninspected vessels'' in U.S. navigable waters; such diving operations fall under OSHA's jurisdiction.[4] When conducting dives for NOAA, JHT divers are obliged to follow all of the requirements of the NOAA Diving Program (NDP). JHT requested the permanent variance to permit JHT to deviate from the below-discussed provisions of OSHA's CDO standard based on the same conditions that apply to NOAA divers under the NOAA Alternate Diving Standards, thus permitting JHT's divers to dive under the same standards under which their NOAA-employed colleagues are permitted to dive.

JHT's application contends that the permanent variance would provide employees with a place of employment that is at least as safe and healthful as they are able to obtain under the existing provisions of OSHA's CDO standard. JHT certifies that all affected employees received a copy of the variance application and informed them of their right to petition the Assistant Secretary of Labor for Occupational Safety and Health for a hearing on its variance application.

[1] The full text of 29 CFR 1910.423(c)(1)(i)–(iii) reads: ''A decompression chamber capable of recompressing the diver at the surface to a minimum of 165 FSW (6 ATA) shall be available at the dive location for: (i) Surface-supplied air diving to depths deeper than 100 FSW and shallower than 220 FSW; (ii) Mixed gas diving shallower than 300 FSW; (iii) Diving outside the no-decompression limits shallower than 300 FSW.''

[2] An alternate standard is the federal agency equivalent to a variance, and federal agency heads may seek and obtain alternate standards from OSHA pursuant to 29 CFR 1960.17.

[3] The definitions provided in Subpart T, 29 CFR 1910.402, define ''no-decompression limits'' as ''the depth-time limits of the 'no-decompression limits and repetitive dive group designation table for no-decompression air dives', U.S. Navy Diving Manual, or equivalent limits which the employer can demonstrate to be equally effective.''

[4] For more information on OSHA's enforcement authority over uninspected vessels on U.S. navigable waters, see OSHA Directive Number: CPL–02–01–047, ''OSHA Authority over Vessels and Facilities on or Adjacent to U.S. Navigable Waters and the Outer Continental Shelf (OCS)'' [Dated: 02/22/2010], available at: *https://www.osha.gov/pls/oshaweb/owandisp.show_document?p_table=DIRECTIVES&p_id=4254.*

OSHA considered JHT's application for a permanent variance and interim order and, on August 2, 2017, OSHA published a preliminary **Federal Register** notice announcing JHT's application, granting an interim order, and requesting comments (82 FR 35995 (Aug. 2, 2017)). During the comment period, which expired on September 2, 2017, OSHA received one comment from NOAA, who expressed support for granting JHT the permanent variance, made clarifications and corrections to the information in its application materials and OSHA's **Federal Register** notice, and suggested several changes to the terms of the permanent variance (OSHA–2015–0025–0010). NOAA's comment also requested that the permanent variance be extended to cover all companies who provide contract employees to dive under the NDP. After considering NOAA's comment, OSHA has decided to accept the majority of NOAA's requested changes to the terms of the permanent variance, but has not accepted NOAA's request to extend this permanent variance to cover contractors other than JHT. OSHA's responses to NOAA's comment are discussed further in Section III of this notice.

II. Supplementary Information Regarding the Variance Application

A. Background

As a NOAA contractor, JHT asserts that its divers are required to strictly follow the requirements of the NDP. But, even though NOAA-employed and JHT-employed divers work side-by-side during NDP operations, NOAA-employed divers are authorized to dive in accordance with the NOAA Alternate Diving Standards, while contractor divers (such as those employed by JHT) are not. JHT states that its divers undergo exactly the same training as NOAA employees who are also covered by the NDP, and that there are no differences between NOAA and JHT divers regarding medical clearance procedures and standards, training materials, equipment used, equipment maintenance, and diving procedures used (Ex. OSHA–2015–0024–0003, p. 1). JHT states that while the majority of the dives that JHT performs under the NDP are ''scientific dives'' that are exempted from OSHA's CDO standard,[5] JHT divers also assist NOAA employees with diving operations that are not exempt under OSHA's CDO standard. Accordingly, when JHT conducts dives for NOAA under the NDP that would be subject to OSHA's CDO standard, JHT seeks permission from OSHA to dive under the same standards regulating the use of inflatable flotation devices and decompression chambers that OSHA has permitted NOAA-employed NDP divers to follow, pursuant to the NOAA Alternate Diving Standards.

OSHA granted NOAA the alternate standards in 2014 in response to an application that NOAA submitted to OSHA in June 2011 proposing a total of 12 alternate standards to 29 CFR 1910, Subpart T, which included extensive introductory, background, and explanatory information in support of the application (Exhibit OSHA–2015–0024–0006, Proposed Alternate Diving Standards for the National Oceanic and Atmospheric Administration). After fully considering NOAA's application and responses to OSHA's follow up questions (Exhibit OSHA–2015–0024–0007, Responses from the NOAA Diving Program to OSHA Regarding Requested Alternate Standards for Commercial Diving Operations), OSHA decided to grant some, but not all, of the alternate standards that NOAA proposed (Exhibit OSHA–2015–0024–0008). JHT's September 25, 2015 application sought a permanent variance and interim order based on six of the alternate standards that OSHA granted to NOAA in the NOAA Alternate Diving Standards.

NOAA explained in its application materials for the alternate standards that it conducts dives under two major programs: The NOAA Diving Program (NDP) and the National Undersea Research Program (NURP). The NDP primarily supports intra agency intramural research programs conducted by personnel within NOAA's major line offices, while NURP primarily supports external research programs conducted by scientists from various academic and marine institutions. The NDP is responsible for overseeing all NOAA and contractor (including JHT) diving personnel, equipment, and activities, and ensuring that dives performed by NOAA and its contractor divers are completed safely and efficiently. The NDP, the NOAA Diving Control and Safety Board, and the NOAA Diving Medical Review Board all work together to ensure that qualified personnel and certified systems are available to safely meet NOAA's undersea research objectives. NOAA's application also explained that it provides a robust training program to NDP divers, including contractor divers.

NOAA's application further stated that it has developed many advances in diving equipment and procedures that are now widely recognized and accepted as industry best practices. NOAA publishes many of these advances in the ''NOAA Diving Manual: Diving for Science and Technology,'' which serves as a reference manual for all NDP divers. NOAA also maintains two additional manuals (the ''NOAA Scientific Diving Standards and Safety Manual'' (Revised December 2011) and the ''NOAA Working Diving Standards and Safety Manual'' (Version 1.0, July 14, 2011) that provide in-depth operational guidance for all dives and include the standards, policies, regulations, requirements, and responsibilities for all aspects of NOAA's diving operations.

Additionally, NOAA stated that OSHA's CDO standard, which was first published in 1977, does not account for many of the advancements that have been made in diving technology and safety. For that reason, NOAA sought alternate standards that would permit the NDP to conduct diving operations using equipment and procedures that reflect modern diving advancements. NOAA also stated that OSHA's regulations are not always consistent with other related federal diving regulations, such as 46 CFR 197, Subpart B, which provides safety and health standards for commercial diving operations conducted from vessels with a U.S. Coast Guard Certificate of Inspection (COI), also known as ''inspected vessels,'' and facilities under the jurisdiction of the U.S. Coast Guard.

B. Variance From Paragraphs (d)(3) and (d)(4) of 29 CFR 1910.430, Requirements for Inflatable Flotation Devices

Following the terms of the NOAA Alternate Diving Standards, JHT's variance application seeks permission to use modern buoyancy compensator devices (BCD) that deviate from the requirements in 1910.430(d)(3) and (d)(4) that such devices have an inflation source that is ''separate from'' or ''independent of'' the diver's breathing gas. NOAA's application for the alternate standards explained that the overwhelming majority of commercial-off-the-shelf (COTS) BCD are designed to use the diver's breathing gas for inflation, making it difficult to comply with OSHA's requirement for a BCD to have an independent inflation source. According to NOAA, older systems that utilize separate, non-breathing gas inflation sources—particularly, carbon-dioxide cartridges—pose potential safety problems for the diver, including potential cartridge failure, and accidental activation, leading to an unexpected and

[5] Section 1910.401(a)(2)(iv) of the CDO standard provides the exemption for scientific diving from the CDO standard's coverage, and Appendix B to the CDO standard provides guidelines for identifying the scientific diving programs that are exempt.

potentially dangerous over-inflation of the BCD, which could cause a rapid and uncontrolled ascent of the diver to the surface. NOAA's application stated that industry recognition of these inherent safety problems prompted manufacturers to discontinue production of systems relying on such inflation sources. NOAA also explained that using a diver's emergency air supply to inflate the BCD is potentially problematic, as connecting the BCD to an auxiliary cylinder would impede a diver who is ''ditching'' components of a SCUBA unit during an emergency, and would also create additional points of potential equipment failure and entanglement. JHT echoed NOAA's concerns regarding the use of BCD that are inflated by a source other than the diver's breathing gas (Ex. OSHA–2015–0024–0003, p. 9).

The training that NOAA provides to its divers and contractors, including JHT, mitigates the risk of using breathing gas to inflate BCD. NDP divers are trained to continually monitor their gas supplies and return to the surface with no less than 500 psi in their SCUBA cylinders, and NOAA stated that this practice, which has been used for more than 30 years, has proven to be an effective method for managing a diver's breathing gas. NDP divers are also trained in techniques to manually inflate their BCD, both underwater and at the surface, to control their buoyancy. NOAA also explained that the amount of gas needed to inflate a BCD is minimal compared to the amount of breathing gas that is available in a standard SCUBA cylinder, and that most BCD can be fully inflated with a volume of gas equivalent to that consumed in three or fewer breaths. Therefore, NOAA asserted that taking such small amounts of gas from the SCUBA cylinder would have minimal effect on the duration of a dive. This also reduces consumption by making the diver ''neutrally buoyant.''

Under the alternate conditions that OSHA granted NOAA in the NOAA Alternate Diving Standards, which JHT adopts as the proposed conditions for the variance, NDP divers may use BCD that are inflated by the breathing gas supply so long as all divers carry an independent reserve cylinder of breathing gas with a separate regulator, which allows divers to orally inflate their BCD using gas from their reserve gas supplies even if their primary breathing gas supply is depleted. When granting the NOAA Alternate Diving Standards, OSHA explained that this requirement is consistent with 29 CFR 1910.424(c)(4), which requires SCUBA divers to carry a reserve breathing-gas supply. As OSHA stated in the preamble to the CDO standard final rule (42 FR at 37633), ''[a reserve] supply is essential to the safety of the SCUBA diver,'' and employers must take precautions to ''assure that the air reserve would not be depleted inadvertently during the dive.'' OSHA ultimately concluded that NOAA's proposed alternate standards provide equivalent safety protection to divers as 1910.430(d)(3) so long as the diver carries a reserve breathing gas supply, does not connect the reserve breathing gas to the BCD's inflation source, and uses the BCD in accordance with the manufacturer's instructions.

Further, OSHA noted in the NOAA Alternate Diving Standards that 1910.430(d)(4)'s requirement that SCUBA divers use a BCD with a manually activated inflation source (*e.g.,* via a carbon-dioxide cartridge) in addition to an oral inflation device is intended to allow the diver to quickly inflate the BCD in an emergency, but technological improvements in manual BCD power inflators now allow for rapid inflation of BCD with breathing gas, but with less safety risk (*e.g.,* over-inflation) than using carbon-dioxide cartridges. Therefore, using these manual BCD power inflators to inflate a BCD with breathing gas provides protection to a diver that is equivalent to the standard, and obviates the need for 1910.430(d)(4)'s requirement that the BCD's inflation source be independent of the breathing supply. In addition, OSHA stated NOAA's policy that divers always have topside support and never dive alone except when line tended, expedites the rescue of divers who must make emergency ascents to the surface, thereby reducing their risk of drowning should an inflatable flotation device malfunction.

Additionally, JHT's proposed variance conditions would follow the NOAA Alternate Diving Standards by replacing 1910.430(d)(4)'s requirement that BCD used for SCUBA dives be capable of maintaining the diver at the surface in a ''face-up position'' with a requirement that the BCD be capable of maintaining the diver at the surface in a ''positively buoyant state.'' NOAA's application materials explained that the majority of COTS BCD available today are not designed to maintain unconscious divers in a face-up position on the surface, as systems capable of meeting that requirement have inherent safety-related problems that lead most manufacturers to abandon them in favor of more modern systems.

Specifically, NOAA asserted that the only BCD able to maintain a diver in a face-up position at the surface was the ''horse-collar'' style BCD, which has been widely replaced by jacket-style BCD (also known as stabilizing, or stab-jackets) or back-mounted systems, both of which have greater operational and safety features compared to the older style. NOAA explained that newer BCD have more lift, fewer straps (reducing entanglement hazards, particularly when removing the BCD in an emergency, or when used in conjunction with a weight harness), require fewer steps to don, would not choke divers when fully inflated on the surface, and most significantly, do not impede operation of chest-mounted drysuit inflation valves. Additionally, NOAA explained that the inability of stab-jacket or back-mounted BCD to maintain a diver in a face-up position is fully mitigated by NOAA's requirement that divers always dive in buddy pairs (or be line-tended), and receive training in the proper technique for inflating their buddy's BCD while keeping them oriented face-up during rescues. Accordingly, NOAA stated that the chance of a stricken diver drowning while wearing a BCD that does not provide for face-up flotation is very remote. JHT added that horse-collar BCD were not originally designed for emergency buoyancy ascents, and many are thus not equipped with the over-pressure relief valves that are essential for safe emergency ascents.

When granting the NOAA Alternate Diving Standards, OSHA noted that the preamble to the CDO final rule explained that ''[t]he provision for an inflatable flotation device for SCUBA diving [was] given design specifications because an improperly designed device can be a greater safety hazard than aid'' (42 FR at 37666). BCD were not commercially available when the CDO standard was published, and OSHA therefore articulated minimum design standards for inflatable flotation devices in the final rule. OSHA agreed in the NOAA Alternate Diving Standards that the flotation design of contemporary BCD is superior to the equipment that was in use when OSHA published the CDO standard in 1977. OSHA further explained that modern BCD are equipped to maintain a diver at the surface in a positively buoyant state, even if they do not ''prop up'' the diver's head. OSHA thus granted NOAA's proposed alternative standards on the condition that NOAA continues its policy of requiring that SCUBA divers not dive alone unless they are line-tended and providing topside support to those divers.

JHT's proposed variance includes the very same condition under which OSHA approved NOAA's Alternate Diving Standards for NOAA-employed

NDP divers. As stated above, there are no differences in the training requirements, medical clearance procedures and standards, equipment use and maintenance requirements, or diving procedures that apply to NOAA-employed and JHT-employed divers who conduct diving operations for the NDP. Additionally, OSHA believes that diver safety is best promoted where diving safety rules are clear and consistently applicable to all divers at a worksite. Accordingly, OSHA accepts JHT's proposal to adopt the conditions from the NOAA Alternate Diving Standards as the basis for the requested variance from the inflatable flotation device requirements in 1910.430(d)(3) and (d)(4), and has decided to grant the permanent variance to JHT on those same conditions.

C. Variance From Paragraphs (b)(2), (c)(1), (c)(3) of 29 CFR 1910.423, and (b)(2) of 29 CFR 1910.424, Requirements for Decompression Chambers[6]

Adopting the conditions of the NOAA Alternate Diving Standards, JHT's application proposes conditions that would allow it to deviate from the decompression chamber availability and capability requirements in OSHA's CDO standard. As OSHA explained when it granted the NOAA Alternate Diving Standards, the purpose of having a decompression chamber available and ready for use at a dive site is to treat decompression sickness (DCS) and arterial gas embolism (AGE). DCS may occur from breathing air or mixed gases at diving depths and durations that require decompression, while AGE may result from over-pressurizing the lungs, usually following a rapid ascent to the surface during a dive without proper exhalation. In the event that DCS or AGE develops, a decompression chamber, oxygen or treatment gas mixtures, and treatment tables and instructions must be readily available to treat these conditions effectively. Decompression chambers provide the most effective therapy—recompression—for DCS and AGE.

First, JHT's proposed variance would adopt the conditions of the NOAA Alternate Diving Standards that permit NOAA to deviate from the requirement of 1910.423(b)(2) that the employer instruct all divers who dive deeper than 100 FSW to remain awake and in the vicinity of a decompression chamber for one hour after the dive, and the requirement of 1910.424(b)(2) that SCUBA diving not be conducted at depths deeper than 100 FSW or outside the no-decompression limits unless a decompression chamber is ''ready for use.'' In other words, sections 1910.423(b)(2) and 1910.424(b)(2) require any diver who conducts a dive deeper than 100 FSW or outside the no-decompression limits to remain alert and near a decompression chamber for at least one hour to ensure immediate treatment should DCS or AGE develop. Addressing the 100 FSW limit in the preamble to the CDO rule, OSHA stated:

> By adding a depth limit to the decompression chamber requirement, the standard sets a specified depth at which all diving operations will/would require a chamber, eliminating the safety hazard inherent in operations which are planed below that depth . . . . OSHA believes that this provision will/would result in recompression capability being available for the great majority of diving situations where the probability of its being needed is greatest.

42 FR at 37662.

NOAA's application sought permission to conduct SCUBA dives within the no-decompression limit up to 130 FSW (rather that 100 FSW) without triggering the decompression chamber requirements in 1910.423(b)(2) and 1910.424(b)(2). In support, NOAA cited statistics published by the U.S. Navy (USN) indicating that no-decompression dives to 130 FSW actually pose a lower risk of DCS to divers than no-decompression dives to 100 FSW, and also cited the extremely low DCS incident rate that NOAA has observed in no-decompression SCUBA dives that it has conducted between 101 and 130 FSW since 2000.

When granting NOAA alternate standards to 1910.423(b)(2) and 1910.424(b)(2), OSHA explained that the CDO standard sets the 100 FSW limit based on the increased risk of developing DCS and AGE on dives deeper than 100 FSW. However, OSHA explained that the agency amended the CDO standard in 2004 to permit employers of recreational diving instructors and diving guides to comply with an alternative set of decompression chamber requirements (*see* 69 FR 7351 (February 17, 2004)).[7] Under the conditions articulated in Appendix C to Subpart T, eligible employers are not required to provide a decompression chamber at the dive site when engaged in SCUBA diving to 130 FSW while breathing a nitrox gas mixture within the no-decompression limits.

OSHA explained in granting the NOAA Alternate Diving Standards that it created this exemption for recreational diving instructors and diving guides because the agency determined that the elevated levels of oxygen in nitrox breathing-gas mixtures reduced the incidence of DCS compared to breathing air at the same depths, and therefore found that the risk of DCS was minimal. This determination justified OSHA's use in Appendix C of the equivalent-air-depth (EAD) formula from NOAA's 2001 Diving Manual to calculate the no-decompression limits that should apply to a dive depending on the nitrogen partial pressures in the gas. As explained in the preamble to the Appendix C final rule (69 FR at 7356), the EAD formula assumes that equivalent nitrogen partial pressures and dive durations would result in similar DCS risk to dives performed with air. OSHA concluded that the ''EAD formula can accurately estimate the DCS risk associated with nitrox breathing-gas mixtures based on equivalent nitrogen partial pressures and dive durations used in air diving.''

After considering the statistics and information regarding NDP operations that NOAA submitted, OSHA concluded that NOAA's proposed alternate standards would provide equivalent protection to the CDO standard when NDP divers use air or nitrox breathing-gas mixtures with SCUBA, so long as NOAA complies with the no-decompression provisions of Appendix C of 29 CFR 1910, Subpart T (*i.e.,* Condition 5, ''Use of No-Decompression Limits'').[8] Also, when using nitrox breathing-gas mixtures with SCUBA at depths up to 130 FSW, OSHA required NOAA to ensure that the partial pressure of oxygen does not exceed 1.40 ATA or 40 percent by volume (whichever exposes the diver to less

[6] A decompression chamber is ''a pressure vessel for human occupancy such as a surface decompression chamber, closed bell, or deep diving system used to decompress divers and to treat decompression sickness'' (29 CFR 1910.402).

[7] Appendix C incorporated into the CDO standard essentially the same terms as those used in a variance that OSHA granted to Dixie Divers, Inc., a diving school that employed several recreational diving instructors, in 1999 (*see* 64 FR 71242, December 20, 1999).

[8] Condition 5 of Appendix C requires:

(a) For diving conducted while using nitrox breathing-gas mixtures, the employer must ensure that each diver remains within the no-decompression limits specified for single and repetitive air diving and published in the 2001 NOAA Diving Manual or the report entitled ''Development and Validation of No-Stop Decompression Procedures for Recreational Diving: The DSAT Recreational Dive Planer,'' published in 1994 by Hamilton Research Ltd. (known commonly as the ''1994 DSAT No-Decompression Tables'').

(b) A employer may permit a diver to use a dive-decompression computer designed to regulate decompression when the dive-decompression computer uses the no-decompression limits specified in paragraph 5(a) of this appendix, and provides output that reliably represents those limits.

oxygen),[9] in keeping with the requirements of Appendix C. JHT's proposed variance would adopt these same conditions under which OSHA granted the alternate standards to 1910.423(b)(2) and 1910.424(b)(2) to NOAA for NDP dives in which JHT divers participate.

Additionally, JHT's application would adopt the conditions of the NOAA Alternate Diving Standards that permit NOAA to deviate from the decompression chamber availability and capability requirements in 1910.423(c)(1) (that employers have a 6 ATA chamber at the dive location) and 1910.423(c)(3) (that the chamber be dual-lock, multiplace, and located within five minutes of the dive location). In the original application to the agency, NOAA proposed alternate standards that would have permitted it to use a 2.8 ATA, mono-lock chamber available within two (2) hours of the dive location for all working dives conducted deeper than 130 FSW or outside the no-decompression limits. NOAA explained that complying with 1910.423(c)(1) and (c)(3) requires employers to use a large enough vessel to carry and transport a large and powerful decompression chamber to the dive site, but most NDP dives are conducted from small boats, which are launched from larger ships or land-based facilities. Accordingly, NOAA sought permission to use light-weight, portable decompression systems, which it referred to as ''hyperlite chambers,'' to transport injured divers from dive sites to larger chambers located elsewhere. Additionally, NOAA sought to make the hyperlite chamber available within two hours rather that within five minutes, of the dive location for dives conducted deeper than 130 FSW or outside the no-decompression limits.

OSHA did not grant NOAA the alternate standards based on these proposed conditions, but rather granted revised alternate standards in order to ensure that NOAA divers would receive equivalent protection to the CDO standard. Regarding the chamber *capability* requirements, OSHA found that mono-lock chambers provide limited hyperbaric treatment options (for example, administration of oxygen) to a diver, and explained that the preamble to the original CDO final rule discusses and justifies Subpart T's capability requirements for decompression chambers, including the requirements that the chamber have 6 ATA capability and be dual-lock (*i.e.,* have two compartments) and multiplace (*i.e.,* have a main lock large enough to accommodate and decompress two individuals) (*see* 42 FR at 37661–63). Accordingly, OSHA stated that mono-lock chambers may be an option for transporting divers to larger chambers, but it does not provide divers with protection that is equivalent to the CDO standard's requirements. Therefore, OSHA did not approve NOAA's proposed chamber-capability alternative.

Regarding the proposed chamber-*availability* alternative, OSHA noted that the preamble to the CDO final rule explained that having the decompression chamber near the dive site was originally considered necessary ''because the surface decompression tables are commonly designed to be used with equipment that meets this criterion'' (42 FR at 37662). However, OSHA reexamined 1910.423(c)(3)'s five-minute availability requirement when it developed Appendix C to Subpart T. In Appendix C, OSHA found that, for no-decompression dives at 130 FSW or less, a four-hour travel delay to a 6–ATA decompression chamber is acceptable when the employer meets specified conditions, including: Verifying before starting diving operations the availability of a 6–ATA treatment facility, qualified healthcare professionals, and a rescue service; ensuring that suitable transportation to the decompression chamber is available at the dive site during diving operations; ensuring at least two attendants qualified in first-aid and administering oxygen treatment are available for treatment during diving operations; and that these attendants administer medical-grade oxygen to the injured diver during transportation to the treatment facility. OSHA came to this conclusion because, as explained in the preamble to the Appendix C final rule, ''a four-hour delay is unlikely to impair treatment outcomes for [DCS], and that [AGE] is rare among recreational divers and can be prevented with proper training and experience'' (69 FR at 7359–60).

After considering the information that NOAA submitted regarding the NDP's diving operations, OSHA determined that, for no-decompression dives using air or nitrox that are 130 FSW or less, a four-hour travel delay to a 6 ATA chamber provides NDP divers with protection equivalent to the CDO standard, so long as NOAA meets the medical-treatment provisions of Appendix C to the CDO rule (*i.e.,* Condition 8, ''Treating Diving-Related Medical Emergencies''). OSHA granted the NOAA Alternate Diving Standards under these conditions, and JHT now seeks to conduct NDP dives according to the same conditions.

Based on a technical review of the JHT's application, the NOAA Alternate Diving Standards, and related supporting material, OSHA finds that the proposed conditions would also provide JHT divers with protection equivalent to the CDO standard; there are no differences in the training requirements, medical clearance procedures and standards, equipment use and maintenance requirements, or diving procedures that apply to NOAA-employed and JHT-employed divers who dive under the NDP, and diver safety is best promoted where diving safety rules are clear and consistently applicable to all divers at a worksite.

D. Multi-State Variance

JHT's land-based operations, which are responsible for managing and administering these diving projects, are located at: (1) NOAA CCEHBR Laboratory, 219 Fort Johnson Road, Charleston, South Carolina 29412; and (2) NOAA/NOS Center for Coastal Fisheries and Habitat Research, 101 Pivers Island Road, Beaufort, North Carolina 28516. JHT conducts diving operations with NOAA with essentially no geographical limitations, and has conducted diving operations with NOAA in various navigable waters within OSHA's geographical authority, including the navigable waters of the Virginia, North Carolina, South Carolina, Georgia, and Florida, the Florida Keys, the Gulf of Mexico, the Caribbean (*e.g.,* U.S. Virgin Islands and Puerto Rico) and the Pacific (*e.g.,* Hawaii, Guam, Palau, Marianas and American Samoa).

Twenty-eight state safety and health plans have been approved by OSHA under section 18 of the OSH Act.[10] The scope and application section of the CDO standard, 29 CFR 1910.401, explains that OSHA has jurisdiction over commercial diving operations when the dive location is within

[9] As OSHA explained in the NOAA Alternate Diving Standards, a key purpose of OSHA's diving standards is to prevent oxygen toxicity (hypoxia), and the maximum acceptable partial pressure of oxygen when SCUBA diving is 1.40 ATA or 40 percent by volume, whichever exposes the diver to less oxygen. ATA, as used here, is the partial pressure of a constituent gas in the total pressure of a breathing gas.

[10] Six State Plans (Connecticut, Illinois, Maine, New Jersey, New York, and the Virgin Islands) limit their occupational safety and health authority to state and local employers only. State Plans that exercise their occupational safety and health authority over both public- and private-sector employers are: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming.

OSHA's geographical authority, and when such operations are not covered by the U.S. Coast Guard. As explained in OSHA's Directive regarding enforcement of Subpart T (''CDO Directive''),[11] OSHA's CDO standard covers private-sector employers in federal enforcement states, and employers who dive in association with maritime standards (*i.e.,* shipyard employment, longshoring, and marine terminals) when these operations are not covered by a State with an OSHA-approved State Plan. States with approved State Plans enforce the diving standard: (1) When commercial diving operations are being conducted by private-sector employees not engaged in shipyard employment or marine terminal activities (*e.g.,* equipment repair, sewer maintenance, or construction); (2) in maritime operations (*i.e.,* shipyard employment and marine terminals) as provided by the plans in California, Minnesota, Vermont, and Washington; and (3) with regard to state and local government employees. The location of the dive determines which entity has authority over the dive conditions.

Under 29 CFR 1902.8(c), an employer may apply to Federal OSHA for a variance where a state standard is identical to a federal standard addressed to the same hazard, and the variance would be applicable to employment or places of employment in more than one state, including at least one state with an approved plan. Of the twenty-eight State Plans, only California, Michigan, Oregon, and Washington have promulgated their own state diving standards; Arizona has adopted 29 CFR 1910, subpart T with the exception of one provision that is not germane to this application,[12] and all other State Plans have fully adopted 29 CFR part 1910, subpart T by reference. Michigan and Oregon adopted diving standards 29 CFR part 1910, subpart T by reference, although Oregon's diving standards include additional State-specific rules.[13] Washington's diving standards do not adopt 29 CFR part 1910, subpart T by reference, but include rules that are identical to each of the federal requirements at issue in JHT's application (see Washington Administrative Code, Chapter 296–37, §§ 510–595). California's diving operations standards contain two rules that are substantively identical to two of the OSHA standards at issue in JHT's application (see California Code of Regulations, Title 8, Subchapter 7, Group 26 §§ 6062(b)(1) and (3)((A)–(C)) (substantively identical to 29 CFR 1910.423(c)(1) and (c)(3)). Exhibit OSHA–2015–0024–0009 provides a side-by-side comparison of the Washington and California standards that are identical in substance and requirements to the Federal OSHA standards at issue in this variance application.

JHT certified in its application that it has not filed an application for a permanent variance on the same material facts with a State Plan program. JHT's variance application fits the parameters of 29 CFR 1902.8, and Federal OSHA's action on this application will be deemed prospectively an authoritative interpretation of JHT's compliance obligations regarding the applicable state standards in the places of employment covered by the application. As part of the permanent variance process, OSHA's Directorate of Cooperative and State Programs will notify all State Plans that are potentially affected by OSHA's decision to grant JHT a permanent variance.

III. Comments on the Proposed Variance

On August 2, 2017, OSHA published a preliminary notice announcing JHT's application, granting an interim order, and requesting comments (82 FR 35995 (Aug. 2, 2017)). In response, OSHA received one public comment on the proposed variance application from NOAA, who expressed support for granting JHT the permanent variance, made clarifications and corrections to the information in the notice, and suggested several changes to the terms of the permanent variance (OSHA–2015–0024–0010). As explained below, OSHA has accepted some of NOAA's requested changes to the terms of the permanent variance and declined others.

Regarding proposed Condition A, which governs the scope of the variance (82 FR at 36002), NOAA commented on the language in proposed Paragraphs (1) and (2) that limited the applicability of the variance to ''commercial diving operations conducted for NOAA under the NDP from a NOAA vessel commercial diving operations,'' and ''from an uninspected vessel within OSHA's geographical authority.'' NOAA explained that the NDP dives are launched from a variety of platforms, including uninspected vessels operated by NOAA, as well as inspected vessels contracted by NOAA, piers, docks, and shore. Because not all NDP dives are conducted from NOAA vessels, NOAA commented that the variance would have greater applicability if these paragraphs were changed to include all dives under the control of the NDP and within the jurisdiction of OSHA. After considering this comment, OSHA determined that a change to the conditions of the permanent variance was warranted. The conditions to the variance provide JHT divers with protection equivalent to the CDO standard irrespective of whether the dive site is a vessel or a pier, dock, or shore, and diver safety is best promoted where diving safety rules are clear and consistently applicable to all divers at all worksites. Accordingly, OSHA has revised paragraphs (1) and (2) of Condition A so that the variance applies to all dives under the control of the NDP and within the jurisdiction of OSHA.

Regarding proposed Condition E, which concerns worker qualification and training requirements (82 FR at 36003), NOAA provided a comment on the requirement in paragraph (1) that requires JHT to develop and implement an effective qualification and training program for its affected divers that, as a minimum, meets the requirements set forth in 29 CFR 1910.410 (qualifications of a dive team). NOAA stated that JHT does not have a diving program, but rather relies on the NDP to train, equip, medically monitor and supervise its divers. NOAA therefore suggested that OSHA change this condition so that it requires JHT to ensure that its divers adhere to all requirements of the NDP, a program which meets the requirements set forth in 29 CFR 1910.410. Given JHT's relationship with NOAA and the limited scope of the variance, OSHA determined that changing Condition E to require that JHT's qualification and training program also meet the requirements of the NDP is warranted. OSHA does not agree, however, with NOAA's suggestion that the NDP alone should substitute for JHT's obligation to develop and implement an effective qualification and training program for its divers. Accordingly, OSHA revised paragraph (1) of Condition E of the permanent variance so that it requires JHT to develop a qualification and training program that, at a minimum, meets all

[11] See OSHA Directive Number: CPL–02–00–151, ''29 CFR part 1910, subpart T—Commercial Diving Operations'' [Dated: 06/13/2011], available at: *http://www.osha.gov/OshDoc/Directive_pdf/CPL_02-00-151.pdf*].

[12] See 20 A.A.C. 5 § R20–5–602.01 (adopting OSHA's CDO Standard with the exception of 29 CFR 1910.401(a)(2)(ii)), available at: *http://apps.azsos.gov/public_services/Title_20/20-05.pdf.*

[13] See Michigan's Occupational Health Standards, Part 504, § R 325.50303, ''Adoption by reference of federal standard,'' available at: *http://www.michigan.gov/documents/lara/lara_miosha_OH_504_417497_7.pdf;* Oregon Admin. Rule 437 002–0340, ''Adoption by Reference,'' available at: *http://osha.oregon.gov/OSHARules/div2/div2T.pdf#page=7.*

of the requirements of 29 CFR 1910.410 *and* all of the requirements of the NDP.

NOAA also commented on the requirement in paragraph (2) of proposed Condition E that required JHT's affected divers to successfully complete NDP's three-week, 140-hour ''Working Diver'' course. NOAA explained that the ''Working Diver'' course was discontinued in September 2014 and replaced with a modular course that also provides a three-week training evolution. NOAA commented that OSHA should change the language so that it requires JHT divers to complete all training required by the NDP to become a NOAA diver. After considering this comment, OSHA determined that a change to the conditions of the permanent variance was warranted. Removing the reference to the specific course will avoid the confusion that would result from requiring JHT to complete a discontinued course, and will maintain the original intent of the provision, which was to ensure that JHT's divers complete the same training that NOAA requires for its NDP divers. Accordingly, OSHA has updated paragraph (2) of Condition E of the permanent variance to remove any reference to the ''Working Diver'' course, and instead require that JHT ensure that each affected diver successfully completes all training required by the NOAA Diving Program that is required to become a NOAA Diver.

NOAA also commented on paragraph (3) to proposed Condition E, which required JHT to ensure that its diver training program include eight specific safety-related components. NOAA stated that JHT does not have a diver training program, and instead relies on the NDP to train its divers, but all of the listed components in paragraph (3) are included in the NDP's diver authorization requirements. NOAA suggested that OSHA revise the paragraph so that it requires JHT's divers to complete all continuing training required by the NDP to maintain their status as an authorized NOAA diver. After considering this comment, OSHA determined that revising the condition is warranted. The permanent variance only applies to JHT divers when they dive for NOAA as part of the NDP, and to be authorized to dive for the NDP, a JHT diver must satisfy all of the eight components listed in paragraph (3). Accordingly, OSHA has revised paragraph (3) of Condition E of the permanent variance so that JHT must ensure that all of its divers complete all continuing training required by the NDP to maintain status as an authorized NOAA diver, and that such training must, at a minimum, include the eight components listed in paragraph (3).

Regarding proposed Condition G, which provides various OSHA notification requirements (82 FR at 36003), NOAA commented that the condition in paragraph (2) to provide OSHA with any recordable dive-related incident investigation reports (using OSHA Form 301) within 24 hours of the incident does not provide sufficient time to determine the scope of a diving injury, assess root causes, and determine corrective action. The comment further noted that this expedited reporting requirement was not placed upon NOAA under the Alternate Standards to the Commercial Diving Standards, and that NOAA may submit such reports within seven (7) days of the incident. Because JHT divers will only dive under the control of the NDP, NOAA commented that the expedited reporting requirement for incidents involving JHT's divers was onerous. After considering this comment, OSHA determined that no change to this condition of the permanent variance was warranted. OSHA believes that providing expedited notification to OSHA of injuries and illnesses is essential because time is a critical element in OSHA's ability to determine the continued effectiveness of the variance conditions in preventing dive-related incidents. Additionally, OSHA believes that expedited notification of injuries and illnesses will ensure that JHT identifies and implements appropriate corrective and preventative actions. Accordingly, this condition of the permanent variance has not been changed and JHT must submit incident reports for recordable injuries or illnesses within twenty-four hours of the incident.

Regarding proposed Condition G, Paragraph (5), NOAA commented that the requirement for JHT to notify OSHA on the need to revise dive procedures to accommodate changes in diving operations that affect its ability to comply with the conditions of the permanent variance within fifteen (15) working days is unwarranted. The comment further notes that JHT does not have a diving operation, as all on-duty dives performed under the control of the NDP, and JHT relies completely upon NOAA to train, equip, medically monitor, and supervise its divers. After considering this comment, OSHA determined that no change is warranted. OSHA is not making a change to this condition because the permanent variance is granted on the basis of the proposed work activity being determined ''as safe and healthful'' as coverage provided by the standard, and without updates about any changes to the procedures governing these work activities, OSHA will be unable to determine if the permanent variance continues to provide equivalent worker protection. Additionally, while JHT will be performing diving operations under the NDP, notification of changes to procedures that may impact the conditions of the permanent variance will allow OSHA to ensure that JHT identifies and implements appropriate preventative and corrective actions. Accordingly, this condition to the permanent variance has not been changed and JHT must notify OTPCA and the Area Office closest to the dive location within fifteen (15) working days of any changes to its dive procedures that affect its ability to comply with the conditions of the proposed permanent variance.

Regarding proposed Condition G, Paragraph (7), NOAA commented that the condition requiring JHT to provide OTPCA and the OSHA Area and Regional Offices closest to the preceding year's dive locations a report summarizing dives completed and evaluating the effectiveness of the variance conditions was unnecessary. NOAA again noted that OSHA did not place a similar requirement on NOAA when it granted the NOAA Alternate Diving Standards, and given that JHT divers will only dive under the control of the NOAA Diving Program, the requirement is onerous. NOAA also stated that the NDP produces an annual report which outlines all diving activities each year, which provides dives by location, type, depth and task, and requested that OSHA change the condition to allow JHT to meet the requirement by submitting the NDP's annual report. After considering this comment, OSHA has determined that it will not revise this reporting condition or replace it with a requirement for JHT to submit the NDP's annual report. OSHA believes that JHT providing this annual summary outlining the dives completed and its evaluation of the effectiveness of the variance conditions is essential to OSHA's monitoring of the effectiveness of the permanent variance.

The final comment from NOAA was a request to make the permanent variance applicable to all employers who supply contract employees who are part of the NOAA Diving Program. After considering this comment, OSHA has determined that applicability of the permanent variance will only be to JHT and its employees who engage in diving with NOAA under the NDP. JHT alone applied for this permanent variance under 29 U.S.C. 655(d) and 29 CFR

1905.11. Should any other company that supplies contract employees to NOAA to dive as part of the NOAA Diving Program desire a similar permanent variance, the company must apply for a permanent variance. Accordingly, OSHA has not updated the permanent variance in response to this comment.

IV. Description of Conditions Specified for the Permanent Variance

This section describes the conditions that comprise the alternative means of compliance with 29 CFR 1910.430(d)(3); 29 CFR 1910.430(d)(4); 29 CFR 1910.423(b)(2); 29 CFR 1910.423(c)(1); 29 CFR 1910.423(c)(3) and 29 CFR 1910.424(b)(2), that form the basis of the permanent variance that OSHA is granting JHT in this notice.

Condition A: Scope

The permanent variance applies only to the commercial diving operations that JHT conducts for NOAA, under the control of the NDP, and within OSHA's jurisdiction. The variance applies when JHT's employees dive as part of an NDP diving operation, and within OSHA's geographical authority, as defined by 29 U.S.C. 653(a), and when such operations are not covered by the U.S. Coast Guard. As explained in Section III, the permanent variance applies to all qualifying dives, and is not limited to dives from NOAA-operated uninspected vessels. Coverage is limited to the work situations specified under the ''Scope and application'' section of Subpart T, Commercial Diving Operations (1910.401(a)), and does not apply to commercial diving operations that are already exempted under 1910.401(a)(2).[14] When implementing the conditions of the permanent variance, JHT must comply fully with all safety and health provisions that are applicable to commercial diving operations as specified by 29 CFR 1910, Subpart T, except for the requirements specified by 29 CFR 1910.430(d)(3), 1910.430(d)(4), 1910.423(b)(2), 1910.423(c)(1), 1910.423(c)(3), and 1910.424(b)(2).

[14] Section 1910.401(a)(2) provides that the CDO standard does not apply to any dive (i) performed solely for instructional purposes, using open-circuit, compressed-air SCUBA and conducted within the no-decompression limits; (ii) performed solely for search, rescue, or related public safety purposes by or under the control of a governmental agency; (iii) governed by 45 CFR part 46 (Protection of Human Subjects, U.S. Department of Health and Human Services) or equivalent rules or regulations established by another federal agency, which regulate research, development, or related purposes involving human subjects; or (iv) fitting the standard's definition of ''scientific diving.''

Condition B: Definitions

In Condition B, OSHA defines a number of abbreviations that are used in the permanent variance. Defining these abbreviations is intended to clarify and standardize their usage, thereby enhancing the JHT's and its employees' understanding of the conditions specified by the permanent variance.

Condition C: Requirements for Inflatable Flotation (or Buoyance Compensation) Devices

In Condition C, OSHA requires that, when using a buoyancy compensator device (BCD) for SCUBA diving, JHT must ensure that: The device is used in accordance with the manufacturer's instructions; is capable of being inflated orally and via the diver's primary breathing gas supply; and, all divers carry an independent reserve cylinder of breathing gas with a separate regulator that could be used for BCD inflation in an emergency. When SCUBA diving, JHT must also ensure that divers use an inflatable flotation device that is: Capable of maintaining the diver at the surface in a positively buoyant state; and, has a manually activated inflation source, an oral inflation device, and an exhaust valve. Also, when SCUBA diving, JHT must ensure divers are never permitted to dive alone unless they are line-tended and provided with topside support.

Based upon the technical review of the alternate conditions described above (see sec. II.B.), OSHA has determined that these conditions provide JHT's divers with protection equivalent to the provisions in the CDO standard that regulate inflatable flotation devices. OSHA approved these same conditions for NOAA-employed NDP divers when it granted the NOAA Alternate Diving Standards on September 5, 2014, and there are no differences in training requirements, medical clearance procedures, equipment use and maintenance requirements, and diving procedures for NOAA-employed and JHT-employed divers under the NDP. OSHA grants JHT's request for a permanent variance, using the conditions of the NOAA Alternate Diving Standards, in combination with the additional conditions specified in this notice.

Condition D: Requirements for Decompression Chambers

Condition D requires that, for any dive that is outside the no-decompression limits or deeper than 130 FSW or using mixed gas with a percentage of oxygen less than air as a breathing mixture, JHT must instruct the diver to remain awake and in the vicinity of the decompression chamber which is at the dive location for at least one hour after the dive (including decompression or treatment as appropriate). Additionally, for any dive using air or a nitrox breathing-gas mixture within the no-decompression limits that is deeper than 100 FSW but no deeper than 130 FSW, JHT must make available within four hours of the dive location a dual-lock and multiplace decompression chamber capable of recompressing the diver at the surface to a minimum of 165 FSW (6 ATA). JHT must also meet the medical-treatment provisions of Appendix C to the CDO rule (*i.e.,* Condition 8, ''Treating Diving-Related Medical Emergencies''), and is prohibited from conducting SCUBA diving using air or nitrox breathing-gas mixture at depths deeper than 100 FSW but no deeper than 130 FSW, or outside the no-decompression limits, unless a 6 ATA decompression chamber is ready for use (diving operations performed for instructional purposes in accordance with § 1910.401(a)(2)(i) are exempt). When using a nitrox breathing-gas mixture, JHT must meet the no-decompression provisions of Appendix C to the CDO rule (*i.e.,* Condition 5, ''Use of No-Decompression Limits'') and ensure that the partial pressure of oxygen in breathing-gas mixtures does not exceed 1.40 ATA or 40% by volume, whichever exposes the diver to less oxygen.

Based upon the technical review of the proposed alternate conditions regarding its use of decompression chambers (see section II.C.), OSHA has determined the specified conditions provide JHT's divers with protection equivalent to the CDO standard. OSHA approved these same conditions for NOAA-employed NDP divers when it granted the NOAA Alternate Diving Standards on September 5, 2014, and there are no differences in training requirements, medical clearance procedures, equipment use and maintenance requirements, and required diving procedures for NOAA-employed and JHT-employed divers under the NDP. OSHA grants the requested permanent variance based on the conditions of the NOAA Alternate Diving Standards in combination with the additional conditions specified in this notice.

Condition E: Worker Qualification and Training

Condition E requires JHT to develop and implement an effective qualification and training program for its affected divers that, at a minimum, meets the requirements set forth in 29 CFR

1910.410 qualifications of a dive team. As explained in section III of this notice, Condition E also provides that JHT's qualification and training program must also meet the requirements of the NOAA Diving Program (NDP). The condition specifies that JHT must ensure that all affected divers successfully complete all training required by the NOAA Diving Program to become a NOAA Diver. The condition also specifies that JHT must ensure that all affected divers complete all of the NDP's diver training requirements to be authorized NOAA Diver, and that such training must, at a minimum, include: (1) Instruction in the conditions of the permanent variance; (2) annual refresher training in oxygen administration (academic and practical components); (3) instruction in maintaining current CPR/AED and First Aid certification; (4) maintaining proficiency in diving by making at least three (3) dives per quarter; (5) completing and passing an annual swim test; (6) completing and passing an annual skills test to demonstrate the diver's ability to safely operate underwater; (7) successfully completing one or more annual rescue drills to demonstrate the diver's ability to surface, extricate, treat and evacuate the victim of a diving accident; and (8) instruction in properly verifying that the diver's life support gear was serviced annually by a certified technician. JHT must also document and track all affected divers' training.

OSHA believes that having well-trained and qualified divers performing the required dive tasks ensures that they recognize, and respond appropriately to underwater safety and health hazards. These qualification and training requirements will enable affected JHT divers to cope effectively with emergencies, as well as the discomfort and physiological effects of hyperbaric exposure, thereby preventing injury, illness, and fatalities.

Condition F: Recordkeeping

Condition F requires JHT to maintain records of specific factors associated with each dive. The information gathered and recorded under this provision, in concert with the information provided under Condition G (using OSHA 301 Incident Report form to investigate and record dive-related recordable injuries as defined by 29 CFR 1904.4, 1904.7, 1904.8 through 1904.12), will enable JHT and OSHA to determine the effectiveness of the permanent variance in preventing DCS and other dive-related injuries and illnesses.[15]

Condition G: Notifications

The notification provisions in Condition G are intended to ensure that JHT provides timely notification to OSHA of dive-related incidents involving JHT divers and dive team members. Under this condition, JHT is required to: (1) Notify the Office of Technical Programs and Coordination Activities (OTPCA) and the Area Office closest to the dive location of any recordable injuries, illnesses, in-patient hospitalizations, amputations, loss of an eye, or fatality that occur as a result of diving operations within eight (8) hours of the incident; (2) provide OTPCA and the Area Office closest to the dive location within twenty-four (24) hours of the incident with a copy of the incident investigation report (using OSHA 301 form); (3) include on the OSHA 301 form information on the diving conditions associated with the recordable injury or illness, the root-cause determination, and preventive and corrective actions identified and implemented; (4) provide certification that it informed affected divers of the incident and the results of the incident investigation; (5) notify OTPCA and the Area Office closest to the dive location within fifteen (15) working days should the applicant need to revise its dive procedures to accommodate changes in its diving operations that affect its ability to comply with the conditions of the permanent variance; (6) obtain OSHA's written approval prior to implementing the revision in its dive procedures to accommodate changes in its diving operations that affect its ability to comply with the conditions in the permanent variance; (7) by the fifteenth (15th) of January, at the beginning of each new calendar year, provide OTPCA, and the Area Offices and their corresponding Regional Offices closest to the preceding year's dive locations, with a report summarizing the dives completed during the year just ended and evaluating the effectiveness of the variance conditions in providing a safe and healthful work environment and in preventing dive-related incidents; and (8) Notify OSHA if it ceases to do business, has a new address or location for its main office, or transfers the operations covered by the permanent variance to a successor company; and (9) Ensure that OSHA would approve the transfer of the permanent variance to a successor company.

OSHA acknowledges that the requirement for completing and submitting the dive-related (recordable) incident investigation report (OSHA 301 form) is more restrictive than OSHA's generally applicable recordkeeping requirements, which require employers to complete an OSHA 301 form within seven (7) calendar days of the incident (29 CFR 1904.29(b)(3)). The abbreviated timeframe for investigating and reporting incidents under this permanent variance applies only to dive-related and recordable incidents. Providing expedited notification to OSHA of such incidents is essential because time is a critical element in OSHA's ability to determine the continued effectiveness of the variance conditions in preventing dive-related incidents, and to ensure that JHT identifies and implements appropriate corrective and preventive actions. Timely notification permits OSHA to take necessary and appropriate actions to prevent further injuries and illnesses, including determining whether to revise or revoke the conditions of the permanent variance. Providing notification to affected employees will ensure that employees are aware of the precautions that JHT implements to prevent similar future incidents.

Additionally, this condition requires JHT to notify OSHA if it ceases to do business, has a new main office address or location, or transfers the operations covered by the permanent variance to a successor company. Further, pursuant to this condition, OSHA must approve the transfer of the permanent variance to a successor company. These requirements will: (1) Provide assurance that the successor company has knowledge of, and would comply with, the conditions specified by the permanent variance; (2) allow OSHA to communicate effectively with the applicant regarding the status of the permanent variance; and (3) expedite the agency's administration and enforcement of the permanent variance, thereby ensuring the continued safety of affected divers.

V. Decision

As previously indicated in this notice, OSHA reviewed JHT's application for a permanent variance and interim order, and the supporting technical documentation, including the alternate standards that OSHA granted to NOAA on September 5, 2014. After completing

[15] *See* 29 CFR 1904, Recording and Reporting Occupational Injuries and Illnesses (*http://www.osha.gov/pls/oshaweb/owandisp.show_document?p_table=STANDARDS&p_id=9631*); recordkeeping forms and instructions (*http://www.osha.gov/recordkeeping/RKform300pkg-fillable-enabled.pdf*); and updates to OSHA's recordkeeping rule, 79 FR 56130, September 18, 2014 (more information available at: *http://www.osha.gov/recordkeeping2014/index.html*).

this review, OSHA determined that JHT's application proposes an effective alternative means of protection that will protect its employees engaged in NDP diving operations as effectively as the requirements articulated in 29 CFR 1910.430(d)(3); 29 CFR 1910.430(d)(4); 29 CFR 1910.423(b)(2); 29 CFR 1910.423(c)(1); 29 CFR 1910.423(c)(3) and 29 CFR 1910.424(b)(2). Based on this determination, on August 2, 2017, OSHA published a preliminary **Federal Register** notice (82 FR 35995) announcing JHT's application for a permanent variance, granting JHT an interim order, and issuing a request for comments. Since OSHA granted the interim order, JHT has been required to comply fully with the conditions of the interim order as an alternative to complying with the requirements of the above-listed OSHA standards.

After reviewing and evaluating the alternative means of protection that JHT proposed to provide its employees, and the one comment that OSHA received during the public comment period, OSHA has determined that the alternative conditions detailed in this permanent variance will provide JHT's employees working conditions that are as safe and healthful as those which would prevail if JHT complied with 29 CFR 1910.430(d)(3), 1910.430(d)(4), 1910.423(b)(2), 1910.423(c)(1), 1910.423(c)(3), and 1910.424(b)(2). Based on the record discussed above, and in accordance with section 6(d) of the OSH Act (29 U.S.C. 655(d)), OSHA grants JHT's application for a permanent variance. This order prescribes the conditions that JHT must maintain, adopt, and utilize to the extent they differ from the standards in question.

Under the terms of this permanent variance, JHT must: (1) Comply with the conditions listed below under Section VI of this notice (''Order''); (2) comply fully with all other applicable provisions of 29 CFR part 1910; and (3) provide a copy of this **Federal Register** notice to all employees affected by the conditions using the same means it used to inform these employees of its application for a permanent variance. This order will remain in effect unless OSHA modifies or revokes this final order in accordance with 29 CFR 1905.13.

VI. Order

As of the effective date of this final order, OSHA is revoking the Interim Order granted to the employer on August 2, 2017 (82 FR 35995).

OSHA issues this final order authorizing Jardon and Howard Technologies, Incorporated (''JHT'') to comply with the following conditions instead of complying with the requirements of paragraphs 29 CFR 1910.430(d)(3), 1910.430(d)(4), 1910.423(b)(2), 1910.423(c)(1), 1910.423(c)(3), and 1910.424(b)(2) of OSHA's commercial diving standard. The conditions apply to all of JHT's commercial diving operations that it conducts with NOAA under the NOAA Diving Program (NDP). These conditions are:

A. Scope

1. The permanent variance applies only to JHT's commercial diving operations conducted for NOAA under the control of the NOAA Diving Program.

2. The permanent variance only applies to JHT diving operations that are covered under Subpart T of 29 CFR part 1910 (*see* 29 CFR 1910.401(a)). Accordingly, the variance will only apply when the dive location is within OSHA's geographical authority, as defined by 29 U.S.C. 653(a), and when such operations are not covered by the U.S. Coast Guard.

3. The permanent variance does not apply to commercial diving operations exempted by 29 CFR 1910.401(a)(2), including diving operations performed solely for instructional purposes, using open-circuit, compressed-air SCUBA and conducted within the no-decompression limits; diving performed solely for search, rescue, or related public safety purposes by or under the control of a governmental agency; diving for research, development, or related purposes involving human subjects, as governed by 45 CFR part 46 or equivalent rules or regulations established by another federal agency; and scientific diving. To qualify for the scientific diving exemption, all of the requirements in 29 CFR 1910.401(a)(2)(iv) and Appendix B to 29 CFR part 1910, subpart T, must be met.

4. Except for the requirements specified by 29 CFR 1910.430(d)(3), 1910.430(d)(4), 1910.423(b)(2), 1910.423(c)(1), 1910.423(c)(3), and 1910.424(b)(2), JHT must comply fully with all other applicable provisions of Subpart T of 29 CFR part 1910 when conducting commercial diving operations.

B. Definitions

The following definitions apply to this permanent variance:

ATA—Atmosphere(s) Absolute
BCD—Buoyancy Compensator Device
CDO—Commercial Diving Operations
DCS—Decompression Sickness
FSW—feet of seawater
JHT—Jardon and Howard Technologies, Incorporated
NDP—NOAA Diving Program
OSHA—Occupational Safety and Health Administration
OTPCA—OSHA's Office of Technical Programs and Coordination Activities
p.s.i.—pounds per square inch
SCUBA—Self Contained Underwater Breathing Apparatus

C. Requirements for Inflatable Flotation Devices

1. When using a BCD for SCUBA diving, JHT must ensure that: The device is used in accordance with the manufacturer's instructions; is capable of being inflated orally and via the diver's primary breathing gas supply; and all divers carry an independent reserve cylinder of breathing gas with a separate regulator that could be used for BCD inflation in an emergency.

2. When SCUBA diving, JHT must ensure that divers use an inflatable flotation device that is: Capable of maintaining the diver at the surface in a positively buoyant state; and have a manually activated inflation source, an oral inflation device, and an exhaust valve.

3. When SCUBA diving, JHT must ensure that divers are never permitted to dive alone unless they are line-tended and provided with topside support (as a minimum, topside support includes a designated person-in-charge and a standby diver).

D. Requirements for Decompression Chambers

1. For any dive that is outside the no-decompression limits or deeper than 130 FSW or using mixed gas with a percentage of oxygen less than air as a breathing mixture, JHT must instruct the diver to remain awake and in the vicinity of the decompression chamber, which is at the dive location for at least one hour after the dive (including decompression or treatment as appropriate).

2. For any dive using air or nitrox breathing-gas mixture within the no-decompression limits that is deeper than 100 FSW but no deeper than 130 FSW, JHT must make available a decompression chamber that is: Dual-lock, multiplace, and located within four hours of the dive location. JHT will have to meet the no-decompression provisions of Appendix C to the CDO rule (*i.e.,* Condition 5, ''Use of No-Decompression Limits'') and ensure that the partial pressure of oxygen in breathing-gas mixtures does not exceed 1.40 ATA or 40% by volume, whichever exposes the diver to less oxygen.

3. JHT must meet the medical-treatment provisions of Appendix C to the CDO rule (*i.e.,* Condition 8,

''Treating Diving-Related Medical Emergencies'').

4. JHT is prohibited from conducting SCUBA diving using air or nitrox breathing-gas mixture at depths deeper than 100 FSW but no deeper than 130 FSW, or outside the no-decompression limits, unless a 6 ATA decompression chamber is ready for use (diving operations performed for instructional purposes in accordance with § 1910.401(a)(2)(i) are exempt).

E. Worker Qualification and Training

JHT is required to:

1. Develop and implement an effective qualification and training program for its affected divers that, at a minimum, meets the requirements set forth in 29 CFR 1910.410 (qualifications of a dive team), and all of the requirements of the NDP;

2. Ensure that each affected diver (including, but not limited to, current and newly assigned to be involved in diving operations under the NDP) successfully completes all training required by the NDP to become a NOAA Diver;

3. Ensure that all divers complete all continuing training required by NDP to maintain status as an authorized NOAA Diver. At a minimum, the diver training program must include the following: (a) Instruction in the conditions of the permanent variance; (b) annual refresher training in oxygen administration (academic and practical components); (c) instruction in maintaining current CPR/AED and First Aid certification; (d) maintaining proficiency in diving by making at least three (3) dives per quarter; (e) completing and passing an annual swim test; (f) completing and passing an annual skills test to demonstrate the diver's ability to safely operate underwater; (g) successfully completing one or more annual rescue drills to demonstrate the diver's ability to surface, extricate, treat and evacuate the victim of a diving accident; and (h) instruction in properly verifying that the diver's life support gear was serviced annually by a certified technician;

4. Document the training in order to provide a means of tracking the training received by divers and, consequently, to prompt JHT to update that training if necessary.

F. Recordkeeping

JHT is required to:

1. Maintain records of recordable injuries that occur as a result of diving operations conducted for NOAA under the NDP;

2. Ensure that the information gathered and recorded under this provision, in concert with the information provided under condition G (using OSHA 301 Incident Report form to investigate and record dive-related recordable injuries as defined by 29 CFR 1904.4, 1904.7, 1904.8 through 1904.12), would enable the JHT and OSHA to determine the effectiveness of the permanent variance in preventing DCS and other dive-related injuries and illnesses.

G. Notifications

1. Notify the OTPCA and the Area Office closest to the dive location of any recordable injuries, illnesses, in-patient hospitalizations, amputations, loss of an eye, or fatality that occur as a result of diving operations within eight (8) hours of the incident;

2. Provide OTCPA and the Area Office closest to the dive location within twenty-four (24) hours of the incident with a copy of the incident investigation report using OSHA 301 form;

3. Include on the OSHA 301 form information on the diving conditions associated with the recordable injury or illness, the root-cause determination, and preventive and corrective actions identified and implemented;

4. Provide certification that it informed affected divers of the incident and the results of the incident investigation;

5. Notify OTPCA and the Area Office closest to the dive location within fifteen (15) working days should JHT need to revise its dive procedures to accommodate changes in its diving operations that affect its ability to comply with the conditions of the permanent variance;

6. Obtain OSHA's written approval prior to implementing the revision in its dive procedures to accommodate changes in its diving operations that affect its ability to comply with the conditions in the permanent variance;

7. By the fifteenth (15th) of January, at the beginning of each new calendar year, provide OTPCA, and the Area Offices and their corresponding Regional Office closest to the preceding year's dive locations, with a report summarizing the dives completed during the year just ended and evaluating the effectiveness of the permanent variance conditions in providing a safe and healthful work environment and in preventing dive-related incidents;

8. Notify OSHA if it ceases to do business, has a new main office address or location, or transfers the operations covered by the permanent variance to a successor company; and

9. Ensure that OSHA would approve the transfer of the permanent variance to a successor company.

OSHA will publish a copy of this notice in the **Federal Register**.

Authority and Signature

Loren Sweatt, Acting Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to Section 29 U.S.C. 655(6)(d), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1905.11.

Signed at Washington, DC, on May 1, 2019.

Loren Sweatt,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2019–09988 Filed 5–14–19; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2013–0017]

QAI Laboratories, Ltd. Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of QAI Laboratories, Ltd., for expansion of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before May 30, 2019.

ADDRESSES: Submit comments by any of the following methods:

Electronically: You may submit comments and attachments electronically at: *https://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2009–0026, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653,

200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2013–0017). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Docket: To read or download comments or other material in the docket, go to *https://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *https://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office.

Extension of comment period: Submit requests for an extension of the comment period on or before May 30, 2019 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that QAI Laboratories, Ltd. (QAI), is applying for expansion of recognition as a NRTL. QAI requests the addition of ten test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including QAI, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

QAI currently has two facility (sites) recognized by OSHA for product testing and certification, with headquarters located at: QAI Laboratories, Ltd., 3980 North Fraser Way, Burnaby, BC, Canada, V5J 5K5. A complete list of QAI's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/qai.html.*

II. General Background on the Application

QAI submitted an application, dated August 4, 2017 (OSHA–2013–0017–0009), to expand recognition to include ten additional test standards. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1 lists the appropriate test standard found in QAI's application to expand for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST APPROPRIATE TEST STANDARDS FOR INCLUSION IN QAI'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 50	Enclosures for Electrical Equipment, Non-Environmental Considerations.
UL 50E	Enclosures for Electrical Equipment, Environmental Considerations.
UL 467	Grounding and Bonding Equipment.
UL 962A	Standard for Furniture Power Distribution Units.
UL 1012	Standard for Power Units Other Than Class 2.
UL 1310	Standard for Class 2 Power Units.
UL 1573	Standard for Stage and Studio Luminaires and Connector Strips.
UL 1951	Standard for Electric Plumbing Accessories.
UL 60950–21	Information Technology Equipment—Safety—Part 21: Remote Power Feeding.
UL 60950–23	Information Technology Equipment—Safety—Part 23: Large Data Storage Equipment.

III. Preliminary Findings on the Application

QAI submitted an acceptable application for expansion of the scope of recognition. OSHA's review of the application file, and pertinent documentation, indicates QAI can meet the requirements prescribed by 29 CFR 1910.7 for expanding recognition to include the addition of these ten test standards for NRTL testing and certification listed above. This

preliminary finding does not constitute an interim or temporary approval of QAI's application.

OSHA welcomes public comment as to whether QAI meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N–3655, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2013–0017.

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, the agency will make a recommendation to the Assistant Secretary for Occupational Safety and Health whether to grant QAI's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

IV. Authority and Signature

Loren Sweatt, Acting Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on May 7, 2019.

Loren Sweatt,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2019–09984 Filed 5–14–19; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2016–0022]

Bay Area Compliance Laboratories Corp.: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of Bay Area Compliance Laboratories Corp., for expansion of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before May 30, 2019.

ADDRESSES: Submit comments by any of the following methods:

Electronically: You may submit comments and attachments electronically at: *https://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2016–0022, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2016–0022). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Docket: To read or download comments or other material in the docket, go to *https://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *https://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office.

Extension of comment period: Submit requests for an extension of the comment period on or before May 30, 2019 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that Bay Area Compliance Laboratories Corp. (BACL), is applying for expansion of recognition as a NRTL. BACL requests the addition of two test standards to its NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the

technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including BACL, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

BACL currently has one facility (site) recognized by OSHA for product testing and certification, with headquarters located at: Bay Area Compliance Laboratories Corp., 1274 Anvilwood Avenue, Sunnyvale, California 94089. A complete list of BACL's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/bacl.html.*

II. General Background on the Application

BACL submitted an application, dated December 4, 2017 (OSHA–2016–0022–0006), to expand recognition to include two additional test standards. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1 lists the appropriate test standard found in BACL's application to expand for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST APPROPRIATE TEST STANDARDS FOR INCLUSION IN BACL'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 61010–1	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use: Part 1—General Requirements.
UL 62368–1	Audio/Video, Information and Communication Technology Equipment: Part 1—Safety Requirement.

III. Preliminary Findings on the Application

BACL submitted an acceptable application for expansion of the scope of recognition. OSHA's review of the application file, and pertinent documentation, indicates BACL can meet the requirements prescribed by 29 CFR 1910.7 for expanding recognition to include the addition of these two test standards for NRTL testing and certification in Table 1. This preliminary finding does not constitute an interim or temporary approval of BACL's application.

OSHA welcomes public comment as to whether BACL meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N–3655, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2016–0022.

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, the agency will make a recommendation to the Assistant Secretary for Occupational Safety and Health whether to grant BACL's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

IV. Authority and Signature

Loren Sweatt, Acting Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on May 7, 2019.

Loren Sweatt,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2019–09983 Filed 5–14–19; 8:45 am]

BILLING CODE 4510–26–P

MERIT SYSTEMS PROTECTION BOARD

Notice of Opportunity To Submit Ideas for Merit Systems Studies

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: The U.S. Merit Systems Protection Board (MSPB) is updating its research agenda and seeks suggestions about possible topics of study.

DATES: Submissions are due July 1, 2019.

ADDRESSES: Submit ideas by mail to Research Agenda, U.S. Merit Systems Protection Board, Room 520, 1615 M Street NW, Washington, DC 20419; by fax to (202) 653–7211; or by email to *researchagenda2020@mspb.gov;* or via the feedback form at *www.mspb.gov* under ''MSPB Studies,'' which is the preferred method.

FOR FURTHER INFORMATION CONTACT: Doug Nierle at (202) 254–4516; or James Tsugawa at (202) 254–4506; or email *researchagenda2020@mspb.gov.*

SUPPLEMENTARY INFORMATION: MSPB conducts studies of the executive branch workforce to ensure that Federal personnel management is implemented consistent with the merit system principles and free from prohibited personnel practices. Most of those studies are drawn from a multi-year research agenda that MSPB develops after reviewing suggested topics from the public. For more information about

MSPB studies, see *www.mspb.gov/studies.*

The public is invited to submit ideas to be considered for inclusion in MSPB's research agenda by responding to one or more of the following questions or submitting other pertinent ideas.

1. In your opinion, what is the most important issue affecting the management of the Federal workforce?

2. In your opinion, what is one thing in the Federal workplace that should be done more fairly?

3. In your opinion, what is one thing in the Federal workplace that should be done more efficiently or effectively?

4. There are several agencies and organizations involved in Federal workforce issues and policy, such as the U.S. Office of Personnel Management, the U.S. Government Accountability Office, the National Academy of Public Administration, and the Partnership for Public Service. In your opinion, what research could MSPB's Office of Policy and Evaluation conduct that would be distinct from the work of these and other agencies and organizations?

All submissions received may be posted, without change, to MSPB's website (*www.mspb.gov*) and may include any personal information you provide. Therefore, submitting this information makes it public. There is no requirement to include any personal information with your submission.

Jennifer Everling,

Acting Clerk of the Board.

[FR Doc. 2019–09991 Filed 5–14–19; 8:45 am]

BILLING CODE 7400–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (19–031)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the NASA Advisory Council (NAC).

DATES: Thursday, May 30, 2019, 10:30 a.m.–4:30 p.m.; and Friday, May 31, 2019, 8:30 a.m.–12:00 noon, Eastern Time.

ADDRESSES: NASA Headquarters, Program Review Center (PRC), Room 9H40, 300 E Street SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Marcia Joseph, NAC Administrative Officer, NASA Headquarters, Washington, DC 20546, (202) 358–4717 or *marcia.joseph@nasa.gov.*

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the capacity of the meeting room. This meeting is also available telephonically and by WebEx. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the toll number 1–630–395–0091 or toll free number 1–888–935–0264 and then the numeric passcode 2976219, followed by the # sign, on both days. *Note:* If dialing in, please ''mute'' your phone. To join via WebEx, the link is *https://nasaenterprise.webex.com/.* The meeting number on May 30 is 906 649 874 and the meeting password is MayNAC#530 (case sensitive); the meeting number on May 31 is 908 431 452 and the meeting password is MayNAC#531 (case sensitive).

The agenda for the meeting will include reports from the following:

—Aeronautics Committee

—Human Exploration and Operations Committee

—Regulatory and Policy Committee

—Science Committee

—STEM Engagement Committee

—Technology, Innovation and Engineering Committee

Attendees will be requested to sign a register and to comply with NASA Headquarters security requirements, including the presentation of a valid picture ID to NASA Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 days prior to the meeting: Full name; gender; date/place of birth; citizenship; passport information (number, country, telephone); visa information (number, type, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, attendees that are U.S. citizens and Permanent Residents (green card holders) are requested to provide full name and citizenship status no less than 3 working days prior to the meeting. Information should be sent to Ms. Marcia Joseph via email at *marcia.joseph@nasa.gov.* It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2019–10089 Filed 5–14–19; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (19–030)]

National Space-Based Positioning, Navigation and Timing Advisory Board; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, and the President's 2004 U.S. Space-Based Positioning, Navigation and Timing Policy, the National Aeronautics and Space Administration (NASA) announces a meeting of the National Space-Based Positioning, Navigation and Timing (PNT) Advisory Board.

DATES: Thursday, June 6, 2019, 8:30 a.m. to 5:30 p.m.; and Friday, June 7, 2019, 9:00 a.m. to 1:00 p.m., Eastern Time.

ADDRESSES: The Westin Hotel, Alexandria Old Town, 400 Courthouse Square, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Miller, Designated Federal Officer, Human Exploration and Operations Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–4417, fax (202) 358–4297, or *jj.miller@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Visitors will be requested to sign a visitor's register.

The agenda for the meeting includes the following topics:

- Examine methods in which to Protect, Toughen, and Augment (PTA) access to Global Positioning System (GPS)/Global Navigation Satellite Systems (GNSS) services in key domains for multiple user sectors.
- Examine emerging trends and requirements for PNT services in U.S. and international fora through PNT Advisory Board technical assessments, including back-up services for terrestrial, maritime, aviation, and space users.
- Update on U.S. Space-Based PNT Policy and GPS modernization.

• Explore opportunities for enhancing the interoperability of GPS with other emerging international GNSS.

• Prioritize current and planned GPS capabilities and services while assessing future PNT architecture alternatives with a focus on affordability.

• Assess economic impacts of GPS/GNSS on the United States and in select international regions, with a consideration towards effects of potential PNT service disruptions if radio spectrum interference is introduced.

• Review the potential benefits, perceived vulnerabilities, and any proposed regulatory constraints to accessing foreign Radio Navigation Satellite Service (RNSS) signals in the United States and subsequent impacts on multi-GNSS receiver markets.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2019–10088 Filed 5–14–19; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Meeting of Humanities Panel

AGENCY: National Endowment for the Humanities, National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

SUMMARY: The National Endowment for the Humanities will hold two meetings of the Humanities Panel, a federal advisory committee, during June 2019. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965.

DATES: See **SUPPLEMENTARY INFORMATION** for meeting dates. The meetings will open at 8:30 a.m. and will adjourn by 5:00 p.m. on the dates specified below.

ADDRESSES: The meetings will be held at Constitution Center, 400 7th Street SW, Washington, DC 20506, unless otherwise indicated.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meetings:

1. *Date:* June 20, 2019. This meeting will discuss applications on the topics of Literature, Arts, and Media Studies, for the NEH-Mellon Fellowships, submitted to the Division of Research Programs.

2. *Date:* June 27, 2019. This meeting will discuss applications on the topics of History and Area Studies, for the NEH-Mellon Fellowships, submitted to the Division of Research Programs.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: May 9, 2019.

Elizabeth Voyatzis,

Committee Management Officer, National Endowment for the Humanities.

[FR Doc. 2019–09973 Filed 5–14–19; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Proposal Review Panel for Materials Research (DMR) (#1203)—Science and Technology Center on Real-Time Functional Imaging (STROBE) (Site Visit)

Date and Time: June 13, 2019, 8:00 a.m.–8:00 p.m.; June 14, 2019, 8:00 a.m.–4:00 p.m.

Place: STC at University of Colorado (Boulder), Boulder, Colorado 80303.

Type of Meeting: Part Open.

Contact Person: Dr. Charles Ying, Program Director, Division of Materials Research, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone (703) 292–8428.

Purpose of Meeting: Site Visit to provide advice and recommendations concerning progress of the Science and Technology Center (STC).

Agenda

Thursday, June 13, 2019

8:00 a.m.–11:00 a.m. Open—Review of STROBE STC

11:00 a.m.–8:00 p.m. Closed—Executive Session

Friday, June 14, 2019

8:00 a.m.—4:00 p.m. Closed—Executive Session

Reason for Closing: Topics to be discussed and evaluated during closed portions of the site review will include information of a proprietary or confidential nature, including technical information; and information on personnel. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 10, 2019.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2019–10074 Filed 5–14–19; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub., L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Proposal Review Panel for Materials Research (DMR) (#1203)—Platform for the Accelerated Realization, Analysis, and Discovery of Interface Materials (PARADIM), Materials Innovation Platform (MIP), Cornell University and Johns Hopkins University (Site Visit)

Date and Time: June 10, 2019; 8:00 a.m.–8:00 p.m.; June 11, 2019; 8:00 a.m.–3:00 p.m.

Place: Johns Hopkins University, Baltimore, MD 21218.

Type of Meeting: Part Open.

Contact Person: Dr. Charles Ying, Program Director, Division of Materials Research, National Science Foundation, Room E9467, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone: (703) 292–8428.

Purpose Of Meeting: Site visit to provide advice and recommendations concerning further support of the MIP at Cornell University and Johns Hopkins University.

Agenda

Monday, June 10, 2019

8:00 a.m.–9:15 a.m. Closed—Executive Session

9:15 a.m.–11:30 a.m. Open—Review of PARADIM MIP

11:30 a.m.–1:00 p.m. Closed—Executive Session
1:00 p.m.–4:00 p.m. Open—Review of PARADIM MIP
4:00 p.m.–8:00 p.m. Closed—Executive Session

Tuesday, June 11, 2019

8:00 a.m.–3:00 p.m. Closed—Executive Session

Reason for Closing: The work being reviewed during closed portions of the site review includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with PARADIM/MIP. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 10, 2019.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2019–10073 Filed 5–14–19; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Computer and Information Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Computer and Information Science and Engineering (CISE) (1115).

Date and Time: June 6, 2019: 12:30 p.m. to 5:30 p.m.; June 7, 2019: 8:30 a.m. to 12:30 p.m.

Place: National Science Foundation, 2415 Eisenhower Avenue, Room C2020, Alexandria, VA 22314.

Type of Meeting: OPEN.

Contact Person: Brenda Williams, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone: 703–292–8900.

Purpose of Meeting: To advise NSF on the impact of its policies, programs and activities on the CISE community. To provide advice to the Assistant Director for CISE on issues related to long-range planning, and to form ad hoc subcommittees and working groups to carry out needed studies and tasks.

Agenda

- NSF and CISE updates
- Discussion on NSF Convergence Accelerator
- Discussion and updates on NSF INCLUDES
- Broadening Participation in Computing update

Dated: May 10, 2019.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2019–10072 Filed 5–14–19; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0021]

Information Collection: Billing Instructions for NRC Cost Type Contract/Orders

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Billing Instructions for NRC Cost Type Contract/Orders.''

DATES: Submit comments by June 14, 2019.

ADDRESSES: Submit comments directly to the OMB reviewer at: OMB Office of Information and Regulatory Affairs (Docket ID NRC–2019–0021), Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street NW, Washington, DC 20503; email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *infocollects.resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0021 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–2019–0021. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2019–0021 on this website.
- *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.htlm.* To begin the search, select ''*ADAMS Public Documents*'' and then 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.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML19116A165. The supporting statement and Billing Instructions for NRC Cost Type Contracts/Orders is available in ADAMS under Accession No. ML19115A277.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room 0 1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *infocollects.resource@nrc.gov.*

B. Submitting Comments

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 OMB, 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 comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to

OMB for review entitled, ''Billing Instructions for NRC Cost Type Contracts/Orders.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on February 15, 2019, 84 FR 4546.

1. *The title of the information collection:* Billing Instructions for NRC Cost Type Contract/Orders.
2. *OMB approval number:* 3150–0109.
3. *Type of submission:* Extension.
4. *The form number if applicable:* N/A.
5. *How often the collection is required or requested:* Monthly and on occasion.
6. *Who will be required or asked to respond:* NRC Contractors.
7. *The estimated number of annual responses:* 696.
8. *The estimated number of annual respondents:* 23.
9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 348.
10. *Abstract:* In administering its contracts, the NRC Acquisition Management Division provides billing instructions for its contractors to follow in preparing invoices. These instructions stipulate the level of detail in which supporting data must be submitted for NRC review. The review of this information ensures that all payments made by NRC for valid and reasonable costs are in accordance with the contract terms and conditions.

Dated at Rockville, Maryland, this 9th day of May 2019.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–09963 Filed 5–14–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0095]

Information Collection: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.''

DATES: Submit comments by July 15, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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–2019–0095. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: O–1 F21, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0095 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–2019–0095. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2019–0095 on this website.
- *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 ''*ADAMS Public Documents*'' and then 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 supporting statement is available in ADAMS under Accession ML19098A872.
- *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.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Please include Docket ID NRC–2019–0095 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions 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

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* Generic Clearance for the

Collection of Qualitative Feedback on Agency Service Delivery.

2. *OMB approval number:* 3150–0217.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* Not applicable.

5. *How often the collection is required or requested:* On occasion and annually.

6. *Who will be required or asked to respond:* Individuals and households; businesses and organizations; State, Local, or Tribal governments.

7. *The estimated number of annual responses:* 4,200.

8. *The estimated number of annual respondents:* 4,200.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 1,087.5.

10. *Abstract:* The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, for the purpose of improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management. Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 9th day of May 2019.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–09968 Filed 5–14–19; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Notices Under Section 4062(e) of ERISA

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intent to request OMB approval of information collection.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) approve under the Paperwork Reduction Act a collection of information that is necessary to fulfill various reporting obligations following a cessation of operations at a facility. This notice informs the public of PBGC's intent and solicits public comment on the collection of information.

DATES: Comments must be received on or before July 15, 2019 to be assured of consideration.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: paperwork.comments@pbgc.gov.*
- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026.

All submissions received must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and refer to the Notices Under Section 4062(e) of ERISA. All comments received will be posted without change to PBGC's website, *http://www.pbgc.gov,* including any personal information provided.

Copies of the collection of information may be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026, or calling 202–326–4040 during normal business hours. TTY users may call the Federal Relay Service toll-free at 800–877–8339 and ask to be connected to 202–326–4040.

FOR FURTHER INFORMATION CONTACT: Melissa Rifkin (*rifkin.melissa@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026; 202–326–4400, extension 6563; or Erika E. Barnes (*barnes.erika@pbgc.gov*), Assistant General Counsel, Bankruptcy, Transactions, and Terminations Department, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026; 202–326–4400, extension 3460. (TTY users may call the Federal Relay Service toll-free at 800–877–8339 and ask to be connected to 202–326–4400, extension 6563 or extension 3460.)

SUPPLEMENTARY INFORMATION: Section 4062(e) of the Employee Retirement Income Security Act of 1974 (ERISA) imposes reporting obligations in the event of a ''substantial cessation of operations.'' A substantial cessation of operations occurs when a permanent cessation at a facility causes a separation from employment of more than 15 percent of all ''eligible employees.'' ''Eligible employees'' are employees eligible to participate in any of the facility's employer's employee pension benefit plans. Following a substantial cessation of operations, the facility's employer is treated, with respect to its single employer pension plans covered by title IV of ERISA that are covering participants at the facility, as if the employer were a withdrawing substantial employer under a multiple-employer plan. Under section 4063(a) of ERISA, the Pension Benefit Guaranty Corporation (PBGC) must receive notice

of the substantial cessation of operations and a request to determine the employer's resulting liability.

To fulfill such resulting liability, the employer may elect, under section 4062(e)(4)(A), to make additional contributions annually for seven years to plans covering participants at the facility where the substantial cessation of operations took place. Under sections 4062(e)(4)(E)(i)(I) (II), (III), (IV), and (V) respectively, an employer that is making the election for annual additional contributions must give notice to PBGC of: (1) Its decision to make the election, (2) its payment of an annual contribution, (3) its failure to pay an annual contribution, (4) its receipt of a funding waiver from the Internal Revenue Service, and (5) the ending of its obligation to make additional annual contributions.

PBGC is proposing a new form series, consisting of Form 4062(e)–01, Form 4062(e)–02, Form 4062(e)–03, and Form 4062(e)–04, that would be used to fulfill these reporting obligations. An employer or a plan administrator would file Form 4062(e)–01 to notify PBGC of the occurrence of a substantial cessation of operations and request a determination of the employer's liability. An employer would file Form 4062(e)–02 to notify PBGC that it made the elections to pay annual additional contributions to a plan. An employer would file Form 4062(e)–03 to notify PBGC that it paid an annual additional contribution, received a funding waiver from the Internal Revenue Service, or is no longer obligated to pay additional annual contributions. Finally, an employer would file Form 4062(e)–04 to notify PBGC that it failed to pay an additional annual contribution to the plan.

PBGC needs the requested information in the forms and notification (1) to determine an employer's liability to a plan following a substantial cessation of operations and (2) to ensure that an employer that made the election of additional annual contributions is fulfilling its payment obligations.

PBGC estimates that 70 forms/notifications (10 Forms 4062(e)–01, 10 Forms 4062(e)–02, 49 Forms 4062(e)–03, and one Form 4062(e)–04) would be submitted each year. PBGC estimates that these forms would be completed by a combination of plan office staff and outside professionals (attorneys and actuaries). PBGC estimates a total annual hour burden of 315 hours (based on plan office time). The estimated dollar equivalent of this hour burden, based on an assumed hourly rate of $75 for administrative, clerical, and supervisory time is $23,625. PBGC estimates a total annual cost burden of $92,750 (based on 265 professional hours assuming an average hourly rate of $350).

PBGC intends to request that OMB approve PBGC's use of this form for three years. 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.

PBGC is soliciting public comments to—

- 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 methodologies 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.

Issued in Washington, DC.

Hilary Duke,

Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2019–09989 Filed 5–14–19; 8:45 am]

BILLING CODE 7709–02–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85828; File No. 10–234]

In the Matter of the Application of Long Term Stock Exchange, Inc.; for Registration as a National Securities Exchange; Findings, Opinion, and Order of the Commission

May 10, 2019.

I. Introduction and Procedural History

On November 9, 2018, Long-Term Stock Exchange, Inc. (''LTSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a Form 1 application under the Securities Exchange Act of 1934 (''Act''), seeking registration as a national securities exchange under Section 6 of the Act.[1] In a letter dated December 4, 2018, LTSE consented to an extension of time for up to an additional 90 days from the date of publication of notice of LTSE's Form 1 application.[2] Notice of the application was published for comment in the **Federal Register** on December 6, 2018.[3] The Commission has received one comment letter on the application.[4] On February 26, 2019, LTSE submitted Amendment No. 1 to the application.[5] On April 3, 2019, LTSE submitted Amendment No. 2 to the application.[6]

The Commission has reviewed the Exchange's registration application, as amended, together with the comment letter received, in order to make a determination whether to grant such registration. For the reasons set forth below, and based on the representations set forth in LTSE's Form 1, as amended, this order approves LTSE's Form 1 application, as amended, for registration as a national securities exchange.

II. Statutory Standards

Pursuant to Sections 6(b) and 19(a) of the Act,[7] the Commission shall by order grant an application for registration as a national securities exchange if the Commission finds, among other things, that the proposed exchange is so organized and has the capacity to carry out the purposes of the Act and can comply, and can enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the exchange.

As discussed in greater detail below, the Commission finds that LTSE's application, as amended, for exchange registration meets the requirements of the Act and the rules and regulations thereunder. Further, the Commission

[1] 15 U.S.C. 78f.

[2] *See* Letter to Brett Redfearn, Director, Division of Trading and Markets, Commission, from Eric Ries, dated December 4, 2018.

[3] *See* Securities Exchange Act Release No. 84709 (November 30, 2018), 83 FR 62941 (''Notice'').

[4] *See* Letter to Brent J. Fields, Secretary, Commission, from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors, dated January 22, 2019, *available at: https://www.sec.gov/comments/10-234/10234-4844313-177202.pdf* (''CII Letter'').

[5] *See* Letter to Brett Redfearn, Director, Division of Trading and Markets, Commission, from Annette L. Nazareth, dated February 26, 2019. In Amendment No. 1, LTSE submitted updated portions of its Form 1, including revised Exhibits A, B, C, D, E, I, J and K.

[6] *See* Letter to Brett Redfearn, Director, Division of Trading and Markets, Commission, from Annette L. Nazareth, dated April 3, 2019. In Amendment No. 2, LTSE updated portions of its Form 1, including revised Exhibits A, B, C, D, H, and J.

[7] 15 U.S.C. 78f(b) and 15 U.S.C. 78s(a), respectively.

finds that the proposed rules of LTSE are consistent with Section 6 of the Act in that, among other things, they are designed to: (1) Assure fair representation of the exchange's members in the selection of its directors and administration of its affairs and provide that, among other things, one or more directors shall be representative of investors and not be associated with the exchange, or with a broker or dealer; [8] (2) prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and remove impediments to and perfect the mechanisms of a free and open market and a national market system; [9] (3) not permit unfair discrimination between customers, issuers, or dealers; [10] and (4) protect investors and the public interest.[11] The Commission also finds that the rules of LTSE are consistent with Section 11A of the Act.[12] Finally, the Commission finds that LTSE's proposed rules do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[13]

III. Discussion

A. Governance of LTSE

LTSE Group, Inc. (''LTSEG''), a Delaware corporation, will own 100% of the equity of LTSE and is the entity through which the individual investors who are ultimate owners of the Exchange will hold their ownership interests in the Exchange.[14] LTSEG will be the primary employer of all LTSE personnel. In addition, the stockholders who directly own LTSEG also will directly own a separate, affiliated Delaware-incorporated entity, LTSE Services, Inc. (''LTSE Services''), a software business currently serving approximately 20,000 users, mostly early stage companies.[15] It is contemplated that the Exchange will maintain a commercial relationship with LTSE Services, seeking to leverage the company's technological expertise to support the Exchange's software needs.

1. LTSE Board of Directors

The board of directors of LTSE (''Exchange Board'') [16] will be its governing body and will possess all of the powers necessary for the management of its business and affairs, including governance of LTSE as a self-regulatory organization (''SRO'').[17] Pursuant to the LTSE Bylaws:

- The Exchange Board initially will be composed of 6 or more directors; [18]
- one director will be the Chief Executive Officer of LTSE; [19]
- the number of Non-Industry Directors,[20] including at least one Independent Director,[21] will equal or exceed the sum of the Industry Directors [22] and Member Representative Directors; [23] and
- at least 20% of the directors on the Exchange Board will be Member Representative Directors.

The initial Directors of the Exchange Board will be appointed by LTSEG and will serve until the first annual meeting of stockholders.[24] The first annual meeting of stockholders will be held prior to LTSE's commencement of operations as an Exchange.[25]

In addition, LTSEG will appoint the initial Nominating Committee and Member Nominating Committee, consistent with each committee's compositional requirements, to nominate candidates for election to the Exchange Board.[26] The Nominating Committee and Member Nominating Committee, after completion of their respective duties for nominating directors for election to the Board for that year, will recommend candidates to serve on the succeeding year's Nominating Committee or Member Nominating Committee, as applicable.[27] LTSE members will have rights to nominate and elect additional candidates for the Member Nominating Committee pursuant to a petition process.[28]

The Nominating Committee will nominate candidates for election to the Board at the annual stockholder meeting and all other vacant or new Director positions on the Board.[29] For Member Representative Director positions, the Member Nominating Committee, composed solely of Member Representative Members, will solicit input from LTSE members and members may submit petition candidates.[30] If no candidates are nominated pursuant to a petition process, then the initial nominees approved and submitted by the Member Nominating Committee will be nominated as Member Representative Directors by the Nominating Committee.[31] If a petition process produces additional candidates, then the candidates nominated pursuant to the petition process, together with those nominated by the Member Nominating Committee, will be presented to LTSE members for election to determine the final designees for any open Member Representative Director positions.[32] In the event of a contested election, the candidates who receive the most votes will be selected as the Member Representative Director designees by the Member Nominating Committee.[33]

The Commission believes that the LTSE governance provisions are consistent with the Act. In particular, the Commission believes that the

[8] *See* U.S.C. 78f(b)(3).

[9] *See* U.S.C. 78f(b)(5).

[10] *See id.*

[11] *See id.*

[12] 15 U.S.C. 78k–1.

[13] 15 U.S.C. 78f(b)(8).

[14] *See* Form 1, Exhibit C. The citations to the Exchange's Form 1 and its Exhibits hereinafter in this Order refer to the Form 1 application and its Exhibits, as amended.

[15] As described by the Exchange, LTSE Services provides tools to companies and investors designed to help founders and their employees through all stages of a company's life cycle and currently focuses on creating user-friendly software products for its clients that drive financial and other solutions that can be specialized or scaled for broad commercial application, and continues to develop new products that provide value to companies in different stages of their life cycles. *Id.*

[16] A Director may not be subject to statutory disqualification. *See* First Amended and Restated Bylaws of Long-Term Stock Exchange, Inc. (''LTSE Bylaws''), Article III, Section 3.2(d).

[17] *See* LTSE Bylaws, Article III, Section 3.1. *See also* Form 1, Exhibit J.

[18] *See* LTSE Bylaws, Article III, Section 3.2(a). *See also* Form 1, Exhibit A.

[19] *See* LTSE Bylaws, Article III, Section 3.2(b).

[20] ''Non-Industry Director'' means a Director who is an Independent Director or any other individual who would not be an Industry Director. *See* LTSE Bylaws, Article I, Section (v).

[21] ''Independent Director'' means a Director who has no material relationship with the Exchange or any affiliate of the Exchange or any Exchange Member or any affiliate of any Exchange Member; provided, however, that an individual who otherwise qualifies as an Independent Director shall not be disqualified from serving in such capacity solely because such Director is a Director of LTSE or LTSEG. *See* LTSE Bylaws, Article I, Section (m).

[22] ''Industry Director'' means, among other criteria, a Director who is or has been within the prior three years an officer, director or employee of a broker or dealer, excluding an outside director or a director not engaged in the day-to-day management of a broker or dealer. *See* LTSE Bylaws, Article I, Section (o), for a description of all of the circumstances regarding when a Director would be considered an Industry Director.

[23] ''Member Representative Director'' means a Director who has been appointed as such to the initial Exchange Board pursuant to Article III, Section 3.4(g) of the Bylaws or elected by stockholders after having been nominated by the Member Nominating Committee or by an Exchange Member pursuant to the Bylaws and confirmed as the nominee of Exchange Members after majority vote of Exchange Members, if applicable. A Member Representative Director must be an officer, director, employee, or agent of an Exchange Member that is not a Stockholder Exchange Member. *See* LTSE Bylaws, Article I, Section (s).

[24] *See* LTSE Bylaws, Article III, Section 3.4(g).

[25] *See* LTSE Bylaws, Article IV, Section 4.1(b).

[26] *See* LTSE Bylaws, Article VI, Section 6.1.

[27] *Id.*

[28] *See* LTSE Bylaws, Article III, Section 3.4

[29] *See* LTSE Bylaws, Article VI, Section 6.2.

[30] *See* LTSE Bylaws, Article III, Section 3.4.

[31] *See* LTSE Bylaws, Article III, Section 3.4(e).

[32] *Id.*

[33] *See* LTSE Bylaws, Article III, Section 3.4(f).

requirement in the LTSE Bylaws that the number of Member Representative Directors must be at least 20% of the Board and the means by which they will be chosen by LTSE members provide for the fair representation of members in the selection of directors and the administration of LTSE and therefore are consistent with Section 6(b)(3) of the Act.[34] As the Commission has previously noted, this requirement helps to ensure that members have a voice in an exchange's self-regulatory program, and that an exchange is administered in a way that is equitable to all those who trade on its market or through its facilities.[35]

In addition, with respect to the requirement that the number of Non-Industry Directors, including at least one Independent Director, will equal or exceed the sum of the number of Industry Directors and Member Representative Directors, the Commission believes that the proposed composition of the Exchange Board satisfies the requirements in Section 6(b)(3) of the Act,[36] which require in part that one or more directors be representative of issuers and investors and not be associated with a member of the exchange, or with a broker or dealer. The Commission previously has stated that the inclusion of public, non-industry representatives on exchange oversight bodies is an important mechanism to support an exchange's ability to protect the public interest.[37] Further, the presence of public, non-industry representatives can help to ensure that no single group of market participants has the ability to systematically disadvantage other market participants through the exchange governance process. The Commission believes that public directors can provide unbiased perspectives, which may enhance the ability of the Exchange Board to address issues in a non-discriminatory fashion and foster the integrity of the Exchange.

2. Interim Board

LTSEG, as the sole stockholder of the Exchange, will appoint Interim Directors of the Board (''Interim Board'') at a special meeting of the stockholder, which will include Interim Member Representative Directors.[38] Upon appointment of the Interim Directors by the stockholder, the Interim Board will meet the Board composition requirements set forth in the LTSE Bylaws.[39] The Interim Board members will serve only until the first annual meeting of the stockholders, which will be held prior to the company's commencement of operations as an Exchange.[40] The Exchange represents that it will complete the full nomination, petition, and voting process set forth in the LTSE Bylaws, which will provide persons that are approved as LTSE members after the date that the Commission grants the Exchange's registration as a national securities exchange with the opportunity to participate in the selection of Member Representative Directors as promptly as possible after the effective date of the Bylaws.[41]

3. Exchange Committees

LTSE has proposed to establish several committees of the Exchange Board. Specifically, LTSE has proposed to establish the following committees of the Exchange Board: an Audit Committee, an Appeals Committee, and a Regulatory Oversight Committee, as well as a Compensation Committee.[42] In addition, LTSE has proposed to establish a Nominating Committee and a Member Nominating Committee, as discussed above.

The Appeals Committee will consist of two Independent Directors, and one Member Representative Director.[43] Each member of the Regulatory Oversight Committee must be an Independent Director.[44] Each voting member of the Compensation Committee must be an Independent Director.[45] Each member of the Audit Committee must be an Independent Director.[46]

Because the Executive Committee will have the powers and authority of the Exchange Board in the management of the business and affairs of the Exchange between meetings of the Exchange Board, its composition must reflect that of the Exchange Board. Accordingly, the number of Non-Industry Directors on the Executive Committee must equal or exceed the number of Industry Directors and the percentages of Independent Directors and Member Representative Directors on the Executive Committee must be at least as great as the corresponding percentages of each such class of Directors on the Exchange Board as a whole.[47]

The Commission believes that LTSE's proposed committees, which are similar to the committees maintained by other exchanges,[48] are designed to help enable the Exchange to carry out its responsibilities under the Act and are consistent with the Act, including Section 6(b)(1), which requires, in part, an exchange to be so organized and have the capacity to carry out the purposes of the Act.[49]

B. LTSE Group and Regulation of the Exchange

When LTSE commences operations as a national securities exchange, it will have all of the attendant regulatory obligations under the Act. In particular, LTSE will be responsible for the operation and regulation of its trading system and the regulation of its members. The Commission believes that certain provisions in the LTSE and LTSEG governing documents are designed to facilitate the ability of LTSE to fulfill its regulatory obligations and to help facilitate Commission oversight of LTSE. The discussion below summarizes some of these key provisions.

1. Ownership Structure; Ownership and Voting Limitations

As stated above, LTSE will be wholly owned by LTSEG. The proposed Amended and Restated Certificate of Incorporation of LTSEG (''LTSEG Certificate'') includes restrictions on the ability to own and vote shares of capital

[34] 15 U.S.C. 78f(b)(3).

[35] *See, e.g.,* Securities Exchange Act Release Nos. 79543 (December 13, 2016), 81 FR 92901, 92903 (December 20, 2016) (File No. 10–227) (order granting registration of MIAX PEARL, LLC) (''MIAX PEARL Order''); 68341 (December 3, 2012), 77 FR 73065, 73067 (December 7, 2012) (File No. 10–207) (order granting the registration of Miami International Securities Exchange, LLC (''MIAX Exchange'')) (''MIAX Order''); 58375 (August 18, 2008), 73 FR 49498, 49501 (August 21, 2008) (File No. 10–182) (order granting the registration of BATS Exchange, Inc.) (''BATS Order''); and 53128 (January 13, 2006), 71 FR 3550, 3553 (January 23, 2006) (File No. 10–131) (granting the exchange registration of Nasdaq Stock Market, Inc.) (''Nasdaq Order'').

[36] 15 U.S.C. 78f(b)(3).

[37] *See, e.g.,* MIAX PEARL Order, *supra* note 35, at 92903; MIAX Order, *supra* note 35, at 73067; BATS Order, *supra* note 35, at 49501; and Nasdaq Order, *supra* note 35, at 3553.

[38] *See* Form 1, Exhibit J. *See also* LTSE Bylaws, Article III, Section 3.2 (stating that the Exchange Board shall consist of five (6) or more Directors).

[39] *See* Form 1, Exhibit J.

[40] *Id.*

[41] *Id.*

[42] *See* LTSE Bylaws, Article V, Sections 5.1 and 5.6(a). If no Compensation Committee is elected, reference to the Compensation Committee shall refer to the entire Board. *See* LTSE Bylaws, Article V, Section 5.6(a).

[43] *See* LTSE Bylaws, Article V, Section 5.6(d).

[44] *See* LTSE Bylaws, Article V, Section 5.6(c).

[45] *See* LTSE Bylaws, Article V, Section 5.6(a).

[46] *See* LTSE Bylaws, Article V, Section 5.6(b). *See also* LTSE Bylaws, Article III, Section 3.18(a) regarding the potential role of the Audit Committee in conflict of interest matters.

[47] *See* LTSE Bylaws, Article V, Section 5.6(e).

[48] *See, e.g.,* Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41141 (June 23, 2016) (File No. 10–222) (order granting the registration of Investors' Exchange, LLC) (''IEX Order''); Nasdaq Order, *supra* note 35; and BATS Order, *supra* note 35.

[49] 15 U.S.C. 78f(b)(1).

stock of LTSEG.[50] These limitations are designed to prevent any LTSEG shareholder from exercising undue control over the operation of the Exchange and to ensure that the Exchange and the Commission are able to carry out their regulatory obligations under the Act.

In particular, for so long as LTSEG shall control, directly or indirectly, a national securities exchange, no Person,[51] either alone or together with its Related Persons,[52] will be permitted to beneficially own, directly or indirectly, of record or beneficially, shares constituting more than 40% of any class of capital stock of LTSEG.[53] A more restrictive condition will apply to members of the Exchange, who will be prohibited from beneficially owning, directly or indirectly, either alone or together with their Related Persons, more than 20% of shares of any class of capital stock of LTSEG.[54] If any stockholder purports to sell, transfer, assign, pledge, or own any shares of LTSEG in violation of these ownership limits, LTSEG will be required (to the extent funds are legally available) to redeem the shares in excess of the applicable ownership limit at their par value.[55]

In addition, no Person, alone or together with its Related Persons, will be entitled to vote or cause the voting of shares of the capital stock of LTSEG, in person or by proxy or through any voting agreement or other arrangement, to the extent that such shares represent in the aggregate more than 20% of the voting power of the then issued and outstanding capital stock of LTSEG (''Voting Limitation''), and LTSEG will disregard any such votes purported to be cast in excess of the Voting Limitation.[56] Further, if any Person, either alone or together with its Related Persons, is a party to any agreement, plan or other arrangement relating to shares of stock of LTSEG entitled to vote in any matter with any other Person, either alone or together with its Related Persons, under circumstances that would result in the shares of capital stock of LTSEG that are subject to such agreement, plan or other arrangement not being voted on any matter or matters or any proxy relating thereto being withheld, where the effect of such agreement, plan or other arrangement would be to enable any Person, either alone or together with its Related Persons, to vote, possess the right to vote, or cause the voting of shares of the capital stock of LTSEG that would represent more than 20% of said voting power[57] (the ''Recalculated Voting Limitation''), then the Person, either alone or together with its Related Persons, will not be entitled to vote or cause the voting of shares of stock of LTSEG, in person or by proxy or through any voting agreement or other arrangement, to the extent that such shares represent in the aggregate more than the Recalculated Voting Limitation, and LTSEG will disregard any such votes purported to be case in excess of the Recalculated Voting Limitation.[58]

The board of directors of LTSEG (''LTSEG Board'') will be permitted to waive the 40% ownership limitation and the 20% voting limitation for non-members of the Exchange, pursuant to a resolution duly adopted by the LTSEG Board, if it makes certain determinations.[59] Any such waiver will not be effective unless and until approved by the Commission.[60] The LTSEG Board is specifically precluded from waiving the 20% voting and ownership limits described above for members of the Exchange and their Related Persons.[61]

Any person that proposes to own shares of capital stock of LTSEG in excess of the 40% ownership limitation, or vote or cause the voting of shares of capital stock of LTSEG in person or by proxy or through any voting agreement or other arrangement in excess of the Voting Limitation or Recalculated Voting Limitation, as applicable, will be required to deliver written notice to the LTSEG Board of its intention.[62] The notice must be delivered to the LTSEG Board not less than 45 days (or any shorter period to which the Board expressly consents) before the proposed ownership of such shares or the proposal to vote or cause the voting of such shares in person or by proxy through any voting agreement or other arrangement of its intention to do so.[63]

The LTSEG Certificate also contains provisions that are designed to further safeguard the ownership and voting limitations described above, or are otherwise related to direct and indirect

[50] These provisions are consistent with ownership and voting limits approved by the Commission for other SROs. *See, e.g.,* IEX Order, *supra* note 48, and MIAX PEARL Order, MIAX Order, and BATS Order, *supra* note 35; *see also* Securities Exchange Release Nos. 6068 (February 4, 2016) (File No. 10–221) (order granting exchange registration of ISE Mercury, LLC) (''ISE Mercury Order''); 70050 (July 26, 2013), 78 FR 46622, 46624 (August 1, 2013) (File No. 10–209) (order granting the exchange registration of ISE Gemini, LLC) (''ISE Gemini Order''); 62158 (May 24, 2010), 75 FR 30082 (May 28, 2010) (CBOE–2008–88) (CBOE demutualization order); 53963 (June 8, 2006), 71 FR 34660 (June 15, 2006) (SR–NSX–2006–03) (NSX demutualization order); 51149 (February 8, 2005), 70 FR 7531 (February 14, 2005) (SR–CHX–2004–26) (CHX demutualization order); and 49098 (January 16, 2004), 69 FR 3974 (January 27, 2004) (SR–Phlx–2003–73) (Phlx demutualization order).

[51] *See* LTSEG Certificate, Article IX, subparagraph (A)(2)(a)(i) (defining ''Person'').

[52] *See id.* at subparagraph (A)(2)(a)(ii) (defining ''Related Persons'').

[53] *See id.* at subparagraph (A)(2)(b)(i)(A). There are limited exceptions to these prohibitions. *See infra* notes 58–63 and accompanying text.

[54] *See id.* at subparagraph (A)(2)(b)(i)(B).

[55] *See id.* at subparagraph (A)(2)(e). The number of shares to be redeemed is to be calculated after taking into account that the redeemed shares will become treasury shares and will no longer be deemed to be outstanding shares. *Id.* It is further provided in the LTSEG Certificate that any shares that have been called for redemption may not be deemed outstanding shares for the purpose of voting or determining the total number of shares entitled to vote on any matter. From and after the redemption date (unless LTSEG defaults in providing funds for the payment of the redemption price), the shares of redeemed stock which have been redeemed as per these provisions will become treasury shares and will no longer be deemed to be outstanding, and all rights of the holder of the redeemed stock as a stockholder of LTSEG (except the right to receive from LTSEG the redemption price against delivery to LTSEG of evidence of ownership of the shares) will cease. *Id.* In addition, in the event that any redemption has resulted in any additional stockholder owning such number of shares that is in violation of the ownership limits, LTSGE will be required to redeem those shares pursuant to the limitation provisions. *Id.*

[56] *See id.* at subparagraph (A)(2)(b)(i)(C).

[57] The text of the LTSEG Certificate stipulates that this provision applies ''assuming that all shares of [LTSEG] that are subject to the agreement, plan or other arrangement are not treated as having voting power.'' *Id.*

[58] *See* LTSEG Certificate, Article IX, subparagraph (A)(2)(b)(i)(C)(2). The provisions of this section of LTSEG Certificate regarding limitations on transfer, ownership and voting will not apply to: (a) Any solicitation of any revocable proxy from any stockholder of LTSEG by or on behalf of LTSEG or by any officer or director of LTSEG acting on behalf of LTSEG; or (b) any solicitation of any revocable proxy from any stockholder of LTSEG by another stockholder that is conducted pursuant to, and in accordance with, Regulation 14A under the Act (other than a solicitation pursuant to Rule 14a-2(b)(2)). *See id.* at subparagraph (A)(2)(b)(i)(D). *See also id.* at (b)(i)(E).

[59] *See id.* at subparagraph (A)(2)(b)(ii)(B). The required determinations are that (a) such waiver will not impair the ability of the Exchange to carry out its functions and responsibilities as an ''exchange'' under the Act and the rules and regulations promulgated thereunder; that such waiver is otherwise in the best interests of LTSEG, its stockholders, and the Exchange; that such waiver will not impair the ability of the Commission to enforce the Act and the rules and regulations promulgated thereunder; and that such Person and its Related Persons are not subject to any applicable ''statutory disqualification'' within the meaning of Section 3(a)(39) of the Act. *See id.* at subparagraphs (A)(2)(b)(ii) and (iii). These provisions are consistent with ownership and voting limits approved by the Commission for other SROs. *See, e.g.,* IEX Order, ISE Mercury Order, and ISE Gemini Order, *supra* note 50; MIAX PEARL Order, MIAX Order, and BATS Order, *supra* note 35; and Securities Exchange Act Release No. 61698 (March 12, 2010), 75 FR 13151 (March 18, 2010) (File Nos. 10–194 and 10–196) (order approving DirectEdge exchanges) (''DirectEdge Exchanges Order'').

[60] *See* LTSEG Certificate, Article IX, at subparagraph (A)(2)(b)(ii)(B).

[61] *See id.*

[62] *See id.* at subparagraph (A)(2)(b)(iv).

[63] *See id.*

changes in control. Specifically, any Person that, either alone or together with its Related Persons beneficially owns, directly or indirectly(whether by acquisition or a change in the number of shares outstanding), of record or beneficially 5% or more of the then outstanding shares of capital stock of LTSEG (excluding shares of any class of stock that does not have the right by its terms to vote generally in the election of members of the LTSEG Board) will be required to immediately notify the LTSEG Board in writing of such ownership.[64] Thereafter, such Persons will be required to update LTSEG of any increase or decrease of 1% or more in their previously reported ownership percentage.[65]

The Exchange's Amended and Restated Certificate of Incorporation (''LTSE Certificate'') does not include change of control provisions that are similar to those in the LTSEG Certificate. However, the LTSE Certificate explicitly provides that LTSEG will be the sole owner of the common stock of the Exchange.[66] Thus, if LTSEG ever proposes to no longer be the sole owner of the Exchange, the LTSE Certificate will be required to be amended. Any amendment to the LTSE Certificate, including any change in the provisions that identify LTSEG as the sole owner of the Exchange, will constitute a proposed rule change under Section 19(b) of the Act[67] and Rule 19b–4[68] thereunder that will be required to be filed with, or filed with and approved by, the Commission.[69] Moreover, pursuant to the LTSE Certificate itself, any sale, transfer or assignment by LTSEG of common stock of the Exchange will be subject to prior approval by the Commission pursuant to the rule filing procedure under Section 19 of the Act.[70]

Although LTSEG is not directly responsible for regulation, its activities with respect to the operation of LTSE must be consistent with, and must not interfere with, the self-regulatory obligations of LTSE.[71] As described above, the provisions applicable to direct and indirect changes in control of LTSEG and LTSE, as well as the voting limitation imposed on owners of LTSEG who also are LTSE members, are designed to help prevent any owner of LTSEG from exercising undue influence or control over the operation of the Exchange and to help ensure that the Exchange retains a sufficient degree of independence to effectively carry out its regulatory obligations under the Act.

In addition, these limitations are designed to address the conflicts of interests that might result from a member of a national securities exchange owning interests in the exchange. As the Commission has noted in the past, a member's ownership interest in an entity that controls an exchange could become so large as to cast doubt on whether the exchange may fairly and objectively exercise its self-regulatory responsibilities with respect to such member.[72] A member that is a controlling shareholder of an exchange could seek to exercise that controlling influence by directing the exchange to refrain from, or the exchange may hesitate to, diligently monitor and conduct surveillance of the member's conduct or diligently enforce the exchange's rules and the federal securities laws with respect to conduct by the member that violates such provisions. As such, the Commission believes that these requirements are designed to minimize the potential that a person or entity can improperly interfere with or restrict the ability of the Exchange to effectively carry out its regulatory oversight responsibilities under the Act.

The Commission believes that LTSE's and LTSEG's proposed governance provisions are consistent with the Act, including Section 6(b)(1), which requires, in part, an exchange to be so organized and have the capacity to carry out the purposes of the Act.[73] In particular, these requirements are designed to minimize the potential that a person could improperly interfere with or restrict the ability of the Commission or the Exchange to effectively carry out their regulatory oversight responsibilities under the Act.

2. Regulatory Independence and Oversight

Although LTSEG will not itself carry out regulatory functions, its activities with respect to the operation of LTSE must be consistent with, and must not interfere with, LTSE's self-regulatory obligations. In this regard, LTSE and LTSEG propose to adopt certain provisions in their respective governing documents that are designed to help maintain the independence of the regulatory functions of LTSE. These proposed provisions are substantially similar to those included in the governing documents of other exchanges that recently have been granted registration.[74] Specifically:

- The directors, officers, employees, and agents of LTSEG must give due regard to the preservation of the independence of the self-regulatory function of LTSE and to its obligations to investors and the general public and must not take actions which would interfere with the effectuation of decisions by the Exchange Board relating to its regulatory functions (including disciplinary matters) or which would interfere with LTSE's ability to carry out its responsibilities under the Act.[75]
- LTSEG must comply with the federal securities laws and the rules and regulations promulgated thereunder, and must cooperate with the Commission and LTSE pursuant to, and to the extent of, their respective regulatory authority. In addition, LTSEG's officers, directors, employees, and agents must comply with the federal securities laws and the rules and

[64] *See id.* at subparagraph (A)(2)(c)(i). The notice will require the Person's full legal name; the Person's title or status and the date on which such title or status was acquired; the Person's and its Related Person's) approximate ownership interest in LTSEG; and whether the person has power, directly or indirectly, to direct the management or policies of LTSEG, whether through ownership of securities, by contract or otherwise. *See id.*

[65] *See id.* at subparagraph (A)(2)(c)(ii). Changes of less than 1% must also be reported to LTSEG if they result in such Person crossing a 20% or 40% ownership threshold. *See id.* In addition, the Exchange's rules also impose limits on affiliation between the Exchange and a member of the Exchange. *See* LTSE Rule 2.210 (No Affiliation between Exchange and any Member).

[66] *See* LTSE Certificate, Article IV.

[67] 15 U.S.C. 78s(b).

[68] 17 CFR 240.19b–4.

[69] *See* LTSE Certificate, Article VI.

[70] *See* LTSE Certificate, Article IV.

[71] *See, e.g.,* IEX Order, *supra* note 48.

[72] *See, e.g.,* ISE Mercury Order, *supra* note 50, and IEX Order, *supra* note 48; MIAX PEARL Order, MIAX Order, and BATS Order, *supra* note 35; and DirectEdge Exchanges Order, *supra* note 59.

[73] 15 U.S.C. 78f(b)(1).

[74] *See, e.g.,* IEX Order, *supra* note 48; MIAX Order, *supra* note 35. *See also* DirectEdge Exchanges Order, *supra* note 59.

[75] *See* proposed Bylaws of LTSE Group, Inc. (''LTSEG Bylaws''), Article X, Section 10.1. Similarly, Article III, Section 3.1(d) of the LTSE Bylaws requires the Exchange Board, when managing the business and affairs of LTSE, to consider the requirements of Section 6(b) of the Act and requires each Director, officer or employee of LTSE to comply with the federal securities laws and regulations thereunder and cooperate with the Commission, and LTSE pursuant to its regulatory authority. Article III, Section 3.1(e) of the LTSE Bylaws also requires the Exchange Board, when evaluating any proposal to take into account all factors that the Board deems relevant, to the extent deemed relevant: the potential impact on the integrity, continuity and stability of the national securities exchange operated by LTSE and the other operations of LTSE, on the ability to prevent fraudulent and manipulative acts and practices, and on investors and the public, and whether such would promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities or assist in the removal of impediments to or perfection of the mechanisms for a free and open market and a national market system.

regulations promulgated thereunder and are deemed to agree to cooperate with the Commission and LTSE in respect of the Commission's oversight responsibilities regarding LTSE and the self-regulatory functions and responsibilities of LTSE, and LTSEG must take reasonable steps necessary to cause its officers, directors, employees and agents to so cooperate.[76]

• LTSEG, and its officers, directors, employees, and agents must submit to the jurisdiction of the U.S. federal courts, the Commission, and LTSE, for purposes of any suit, action or proceeding pursuant to the U.S. federal securities laws, and the rules and regulations thereunder, arising out of, or relating to, LTSE activities.[77]

• All books and records of LTSE reflecting confidential information pertaining to the self-regulatory function of LTSE (including but not limited to disciplinary matters, trading data, trading practices, and audit information) must be retained in confidence by LTSE and its personnel, directors, officers, employees and agents, and will not be used by LTSE for any non-regulatory purposes and shall not be made available to any person (including, without limitation, any LTSE member) other than to personnel of the Commission, and those personnel of LTSE, members of committees of the Exchange Board, members of the Exchange Board, or hearing officers and other agents of LTSE, to the extent necessary or appropriate to properly discharge the self- regulatory responsibilities of LTSE.[78] Similar provisions apply to LTSEG and its directors, officers, employees and agents.[79]

• The books and records of LTSE and LTSEG must be maintained in the United States[80] and, to the extent they are related to the operation or administration of LTSE, LTSEG's books and records will be subject at all times to inspection and copying by the Commission and LTSE.[81]

• Furthermore, to the extent they are related to the operation or administration of LTSE, the books, records, premises, officers, directors, employees, and agents of LTSEG will be deemed to be the books, records, premises, officers, directors, employees, and agents of LTSE, for purposes of, and subject to oversight pursuant to, the Act.[82]

• LTSEG will take reasonable steps necessary to cause its officers, directors, employees, and agents, prior to accepting a position as an officer, director, employee or agent (as applicable) to consent in writing to the applicability of provisions regarding non-interference, confidentiality, books and records, compliance and cooperation, jurisdiction, and regulatory obligations, with respect to their activities related to LTSE.[83]

• The LTSEG Certificate and Bylaws require that, so long as LTSEG controls LTSE, any changes to those documents must be submitted to the Exchange Board for approval, and, if such change is required to be filed with the Commission pursuant to Section 19(b) of the Act and the rules and regulations thereunder, such change shall not be effective until filed with and effective by operation of law, or filed with, and approved by, the Commission.[84]

The Commission believes that the provisions discussed in this section, which are designed to help ensure the independence of LTSE's regulatory function and facilitate the ability of LTSE to carry out its regulatory responsibilities under, and operate in a manner consistent with, the Act, are appropriate and consistent with the requirements of the Act, particularly with Section 6(b)(1), which requires, in part, an exchange to be so organized and have the capacity to carry out the purposes of the Act.[85]

Further, Section 19(h)(1) of the Act[86] provides the Commission with the authority ''to suspend for a period not exceeding twelve months or revoke the registration of [an SRO], or to censure or impose limitations upon the activities, functions, and operations of [an SRO], if [the Commission] finds, on the record after notice and opportunity for hearing, that [the SRO] has violated or is unable to comply with any provision of the Act, the rules or regulations thereunder, or its own rules or without reasonable justification or excuse has failed to enforce compliance . . . '' with any such provision by its members (including associated persons thereof). If the Commission were to find, or become aware of, through staff review and inspection or otherwise, facts indicating any violations of the Act, including without limitation Sections 6(b)(1) and 19(g)(1),[87] these matters could provide the basis for a disciplinary proceeding under Section 19(h)(1) of the Act.

The Commission also notes that, even in the absence of the governance provisions described above, under Section 20(a) of the Act any person with a controlling interest in LTSE would be jointly and severally liable with and to the same extent that LTSE is liable under any provision of the Act, unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation or cause of action.[88] In addition, Section 20(e) of the Act creates aiding and abetting liability for any person who knowingly provides substantial assistance to another person in violation of any provision of the Act or rule thereunder.[89] Further, Section 21C of the Act authorizes the Commission to enter a cease-and-desist order against any person who has been ''a cause of'' a violation of any provision of the Act through an act or omission that the person knew or should have known would contribute to the violation.[90] These provisions are applicable to all entities' dealings with LTSE, including LTSEG.

3. Regulatory Oversight Committee

The regulatory operations of LTSE will be monitored by the Regulatory Oversight Committee of the Exchange Board. The Regulatory Oversight Committee will consist of at least three members, all of whom must be Independent Directors.[91] The Regulatory Oversight Committee will be responsible for overseeing the adequacy and effectiveness of LTSE's regulatory and SRO responsibilities, assessing

[76] *See* LTSEG Bylaws, Article X, Section 10.4. Similarly, Article V(b) of the LTSE Certificate requires LTSE's directors, officers and employees, in discharging their respective responsibilities, to comply with the federal securities laws and the rules and regulations promulgated thereunder and to cooperate with the Commission, and LTSE pursuant to its regulatory authority.

[77] *See* LTSEG Bylaws, Article X, Section 10.5.

[78] *See* LTSE Bylaws, Article XI, Section 11.4.

[79] The LTSEG Bylaws also provide that all books and records of LTSE reflecting confidential information pertaining to the self-regulatory function of LTSE that come into the possession of LTSEG, and the information contained in those books and records, will be subject to confidentiality restrictions and will not be used for any non-regulatory purposes. *See* LTSEG Bylaws, Article X, Section 10.2. The LTSE and LTSEG governing documents acknowledge that requirements to keep such information confidential shall not limit or impede the rights of the Commission to access and examine such information or limit the ability of officers, directors, employees, or agents of LTSE or LTSEG to disclose such information to the Commission. *See* LTSE Bylaws, Article XI, Section 11.4 and LTSEG Bylaws, Article X, Section 10.2.

[80] *See* LTSE Bylaws, Article XI, Section 11.4; and LTSEG Bylaws Article X, Section 10.3.

[81] *See* LTSEG Bylaws, Article X, Section 10.3.

[82] *See* LTSEG Bylaws, Article X, Section 10.3.

[83] *See* LTSEG Bylaws, Article X, Section 10.6.

[84] *See* LTSEG Certificate, Article IX, Section (A)1; and LTSEG Bylaws, Article IX.

[85] 15 U.S.C. 78f(b)(1).

[86] *See* 15 U.S.C. 78s(h)(1).

[87] 15 U.S.C. 78f(b)(1); 15 U.S.C. 78s(g)(1).

[88] 15 U.S.C. 78t(a).

[89] 15 U.S.C. 78t(e).

[90] 15 U.S.C. 78u–3.

[91] *See* LTSE Bylaws, Article V, Sections 5.2(a) and 5.6(c). The Regulatory Oversight Committee is responsible for reviewing LTSE's regulatory budget, and also will meet regularly with the Chief Regulatory Officer.

LTSE's regulatory performance, and assisting the Exchange Board (and committees of the Exchange Board) in reviewing LTSE's regulatory plan and the overall effectiveness of LTSE's regulatory functions.[92]

Further, a Chief Regulatory Officer (''CRO'') of LTSE will have general supervision over LTSE's regulatory operations, including responsibility for overseeing LTSE's surveillance, examination, and enforcement functions and for administering any regulatory services agreements with another self-regulatory organization to which LTSE is a party.[93] The Regulatory Oversight Committee, in consultation with the Chief Executive Officer of LTSE, will be responsible for establishing the goals, assessing the performance, fixing the compensation of the CRO and for recommending personnel actions involving the CRO and senior regulatory personnel.[94]

4. Regulatory Funding and Services

As a prerequisite for the Commission's granting of an exchange's application for registration, an exchange must be organized and have the capacity to carry out the purposes of the Act.[95] Specifically, an exchange must be able to enforce compliance by its members, and persons associated with its members, with the federal securities laws and rules thereunder and the rules of the exchange.[96] The discussion below summarizes how LTSE proposes to conduct and structure its regulatory operations.

a. Regulatory Funding

To help ensure that LTSE has and will continue to have adequate funding to be able to meet its responsibilities under the Act, LTSE represents that, if the Commission approves LTSE's application for registration as a national securities exchange, LTSEG will allocate sufficient assets to LTSE to enable the Exchange's operation.[97] Specifically, LTSE represents that LTSEG will make a cash contribution to LTSE of $5,000,000, in addition to any previously-provided in-kind contributions, such as legal, regulatory, and infrastructure-related services.[98]

LTSE also represents that such cash and in-kind contributions from LTSEG will be adequate to operate LTSE, including the regulation of the Exchange, and that LTSEG and LTSE will enter into an agreement that requires LTSEG to provide adequate funding for the Exchange's operations, including the regulation of the Exchange.[99]

Further, any ''Regulatory Funds'' received by LTSE will not be used for non-regulatory purposes or distributed to LTSEG, but rather will be applied to fund the regulatory operations of LTSE, or, as applicable, used to pay restitution and disgorgement to customers as part of a regulatory proceeding.[100] Any excess non-regulatory funds, as solely determined by LTSE, will be remitted to LTSEG in accordance with LTSE Bylaws.[101]

b. Regulatory Contract with FINRA

Although LTSE will be an SRO with all of the attendant regulatory obligations under the Act, it has represented to the Commission that it intends to enter into a Regulatory Services Agreement (''RSA'') with FINRA, under which FINRA as a regulatory services provider will perform certain regulatory functions on LTSE's behalf.[102] Specifically, LTSE represents that FINRA will perform certain regulatory surveillance of trading activity on LTSE and conduct various regulatory services on behalf of LTSE, which are expected to include performance of investigation, disciplinary, and hearing services.[103] Notwithstanding the RSA, LTSE will retain legal responsibility for the regulation of its members and its market and the performance of FINRA as its regulatory services provider. Because LTSE anticipates entering into an RSA with FINRA, it has not made provisions to fulfill the regulatory services that would be undertaken by FINRA. Accordingly, the Commission is conditioning the operation of LTSE on a final RSA that specifies the services that will be provided to LTSE.

The Commission believes that it is consistent with the Act for LTSE to contract with FINRA to perform certain examination, enforcement, and disciplinary functions.[104] These functions are fundamental elements of a regulatory program, and constitute core self-regulatory functions. The Commission believes that FINRA has the expertise and experience to perform these functions for LTSE.[105] However, LTSE, unless relieved by the Commission of its responsibility, bears the self-regulatory responsibilities and primary liability for self-regulatory failures, not the SRO retained to perform regulatory functions on LTSE's behalf.[106] In performing these regulatory functions, however, FINRA may nonetheless bear liability for causing or aiding and abetting the failure of LTSE to perform its regulatory functions.[107] Accordingly, although FINRA will not act on its own behalf under its SRO responsibilities in carrying out these regulatory services for LTSE, FINRA may have secondary liability if, for example, the Commission finds that the contracted functions are being performed so inadequately as to cause a violation of the federal securities laws or rules thereunder by LTSE.[108]

[92] *See* LTSE Bylaws, Article V, Section 5.6(c).

[93] *See* LTSE Bylaws, Article VII, Section 7.9.

[94] *See* LTSE Bylaws, Article V, Section 5.6(c). To the extent that the Chief Executive Officer of LTSE has any indirect supervisory responsibility for the role or function of the CRO, including but not limited to, implementation of the budget for the regulatory function or regulatory personnel matters, the Regulatory Oversight Committee will take all steps reasonably necessary to ensure that the Chief Executive Officer does not compromise the regulatory autonomy and independence of the CRO or the regulatory function. *Id.*

[95] *See* Section 6(b)(1) of the Act, 15 U.S.C. 78f(b)(1).

[96] *See id. See also* Section 19(g) of the Act, 15 U.S.C. 78s(g).

[97] *See* Form 1, Exhibit I.

[98] *See id.*

[99] *See id.* LTSE represents that this agreement will provide that LTSE will receive all fees, including regulatory fees and trading fees, payable by LTSE's members, as well as any funds received from any applicable market data fees and tape revenue, and will further provide that LTSEG will reimburse LTSE for its costs and expenses to the extent that the Exchange's assets are insufficient to meet its costs and expenses. *Id.*

[100] *See* LTSE Bylaws, Article X, Section 10.4. LTSE Bylaws, Article I(bb) defines ''Regulatory Funds'' as ''fees, fines, or penalties derived from the regulatory operations of [LTSE],'' but such term does not include ''revenues derived from listing fees, market data revenues, transaction revenues, or any other aspect of the commercial operations of [LTSE], even if a portion of such revenues are used to pay costs associated with the regulatory operations of [LTSE].'' This definition is consistent with the rules of other SROs. *See, e.g.,* Amended and Restated By-Laws of MIAX Exchange, Article 1(ll); By-Laws of NASDAQ PHLX LLC, Article I(ii); and By-Laws of NASDAQ BX, Inc., Article I(ii).

[101] *See* Form 1, Exhibit I. *See also* LTSE Bylaws, Article XI, Section 11.5. Further, LTSE will not be required to pay any dividends if payment of such dividends would violate the Act or any other applicable law. *See id.*

[102] *See* Form 1, Exhibit L. *See also* LTSE Rules 1.160(jj) and 6.170.

[103] *See* Form 1, Exhibit L.

[104] For example, IEX, MIAX Exchange, MIAX PEARL, LLC, Nasdaq MRX, LLC, Cboe EDGA Exchange, Inc., Cboe EDGX Exchange Inc., and Cboe BZX Exchange, Inc. (''Cboe BZX'') have entered into RSAs with FINRA.

[105] *See, e.g.,* IEX Order, *supra* note 48; DirectEdge Exchanges Order, *supra* note 59; and Nasdaq Order, *supra* note 35. The Commission notes that the Commission is not approving the RSA or any of its specific terms.

[106] *See* Section 19(g)(1) of the Act, 15 U.S.C. 78s(g)(1).

[107] For example, if failings by FINRA have the effect of leaving LTSE in violation of any aspect of LTSE's self-regulatory obligations, LTSE would bear direct liability for the violation, while FINRA may bear liability for causing or aiding and abetting the violation. *See, e.g.,* IEX Order, *supra* note 48; Nasdaq Order and BATS Order, *supra* note 35; and DirectEdge Exchanges Order, *supra* note 59.

[108] *See, e.g.,* IEX Order, *supra* note 48, and Nasdaq Order, *supra* note 35.

c. Rule 17d–2 Agreements

Section 19(g)(1) of the Act,[109] among other things, requires every SRO registered as either a national securities exchange or national securities association to comply with the Act, the rules and regulations thereunder, and the SRO's own rules, and, absent reasonable justification or excuse, enforce compliance by its members and persons associated with its members, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or Section 19(g)(2) of the Act.[110] Rule 17d–2 of the Act permits SROs to propose joint plans to allocate regulatory responsibilities amongst themselves for their common rules with respect to their common members.[111] These agreements, which must be filed with and declared effective by the Commission, generally cover areas where each SRO's rules substantively overlap, including such regulatory functions as personnel registration and sales practices. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO.[112] Such regulatory duplication would add unnecessary expenses for common members and their SROs.[113]

A Rule 17d–2 plan that is declared effective by the Commission relieves the specified SRO of those regulatory responsibilities allocated by the plan to another SRO.[114] Many SROs have entered into Rule 17d–2 agreements.[115] LTSE has represented to the Commission that LTSE and FINRA intend to file a Rule 17d–2 agreement with the Commission covering common members of LTSE and FINRA.[116] This agreement will allocate to FINRA regulatory responsibility, with respect to common members, for specified regulatory and enforcement matters arising out of specified common rules and specified provisions of the Act and the rules and regulations thereunder. In addition, LTSE has represented to the Commission that it intends to join all applicable Rule 17d–2 plans, as applicable and in the interest of its members and their ''Sponsored Participants''—entities whose access to LTSE is authorized in advance by one or more members in accordance with LTSE rules,[117] including the multi-party Rule 17d–2 plan for the allocation of regulatory responsibilities with respect to certain Regulation NMS Rules and the multi-party Rule 17d–2 plan for the surveillance, investigation, and enforcement of common insider trading rules.[118]

Because LTSE anticipates entering into these Rule 17d–2 agreements, it has not made provision to fulfill the regulatory obligations that would be undertaken by FINRA and other SROs under these agreements with respect to common members.[119] Accordingly, the Commission is conditioning the operation of LTSE on approval by the Commission of a Rule 17d–2 agreement that allocates the above specified matters, and the approval of an amendment to the existing multi-party Rule 17d–2 plans specified above to add LTSE as a party.

C. LTSE Trading System

LTSE will operate a fully automated electronic order book, and will not maintain or operate a physical trading floor. Only broker-dealer members of LTSE and entities that enter into market access arrangements with members (collectively, ''Users'') will have access to the LTSE system.[120] Users will be able to electronically submit orders to buy or sell securities listed or traded on the Exchange through a variety of systems.[121] LTSE will allow firms to register as market makers with affirmative and negative market making obligations.[122]

Users may submit orders to the Exchange as Limit Orders or Market Orders, with the following order parameters: Displayed; Reserve; Non-Displayed; Odd Lot; Mixed Lot; LTSE Only; Minimum Quantity; and Inter-market Sweep.[123] Orders may be submitted with the following time-in-force instructions: Immediate-or-Cancel; Day; Good 'til Extended Day; System Session; and Good 'til Time.[124] Users may submit orders with the display instructions of Displayed, Non-Displayed, or Reserve, but orders submitted without display instructions will be fully displayed.[125] Displayed orders will be displayed on an anonymous basis at a specified price.[126] Orders will be classified as a Round Lot, Odd Lot, or Mixed Lot.[127] Users may also choose to designate orders with an Anti-Internalization Group Identifier modifier for anti-internalization purposes to prevent executions against resting opposite side orders originating from the same market participant identifier.[128] All of these order types and parameters are similar to order types and parameters approved by the Commission and currently available on other national securities exchanges.[129]

[109] 15 U.S.C. 78s(g)(1).

[110] 15 U.S.C. 78q(d) and 15 U.S.C. 78s(g)(2), respectively.

[111] *See* Section 17(d)(1) of the Act and Rule 17d–2 thereunder, 15 U.S.C. 78q(d)(1) and 17 CFR 240.17d–2, respectively. Section 17(d)(1) of the Act allows the Commission to relieve an SRO of certain responsibilities with respect to members of the SRO who are also members of another SRO (''common members''). Specifically, Section 17(d)(1) allows the Commission to relieve an SRO of its responsibilities to: (i) Receive regulatory reports from such members; (ii) examine such members for compliance with the Act and the rules and regulations thereunder, and the rules of the SRO; or (iii) carry out other specified regulatory responsibilities with respect to such members.

[112] Section 17(d) was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication with respect to common members. *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976) (''Rule 17d–2 Adopting Release'').

[113] *See id.*

[114] *See* Rule 17d–2 Adopting Release, *supra* note 112.

[115] *See, e.g.,* Securities Exchange Act Release Nos. 83696 (July 24, 2018), 83 FR 35682 (July 27, 2018) (FINRA/MIAX Exchange/MIAX PEARL); 77321 (March 8, 2016), 81 FR 13434 (March 14, 2016) (File No. 4–697) (FINRA/ISE Mercury, LLC); 73641 (November 19, 2014), 79 FR 70230 (November 25, 2014) (File No. 4–678) (FINRA/MIAX Exchange); 70053 (July 26, 2013), 78 FR 46656 (August 1, 2013) (File No. 4–663) (FINRA/Topaz Exchange n/k/a ISE Gemini, LLC); 59218 (January 8, 2009), 74 FR 2143 (January 14, 2009) (File No. 4–575) (FINRA/Boston Stock Exchange, Inc.); 58818 (October 20, 2008), 73 FR 63752 (October 27, 2008) (File No. 4–569) (FINRA/BATS Exchange, Inc.); 55755 (May 14, 2007), 72 FR 28087 (May 18, 2007) (File No. 4–536) (National Association of Securities Dealers, Inc. (''NASD'') n/k/a FINRA) and Chicago Board of Options Exchange, Inc. concerning the CBOE Stock Exchange, LLC); 55367 (February 27, 2007), 72 FR 9983 (March 6, 2007) (File No. 4–529) (NASD/International Securities Exchange, LLC); and 54136 (July 12, 2006), 71 FR 40759 (July 18, 2006) (File No. 4–517) (NASD/Nasdaq).

[116] *See* Form 1, Exhibit E.

[117] *Id.*

[118] *See id. See also* Securities Exchange Act Release No. 65991 (December 16, 2011), 76 FR 79714 (December 22, 2011) (File No. 4–566) (notice of filing and order approving and declaring effective an amendment to the multi-party Rule 17d–2 plan relating to the surveillance, investigation, and enforcement of insider trading rules).

[119] For common members, the regulatory obligations will be covered by the Rule 17d–2 agreements, and for LTSE members that are not also members of FINRA, the regulatory obligations will be covered by the RSA.

[120] To obtain authorized access to the LTSE System, each User must enter into a User Agreement with LTSE. *See* LTSE Rule 11.130(a).

[121] For a discussion of the means of access to LTSE, *see* LTSE Form 1, Exhibit E, Section 1.

[122] *See* LTSE Rules 11.150 through 11.154. LTSE's rules relating to market makers are similar to the rules of other national securities exchanges. *See, e.g.,* IEX Rules 11.150 through 11.154; and Cboe BZX Rules 11.5 through 11.8.

[123] *See* LTSE Rule 11.190(a)–(b).

[124] *See* LTSE Rule 11.190(c).

[125] *See* LTSE Form 1, Exhibit E, Section 2, and LTSE Rule 11.190(b)(1)–(3).

[126] *See* LTSE Form 1, Exhibit E, Section 1.

[127] *See* LTSE Form 1, Exhibit E, Section 2, and LTSE Rule 11.180.

[128] *See* LTSE Form 1, Exhibit E, Section 2, and LTSE Rule 11.190(e).

[129] *See, e.g.,* IEX Rule 11.190.

The LTSE system will continuously and automatically match orders pursuant to price/display/time priority, with displayed orders and displayed portions of orders having precedence over non-displayed orders and non-displayed portions of orders at the same price without regard to time.[130] LTSE will also utilize certain collars and constraints in an effort to reduce the occurrence of erroneous trades.[131] With respect to the price of executions that would occur on LTSE, the LTSE system is designed to comply with the order protection requirements of Rule 611 of Regulation NMS [132] by requiring that, for any execution to occur on LTSE during regular trading hours, the price must be equal to, or better than, the ''protected quotation,'' unless an exception to Rule 611 applies.[133] Orders may be executed on the Exchange during the Regular Market Session or during Pre- and Post-Market Sessions; [134] however, some order types and functionality are available only during the Regular Market Session.[135]

In addition, LTSE's rules are designed to address locked and crossed markets, as required by Rule 610(d) of Regulation NMS,[136] in that they are designed not to disseminate interest that would lock or cross a protected quote, require Users to reasonably avoid displaying interest that locks or crosses any protected quotation, and are reasonably designed to assure the reconciliation of locked or crossed interest.[137]

LTSE will conduct an opening process for non-LTSE-listed securities at the start of its regular market session, and Users who wish to participate in the opening process may enter appropriately designated orders for queuing in the system.[138] LTSE's rules also contemplate auction processes for any securities that may be listed on LTSE, which include Opening Auctions, Closing Auctions, IPO and Halt Auctions, and Volatility Auctions.[139]

Initially, LTSE will not offer any outbound routing functionality;[140] thus, all orders submitted to LTSE will be treated as LTSE Only,[141] though limit orders may also include the execution instructions of Inter-Market Sweep Order, if appropriate.[142]

The Commission finds that LTSE's trading rules are consistent with the Act and, in particular, the Section 6(b)(5) requirement that an exchange's rules be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and protect investors and the public interest.[143]

As a national securities exchange, LTSE will be a trading center whose quotations can be ''automated quotations'' under Rule 600(b)(3).[144] In turn, LTSE is designed to be an ''automated trading center'' under Rule 600(b)(4) whose best-priced, displayed quotation would be a ''protected quotation'' under Rules 600(b)(57) and 600(b)(58), and for purposes of Rule 611.[145]

At the same time, to meet their regulatory responsibilities under Rule 611(a) of Regulation NMS, such other trading centers will be required to have sufficient notice of new protected quotations, as well as all necessary information (such as final technical specifications).[146] The Commission believes that it would be a reasonable policy and procedure under Rule 611(a) to require that industry participants begin treating LTSE's best bid and best offer as a protected quotation as soon as possible but no later than 90 days after the date of this order, or such later date as LTSE begins operation as a national securities exchange. The Commission notes that it has taken the same position with other new equities exchanges.[147]

D. Discipline and Oversight of Members

As noted above, one prerequisite for the Commission's grant of an exchange's application for registration is that a proposed exchange must be so organized and have the capacity to be able to carry out the purposes of the Act.[148] Specifically, an exchange must be able to enforce compliance by its members and persons associated with its members with the federal securities laws and rules thereunder and the rules of the exchange.[149] As also noted above, pursuant to the proposed RSA with FINRA, FINRA will perform many of the initial disciplinary processes on behalf of LTSE.[150] For example, FINRA will investigate potential securities laws violations, issue complaints, and conduct hearings pursuant to LTSE rules. Appeals from disciplinary decisions will be heard by the LTSE Appeals Committee [151] and the LTSE Appeals Committee's decision shall be final.[152] In addition, the Exchange Board on its own initiative may order review of a disciplinary decision.[153]

The LTSE Bylaws and LTSE rules provide that the Exchange has disciplinary jurisdiction over its members so that it can enforce its members' compliance with its rules and the federal securities laws and rules.[154] The Exchange's rules also permit LTSE to sanction members for violations of its rules and violations of the federal securities laws and rules by, among other things, expelling or suspending members, limiting members' activities, functions, or operations, fining or censuring members, or suspending or barring a person from being associated with a member, or any other fitting sanction.[155] LTSE's rules also provide for the imposition of fines for certain minor rule violations in lieu of commencing disciplinary proceedings.[156] Accordingly, as a condition to the operation of LTSE, a Minor Rule Violation Plan (''MRVP'') filed by LTSE under Act Rule 19d–

[130] *See* LTSE Rule 11.220(a)(1).

[131] *See* LTSE Rule 11.190(f) (describing the Order Collar, Crossed Market Collar, One-Sided Market Handling, and Zero Markets Handling) and LTSE Form 1, Exhibit E, Section 3. *See also* LTSE Rule 11.270 (Clearly Erroneous Executions).

[132] 17 CFR 242.611.

[133] *See* LTSE Rule 11.230(a)(2). *See also* 17 CFR 242.600(b)(58) (defining ''protected quotation'').

[134] LTSE's Pre-Market Session will run from 8:00 a.m. ET to 9:30 a.m. ET, and its Post-Market Session will run from 4:00 p.m. ET to 5:00 p.m. ET. *See* LTSE Rule 1.160(bb)–(cc).

[135] *See* LTSE Rules 11.110(a) and 11.230(a)(2).

[136] 17 CFR 242.610(d).

[137] *See* LTSE Rule 11.310. *See also* LTSE Rule 11.190(g) (relating to price sliding functionality to avoid violations of Rule 610(d) of Regulation NMS, 17 CFR 242.610(d)).

[138] *See* LTSE Rule 11.231.

[139] *See* LTSE Rule 11.350.

[140] *See* LTSE Form 1, Exhibit E, Section 2.

[141] *See* LTSE Rule 11.190(b)(6).

[142] *See* LTSE Rule 11.190(b)(12).

[143] *See* 15 U.S.C. 78f(b)(5). The Commission notes that LTSE's trading rules, including its rules relating to market makers, order types and parameters, priority, execution, and opening and auction processes, are similar to existing exchanges' trading rules. *See, e.g.,* Chapter 11 of the IEX rule book.

[144] *See* LTSE Rule 11.240(c).

[145] *See* 17 CFR 242.600(b)(57)–(58) and 17 CFR 242.611.

[146] *See* Securities Exchange Act Release No. 53829 (May 18, 2006), 71 FR 30038, 30041 (May 24, 2006) (File No. S7–10–04) (extending the compliance dates for Rule 610 and Rule 611 of Regulation NMS under the Act).

[147] *See, e.g.,* BATS Order at 49505, *supra* note 35 and DirectEdge Exchanges Order at 13163, *supra* note 59.

[148] *See* 15 U.S.C. 78f(b)(1).

[149] *See id.*

[150] *See supra* notes 102–103 and accompanying text. *See also* LTSE Rule 9.001 (noting that LTSE and FINRA are parties to a regulatory contract, pursuant to which FINRA will perform certain functions described in the Rule 9.000 Series on behalf of LTSE).

[151] *See* LTSE Rule 1.160(u).

[152] *See* LTSE Rule 9.349(c) (providing, among other things, that if the Exchange Board does not call the disciplinary proceeding for review, the proposed written decision of the LTSE Appeals Committee shall become final).

[153] *See* LTSE Rule Series 9.350.

[154] *See generally* LTSE Bylaws, Article X and LTSE Rules Chapters 8 and 9.

[155] *See* LTSE Rule 2.120.

[156] *See* LTSE Rule 9.216(b).

1(c)(2) must be declared effective by the Commission.[157]

The Commission finds that the LTSE Bylaws and rules concerning its disciplinary and oversight programs are consistent with the requirements of Sections 6(b)(6) and 6(b)(7)[158] of the Act in that they provide fair procedures for the disciplining of members and persons associated with members. The Commission further finds that the rules of LTSE provide it with the ability to comply, and with the ability to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of LTSE.[159]

E. Listing and Trading on LTSE

1. Registration Under Section 12(b) of the Act

Once LTSE begins operations as a national securities exchange, a security will be considered for listing on LTSE only if such security is registered pursuant to Section 12(b) of the Act[160] or such security is subject to an exemption.[161] An issuer may register a security pursuant to Section 12(b) by submitting to LTSE a listing application that provides certain required information.[162] LTSE will review the listing application and, if the listing application is approved, will certify to the Commission that it has approved the security for listing and registration.[163] Registration of the security will become effective thirty days after the receipt of such certification by the Commission or within a shorter period of time as the Commission may determine.[164] Once registration is effective, the security is eligible for listing on LTSE.[165]

2. Initial and Continuing Listing Standards

The Commission finds that LTSE's proposed initial and continuing listing standards are consistent with the requirements of the Act. With respect to the standards relating to the listing and delisting of companies, including procedures and prerequisites for initial and continued listing on LTSE, the obligations of issuers with securities listed on LTSE, as well as rules describing the application and qualification process, LTSE's proposed listing rules for securities are virtually identical to those of IEX.[166] With respect to LTSE Rule 14.201, which is substantially similar to the analogous rule of IEX, LTSE requires a company seeking the initial listing of one or more classes of securities on LTSE to participate in a free confidential pre-application eligibility review to determine whether the company meets LTSE's listing criteria and, if, upon completion of this review, LTSE determines that a company is eligible for listing, LTSE will notify that company in writing that it has been cleared to submit an original listing application. The Commission notes that, if, upon completion of this review, the Exchange determines that a company is ineligible for listing, the company may request a review of LTSE's determination pursuant to the process set forth in LTSE Rule 9.555.[167]

3. Corporate Governance Standards

LTSE has proposed corporate governance standards in connection with securities to be listed and traded on LTSE that are substantially similar to the corporate governance listing standards of other exchanges.[168] Included in these standards are rules requiring a majority of directors on a listed issuer's board to be independent; rules and independence requirements relating to audit and compensation committees and the oversight of nominations; and rules requiring listed issuers to adopt codes of conduct applicable to all their directors, officers and employees.[169] The Commission finds that LTSE's proposed corporate governance standards for listed issuers contained in LTSE's proposed rules are consistent with the Act.[170] The Commission further finds that LTSE's rules satisfy the requirements of Section 10A(m) of the Act and Rule 10A–3 thereunder and Section 10C of the Act and Rule 10C–1 thereunder, relating to audit and compensation committees, respectively.[171] The Commission believes that LTSE's corporate governance standards for listed issuers that require a fully independent audit committee are designed to promote independent and objective review and oversight of the accounting and auditing practices of listed issuers and to enhance audit committee independence, authority, and responsibility by implementing the standards set forth in Rule 10A–3.[172] In addition, the Commission believes that LTSE's proposed requirements relating to independent compensation committees for listed issuers would benefit investors by implementing the standards set forth in Rule 10C–1, which requires that the independent directors of a listed issuer oversee executive compensation matters, consider independence criteria before retaining compensation advisers and have responsibility for the appointment, compensation and oversight of these advisers.[173] The corporate governance standards embodied in the listing rules of national securities exchanges, in particular, play an important role in assuring that companies listed for trading on the exchanges' markets observe good governance practices, including a reasoned, fair, and impartial approach for determining the compensation of corporate executives.[174] The Commission believes that the Exchange's rules will foster greater transparency, accountability, and objectivity in the oversight of compensation practices of listed issuers and in the decision-making processes of their compensation committees.[175]

[157] 17 CFR 240.19d-1(c)(2).

[158] 15 U.S.C. 78f(b)(6) and (b)(7).

[159] *See* Section 6(b)(1) of the Act, 15 U.S.C. 78f(b)(1).

[160] 15 U.S.C. 78*l*(b).

[161] 15 U.S.C. 78*l*(c); LTSE Rule 14.203.

[162] 15 U.S.C. 78*l*(b); LTSE Rule 14.202. Prior to submitting a listing application to LTSE, the issuer will be required to participate in a free confidential pre-application eligibility review, in which LTSE will determine whether the issuer meets its listing criteria and is eligible to submit a listing application. *See* LTSE Rule 14.201, which is based on the equivalent Rule 14.201 of IEX's rules.

[163] *See* LTSE Rule 14.203(f); 15 U.S.C. 78*l*(d).

[164] 15 U.S.C. 78*l*(d).

[165] *See* LTSE Rule 14.203(f); 15 U.S.C. 78l(d).

[166] LTSE 's proposed initial and continuing listing standards for securities to be listed and traded on LTSE are virtually identical to the current rules for IEX, except that LTSE will not have listing criteria for exchange-traded funds, portfolio depository receipts, and index fund shares. The Commission has previously determined that the initial and continuing listing standards of IEX are consistent with the Act. *See* LTSE Rules, Chapter 14 and IEX Rules, Chapter 14.

[167] *See* Amendment No. 2, *supra* note 6.

[168] *See* proposed LTSE Rule Series 14.440, and *see, e.g.,* Nasdaq Rule Series 5600 and IEX Rule series 14.400.

[169] *See* proposed LTSE Rules 14.405 and 14.406.

[170] The Commission notes that it has previously determined that the corporate governance standards of other exchanges, with which LTSE's proposed rules are commensurate, are consistent with the Act. *See, e.g.,* Securities Exchange Act Release No. 48745 (November 4, 2003), 68 FR 64154 (November 12, 2003) and IEX Order, *supra* note 48.

[171] *See* 15 U.S.C. 78f(b)(5); 15 U.S.C. 78j–1(m); 15 U.S.C. 78j–3; 17 CFR 240.10A–3; 17 CFR 240.10C–1.

[172] *See* Securities Exchange Act Release No. 47654 (April 9, 2003), 68 FR 18788 (April 16, 2003).

[173] *See* Securities Exchange Act Release No. 67220 (June 20, 2012), 77 FR 38422, 38425 (June 27, 2012).

[174] *See, e.g.,* Securities Exchange Act Release No. 68640 (January 11, 2013), 78 FR 4554, 4563 (January 22, 2013)(approving SR–NASDAQ–2012–109 relating to rules for compensation committees for listed companies, upon which LTSE's proposed rules for compensation committees are based).

[175] *See id.* (finding Nasdaq compensation committee rules consistent with the Act). *See also* Securities Exchange Act Release No. 68639 (January 11, 2013), 78 FR 4570 (January 22, 2013) (order approving NYSE's compensation committee rules, which was cited by Nasdaq as precedent for a subsequent amendment to its own rules that was filed on an immediately effective basis;) *see*

As noted above, the Commission received one comment letter on LTSE's Form 1 application. In its comment letter, the Council of Institutional Investors (''CII'') advised that it could not support LTSE's Form 1 application for two reasons. First, CII stated that the corporate governance requirements in LTSE's Form 1 application (specifically, its ''Voting Rights Policy'' [176]) would ''permit newly public companies to have multi-class structures with unequal voting rights in conflict with [CII's] membership approved policies supporting a one share, one vote structure'' with ''no sunsets on such structures.'' [177] Second, CII stated that LTSE's Form 1 application ''does not include any information about LTSE's reported plans to update its application to include time-phased voting rights as a core element of its proposed corporate governance listing standards.'' [178] In addition, CII set forth its concerns about time-phased voting rights, including disproportionate empowerment of long-term stakeholders and challenges in tracking ownership of those with super-voting rights.[179]

The issues raised in the CII Letter do not provide a basis for the Commission to reject LTSE's Form 1 application. Commission rules do not mandate that the rules of a national securities exchange must provide for a ''one share, one vote'' requirement for listed issuers. In approving the current rules governing the voting rights of shareholders of common stock listed on the NYSE, American Stock Exchange (''Amex''), or included on Nasdaq, the Commission stated that the new rules would protect investors from disparate voting rights plans that resulted in disenfranchisement.[180] At the same time, however, the Commission stated that the new voting rights rules would provide flexibility to listed companies to devise their corporate capital structure by permitting disparate voting rights plans that do not disenfranchise existing shareholders and that a company could, for example, have a permissible dual class structure resulting from an initial public offering or the issuance of lower voting stock.[181] The Commission notes that the Voting Rights Policy, as set forth in LTSE's proposed listing standards, is consistent with the current voting rights provisions of NYSE and Nasdaq, as acknowledged by CII in its letter.[182] Other national securities exchanges that provide for the listing of equity securities also maintain shareholder voting rights provisions consistent with the NYSE and Nasdaq rules.[183] As noted above, Commission rules do not mandate a ''one share, one vote'' requirement for listed issuers.

For the forgoing reasons, the Commission believes that it is appropriate to approve LTSE's Form 1 application with the inclusion of the Voting Rights Policy. With respect to the CII's concerns about time-phased voting rights, no such rights are proposed by LTSE in its Form 1 application. Once LTSE is registered as a national securities exchange, LTSE is required to file any changes to its rules as a proposed rule change under Section 19(b) of the Act and Rule 19b–4,[184] and the public will be provided notice and given the opportunity to provide comments on any such proposed rule change.

4. Trading Pursuant to Unlisted Trading Privileges

As an exchange, LTSE will be permitted by Section 12(f) of the Act [185] to extend unlisted trading privileges to securities listed and registered on other national securities exchanges, subject to Commission rules. In particular, Rule 12f–5 under the Act requires an exchange that extends unlisted trading privileges to securities to have in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends unlisted trading privileges.[186] The Commission notes that Chapter 14 of LTSE's rules provides for transactions in securities that meet specified criteria. Accordingly, pursuant to Section 12(f) of the Act and Rule 12f–5 thereunder, the Exchange will be permitted to extend unlisted trading privileges to securities of the same class, subject to the trading rules of the Exchange.[187]

F. Section 11(a) of the Act

Section 11(a)(1) of the Act [188] prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises investment discretion (collectively, ''covered accounts'') unless an exception applies. Rule 11a2–2(T) under the Act,[189] known as the ''effect versus execute'' rule, provides exchange members with an exemption from the Section 11(a)(1) prohibition. Rule 11a2–2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute transactions on the exchange. To comply with Rule 11a2–2(T)'s conditions, a member: (i) Must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution;[190] (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member or an associated person has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule.

In a letter to the Commission, LTSE requested that the Commission concur with LTSE's conclusion that LTSE members that enter orders into the LTSE trading system satisfy the requirements of Rule 11a2–2(T).[191] For the reasons set forth below, the Commission believes that LTSE members entering orders into the LTSE trading system will satisfy the requirements of Rule 11a2–2(T).

Securities Act Release No. 71037 (December 11, 2013), 78 FR 76179 (December 16, 2013) (SR–NASDAQ–2013–147).

[176] *See* LTSE Rule 14.413, Supplementary Material .01.

[177] CII Letter at 1–2.

[178] *Id.*

[179] CII Letter at 6–7.

[180] *See* Securities Exchange Act Release No. 35121 (December 19, 1994), 59 FR 66570 (December 27, 1994) (order approving rules regarding shareholder voting rights for NYSE, Amex, and National Association of Securities Dealers, Inc., on behalf of Nasdaq) (''1994 Approval Order'').

[181] *Id.*

[182] CII Letter at 8. *See also* 1994 Approval Order, *supra* note 180.

[183] *See, e.g.,* Securities Exchange Act Release No. 37481(July 25, 1996), 61 FR 40270 (August 1, 1996) (approving a similar voting rights provision for Chicago Stock Exchange, Inc., n/k/a NYSE Chicago, Inc.; the provision is now contained in Rules of NYSE Chicago, Inc., Article 22, Rule 20). *See also* IEX Rule 14.413, Supplementary Material .01, which appears to be the model for the LTSE's proposed Voting Rights Policy.

[184] 15 U.S.C. 78s(b) and 17 CFR 240.19b–4.

[185] 15 U.S.C. 78*l*(f).

[186] *See* 17 CFR 240.12f-5. *See also* Securities Exchange Act Release No. 35737 (April 21, 1995), 60 FR 20891 (April 28, 1995) (File No. S7–4–95) (adopting Rule 12f–5 under the Act).

[187] *See* proposed LTSE Rule 11.120, which states: ''Any classes of securities listed or admitted to unlisted trading privileges on the Exchange shall be eligible to become designated for trading on the Exchange in accordance with the Rules of Chapter 14.'' LTSE's rules currently do not provide for the trading of exchange-traded funds, portfolio depository receipts, and index fund shares, or for the trading of options, security futures, or other similar instruments.

[188] 15 U.S.C. 78k(a)(1).

[189] 17 CFR 240.11a2–2(T).

[190] This prohibition also applies to associated persons. The member may, however, participate in clearing and settling the transaction.

[191] *See* Letter from Eric Ries, Chief Executive Officer, LTSE, to Brent Fields, Director, Office of the Secretary, and Brett Redfearn, Director, Division of Trading and Markets, Commission, dated March 8, 2019 (''LTSE 11(a) Letter'').

The Rule's first requirement is that orders for covered accounts be transmitted from off the exchange floor. In the context of automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account order is transmitted from a remote location directly to an exchange's floor by electronic means.[192] LTSE has represented that LTSE does not have a physical trading floor, and the LTSE trading system will receive orders from members electronically through remote terminals or computer-to-computer interfaces.[193] The Commission believes that the LTSE trading system satisfies this off-floor transmission requirement.

Second, the Rule requires that the member and any associated person not participate in the execution of its order after the order has been transmitted. LTSE represented that at no time following the submission of an order is a member or an associated person of the member able to acquire control or influence over the result or timing of the order's execution.[194] According to LTSE, the execution of a member's order is determined solely by what quotes and orders are present in the system at the time the member submits the order, and the order priority based on the LTSE rules.[195] Accordingly, the Commission believes that an LTSE member and its associated persons do not participate in the execution of an order submitted to the LTSE trading system.[196]

Third, Rule 11a2–2(T) requires that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that this requirement is satisfied when automated exchange facilities, such as the LTSE trading system, are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange.[197] LTSE has represented that the design of the LTSE trading system ensures that no member has any special or unique trading advantage in the handling of its orders after transmitting its orders to LTSE.[198] Based on LTSE's representation, the Commission believes that the LTSE trading system satisfies this requirement.

Fourth, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T) thereunder.[199] LTSE members trading for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the rule's exemption.[200]

G. Exemption From Section 19(b) of the Act With Regard to FINRA and NYSE Rules Incorporated by Reference

LTSE proposes to incorporate by reference certain FINRA and NYSE rules as LTSE rules.[201] Thus, for certain LTSE rules, Exchange members will comply with an LTSE rule by complying with the FINRA or NYSE rule referenced therein.[202] In connection with its

[192] *See, e.g.,* Nasdaq Order, *supra* note 35; Securities Exchange Act Release Nos. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031) (approving BATS options trading); 59154 (December 23, 2008), 73 FR 80468 (December 31, 2008) (SR–BSE–2008–48) (approving equity securities listing and trading on BSE); 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080) (approving NOM options trading); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25) (approving Archipelago Exchange); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR–NYSE–90–52 and SR–NYSE–90–53) (approving NYSE's Off-Hours Trading Facility); and 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979) (''1979 Release'').

[193] *See* LTSE 11(a) Letter, *supra* note 191.

[194] *See id.* LTSE notes that a member may cancel or modify the order, or modify the instructions for executing the order, after the order has been transmitted, provided that such cancellations or modifications are transmitted from off an exchange floor. The Commission has stated that the non-participation requirement is satisfied under such circumstances so long as such modifications or cancellations are also transmitted from off the floor. *See* Securities Exchange Act Release No. 14563 (March 14, 1978), 43 FR 11542 (March 17, 1978) (''1978 Release'') (stating that the ''non-participation requirement does not prevent initiating members from canceling or modifying orders (or the instructions pursuant to which the initiating member wishes orders to be executed) after the orders have been transmitted to the executing member, provided that any such instructions are also transmitted from off the floor'').

[195] *See* LTSE 11(a) Letter, *supra* note 191. The Commission notes that LTSE has proposed rules for the registration, obligations, and operation of market makers on LTSE. LTSE has represented that market makers, if any, will submit quotes in the form of orders in their assigned symbols.

[196] *See, e.g.,* BATS Order at 49505, *supra* note 35 and DirectEdge Exchanges Order at 13164, *supra* note 59.

[197] *See, e.g.,* BATS Order at 49505, *supra* note 35 and DirectEdge Exchanges Order at 13164, *supra* note 59. In considering the operation of automated execution systems operated by an exchange, the Commission noted that, while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T). *See* 1979 Release, *supra* note 192.

[198] *See* LTSE 11(a) Letter, *supra* note 191.

[199] *See, e.g.,* BATS Order at 49505, *supra* note 35 and DirectEdge Exchanges Order at 13164, *supra* note 59. In addition, Rule 11a2–2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated persons thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member or any associated person thereof in connection with effecting transactions for the account during the period covered by the statement. *See* 17 CFR 240.11a2–2(T)(d). *See also* 1978 Release, *supra* note 194 (stating ''[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests'').

[200] LTSE represented that it will advise its membership through the issuance of an Information Circular that those members trading for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the rule's exemption. *See* LTSE 11(a) Letter, *supra* note 191.

[201] *See* LTSE Rule 1.170. *See* Letter from Eric Ries, Chief Executive Officer, LTSE, to Brent Fields, Director, Office of the Secretary, and Brett Redfearn, Director, Division of Trading and Markets, Commission, dated March 8, 2019 (''Exemption Request Letter''). *See also* Letter from Eric Ries, Chief Executive Officer, LTSE, to Vanessa Countryman, Acting Directors, Office of the Secretary, and Brett Redfearn, Director of Division of Trading and Markets, Commission, dated April 16, 2019 (''Exemption Request Letter Addendum'').

[202] LTSE proposes to incorporate by reference the 12000 and 13000 Series of the FINRA Manual (Code of Arbitration Procedures for Customer Disputes and Code of Arbitration Procedures for Industry Disputes). *See* LTSE Rule 12.110 (Arbitration). In addition, LTSE proposes to incorporate by reference FINRA Rules 4360 (Fidelity Bonds), 2090 (Know Your Customer), 2111 (Suitability), 2241 (Research Analysts and Research Reports), 2210 (Communications with the Public), 3230 (Telemarketing), 4560 (Short-Interest Reporting), 4110 (Capital Requirements), 4120 (Regulatory Notification and Business Curtailment), 4140 (Audit), 4511 (General Requirements), 4512 (Customer Account Information), 4513 (Records of Written Customer Complaints), 3130 (Annual Certification of Compliance and Supervisory Procedures), 3210 (Accounts At Other Broker-Dealers and Financial Institutions), 5310 (Best Execution and Interpositioning), 5270 (Front Running of Block Transactions), 4590 (Synchronization of Member Business Clocks), 7440 (Recording of Order Information), 7450 (Order Data Transmission Requirements), 2268 (Requirements When Using Predispute Arbitration Agreements for Customer Accounts). *See* LTSE Rules 2.240 (Fidelity Bonds), 3.150 (Know Your Customer), 3.170 (Suitability), 3.230 (Payments Involving Publications that Influence the Market Price of a Security), 3.280 (Communications with Customers and the Public), 3.292 (Telemarketing), 3.293 (Short-Interest Reporting), 4.110 (Capital Compliance), 4.120 (Regulatory Notification and Business Curtailment), 4.140 (Audit), 4.511 (General Requirements), 4.512 (Customer Account Information), 4.513 (Record of Written Customer Complaints), 5.130 (Annual Certification of Compliance and Supervisory Procedures), 5.170

proposal to incorporate FINRA and NYSE rules by reference, LTSE requested, pursuant to Rule 240.0–12,[203] an exemption under Section 36 of the Act from the rule filing requirements of Section 19(b) of the Act for changes to those LTSE rules that are effected solely by virtue of a change to a cross-referenced FINRA or NYSE rule.[204] LTSE proposes to incorporate by reference categories of rules (rather than individual rules within a category) that are not trading rules. LTSE agrees to provide written notice to its members whenever a proposed rule change to a FINRA or NYSE rule that is incorporated by reference is proposed and whenever any such proposed change is approved by the Commission or otherwise becomes effective.[205]

Using its authority under Section 36 of the Act,[206] the Commission is hereby granting LTSE's request for an exemption, pursuant to Section 36 of the Act, from the rule filing requirements of Section 19(b) of the Act with respect to the rules that LTSE proposes to incorporate by reference. [207] This exemption is conditioned upon LTSE providing written notice to its members whenever FINRA or the NYSE proposes to change a rule that LTSE has incorporated by reference. The Commission believes that this exemption is appropriate in the public interest and consistent with the protection of investors because it will promote more efficient use of Commission and SRO resources by avoiding duplicative rule filings based on simultaneous changes to identical rules of more than one SRO.

H. Conclusion

It is ordered that the application of LTSE for registration as a national securities exchange be, and it hereby is, granted.

It is furthered ordered that operation of LTSE is conditioned on the satisfaction of the requirements below:

A. *Participation in National Market System Plans.* LTSE must join the Consolidated Tape Association Plan, the Consolidated Quotation Plan, the Nasdaq UTP Plan, the National Market System Plan Establishing Procedures Under Rule 605 of Regulation NMS, the Regulation NMS Plan to Address Extraordinary Market Volatility, the Plan for the Selection and Reservation of Securities Symbols, and the National Market System Plan Governing the Consolidated Audit Trail.

B. *Intermarket Surveillance Group.* LTSE must join the Intermarket Surveillance Group.

C. *Minor Rule Violation Plan.* A MRVP filed by LTSE under Rule 19d–1(c)(2) must be declared effective by the Commission.[208]

D. *Rule 17d–2 Agreement.* An agreement pursuant to Rule 17d–2 [209] that allocates regulatory responsibility for those matters specified above [210] must be approved by the Commission, or LTSE must demonstrate that it independently has the ability to fulfill all of its regulatory obligations.

E. *Participation in Multi-Party Rule 17d–2 Plans.* LTSE must become a party to the multi-party Rule 17d–2 agreements concerning the surveillance, investigation, and enforcement of common insider trading rules.

F. *RSA.* LTSE must finalize the provisions of the RSA with its regulatory services provider, as described above, that will specify the LTSE and Commission rules for which the regulatory services provider will provide certain regulatory functions, or LTSE must demonstrate that it independently has the ability to fulfill all of its regulatory obligations.

It is further ordered, pursuant to Section 36 of the Act,[211] that LTSE shall be exempted from the rule filing requirements of Section 19(b) of the Act with respect to the FINRA and NYSE rules that LTSE proposes to incorporate by reference into LTSE's rules, subject to the conditions specified in this Order.

By the Commission.

Eduardo A. Aleman,

Deputy Secretary.

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(Transactions for or by Associated Persons), 10.220 (Best Execution and Interpositioning), 10.260 (Front Running of Block Transactions), 11.420(c), (d) and (e) (Order Audit Trail System Requirements), 12.110 (Arbitration), respectively. LTSE also proposes to incorporate by reference certain definitions from NYSE Rule 7410. *See* LTSE Rule 11.420(a) (Order Audit Trail System Requirements).

[203] *See* 17 CFR 240.0–12.

[204] *See* Exemption Request Letter and Exemption Request Letter Addendum, *supra* note 201.

[205] LTSE will provide such notice through a posting on the same website location where LTSE posts its own rule filings pursuant to Rule 19b–4 under the Act, within the required time frame. The website posting will include a link to the location on the FINRA or NYSE website where FINRA's or NYSE's proposed rule change is posted. *See id.*

[206] 15 U.S.C. 78mm.

[207] The Commission previously exempted certain SROs from the requirement to file proposed rule changes under Section 19(b) of the Act. *See, e.g.,* IEX Order, *supra* note 48; ISE Mercury Order, *supra* note 50; MIAX Pearl Order, MIAX Pearl Order and BATS Order, *supra* note 35; DirectEdge Exchanges Order, *supra* note 59.

[208] 17 CFR 240.19d–1(c)(2).

[209] 17 CFR 240.17d–2.

[210] *See supra* notes 116–117 and accompanying text.

[211] 15 U.S.C. 78mm.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85813; File No. SR–NASDAQ–2019–033]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Equity 7 Pricing Schedule, Sections 112, 123, 135, 146, 155 and 158

May 9, 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 25, 2019, The Nasdaq Stock Market LLC (''Nasdaq'' 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 amend the Equity 7 Pricing Schedule, Sections 112, 123, 135, 146, 155, and 158 to: (i) Reduce fees for trial periods, pre-production systems development, academic use, and technical and administrative support services; and (ii) specify that the $500,000 enterprise license for the distribution of Depth-of-Book data includes Professional Subscribers. These proposed changes are described in further detail below.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

As part of an ongoing effort to increase the transparency of market data rules and lower fees and administrative costs for market data customers, the Exchange proposes to: (i) Reduce fees for trial periods, pre-production systems development, academic use, and technical and administrative support services; and (ii) specify that the $500,000 enterprise license for the distribution of Depth-of-Book data includes Professional Subscribers.[3] The proposed waivers of fees and other charges apply to the market data products and services listed in proposed Section 112(a).[4]

Nothing in this filing raises any fee charged by the Exchange. On the contrary, the Exchange anticipates that the proposal will lower fees for some customers.

Current Section 112

Proposed Section 112 will replace current Section 112, which sets forth a terminal fee for receiving Nasdaq Level 2 or Level 3 service. The Nasdaq Level 2 service referenced in this rule was a UTP Plan service managed by Nasdaq as administrator of the Plan ''that provide[d] Subscribers with query capability with respect to quotations and sizes in securities included in the Nasdaq System, best bid and asked quotations, and Transaction Reports.'' [5] Nasdaq Level 3 was a UTP Plan service ''that provide[d] Nasdaq market participants with input and query capability with respect to quotations and sizes in securities included in the Nasdaq System, best bid and asked quotations, and Transaction Reports.'' [6] These services have not been offered by the UTP Plan since Amendment 17 to the Plan, which went into effect in September 2006.[7] Removal of this section will not alter any fee or service offered by the Exchange, as this service is not currently offered by the Exchange.

Proposed Section 112

The specific changes proposed by the Exchange, and the purposes of each, are as follows:

1. Fee Waivers

The Exchange currently waives market data fees to: (i) Encourage a new or potential customer to test a product or service through trial offers; (ii) allow a new distributor time to develop its systems and procedures before disseminating Exchange information; (iii) provide data for academic research or classroom-related activity; and (iv) allow distributors to use Exchange information for technical and administrative support services not directly related to external distribution or securities trading. Some of these fee waivers are partially or fully codified in the Nasdaq rule book, while others are set forth in policies published on *NasdaqTrader.com*,[8] or are an established practice of the Exchange not explicitly described in the rule book or in published policies. The Exchange proposes to reduce fees for multiple products by codifying uniform fee waivers for trial periods, pre-production systems development, academic use, and technical and administrative support services.

1. Trial Offers

The Exchange currently extends trial offers for three products: Depth-of-Book products at Section 123, Nasdaq Trading Insights at Section 146, and QView at Section 158.[9] The Exchange proposes to reduce fees for new, prospective or returning customers by replacing these three product-specific fee waivers with a standard waiver applicable to any market data product listed at Section 112(a), and any version of a listed product identified by the Exchange as eligible for an offer on *NasdaqTrader.com*.

The three trial offers currently offered by the Exchange differ somewhat in scope and limitations. The Depth-of-Book trial offer at Section 123(e) allows for a one-time 30-day waiver of subscriber fees for all new and potential individual subscribers:

> 30-Day Free-Trial Offer: Nasdaq shall offer all new individual Subscribers and potential new individual Subscribers a 30-day waiver of the Subscriber fees for Nasdaq TotalView. This fee waiver period shall be applied on a rolling basis, determined by the date on which a new individual Subscriber or potential individual Subscriber is first entitled by a Distributor to receive access to Nasdaq TotalView. A Distributor may only provide this waiver to a specific individual Subscriber once.

Nasdaq Trading Insights at Section 146(b)(1) provides a trial offer that is available once per firm for each version of the product, provided that it is cancelled before the end of the 30-day period to avoid monthly fees:

> 30-Day Trial Offer. Upon request, Nasdaq shall provide firms a 30-day waiver of the fees for the Nasdaq Trading Insights product, which consists of all four components listed above in (a)(1)–(a)(4). However, availability of the Liquidity Dynamics Analysis component is currently delayed. This waiver may be provided only once per firm for each version of the product, as designated by Nasdaq. A firm will be charged the monthly fee rate listed below in (b)(2) if it does not cancel by the conclusion of the trial offer.

The QView product at Section 158 contains a trial offer that is available to returning purchasers (not just new or prospective customers) for a period of time not to exceed 30 days for each version of QView or the Latency Optics add-on service:

> The Exchange shall waive fees under this Section for 30 days for any new, prospective or returning purchaser of either QView or the Latency Optics add-on service. This waiver will be available only once per customer for any version of QView or the add-on service.

The Exchange proposes to reduce fees across multiple products by replacing these three disparate offers with a single, standard offer for any product version listed as eligible on *NasdaqTrader.com* and specifically identified in subsection (a) of proposed Section 112. The proposed offer will waive fees for up to 30 days,[10] will be available to new, prospective, or returning [11] distributors, recipients and

[3] The Exchange initially filed the proposed changes on April 12, 2019, (SR–Nasdaq–2019–030). The Exchange withdrew that filing on April 25, 2019, and submitted this filing.

[4] The following sections are listed in Section 112(a): 119 (Market Data Distributor Fees), 121 (Nasdaq Report Center), 122 (Historical Research and Administrative Reports), 123 (Nasdaq Depth-of-Book Data), 126 (Distribution Models), 135 (Nasdaq Monthly Administrative Fee), 137 (Nasdaq FilterView Service), 139 (NLS and NLS Plus Data Feeds), 140 (Nasdaq Share Volume Service), 146 (Nasdaq Trading Insights), 147 (Nasdaq Basic), 152 (Nasdaq Daily Short Volume and Monthly Short Sale Transaction Files), 157 (Nasdaq MatchView Feed) and 158 (QView).

[5] Securities Exchange Act Release No. 34–53131 (January 17, 2006), 71 FR 3896 (January 24, 2006) (S7–24–89) (defining Level 2 service).

[6] *Id.* (defining Level 3 service).

[7] Securities Exchange Act Release No. 34–54426 (September 12, 2006), 71 FR 54852 (September 19, 2006) (S7–24–89) (replacing the definitions of Level 2 and Level 3 services with unrelated terms).

[8] All references to *NasdaqTrader.com* refer to the current website and any successor website, as specified at proposed Section 112(b)(1).

[9] The Exchange also allows distributors to provide trial or demonstration access to subscribers as part of the marketing process. *See http://www.nasdaqtrader.com/content/AdministrationSupport/Policy/FEEEXEMPTIONSPOLICY.pdf.*

[10] A customer may elect to utilize less than 30 days for a trial offer if it intends to preserve the option of using whatever time remains on the offer period at a later date within the twelve month period.

[11] A new customer is a customer that has never purchased the product or service subject to the trial offer, and has decided to purchase the product. A prospective customer is a customer that has never purchased the product or service subject to the trial offer, and has not yet decided whether to purchase the product. A returning customer is a customer

users,[12] and is limited to 30 days over a twelve month period for each version of the product.[13] While the products eligible for this offer are listed in Section 112(a),[14] the specific versions of these products eligible for the waiver will be identified on *NasdaqTrader.com* to allow the Exchange an opportunity to extend such offers to new versions of a product as such versions become available, and to withdraw older versions from eligibility that the Exchange has elected to no longer promote. The Exchange will provide a 30-day notice for the withdrawal of any version of any product or service from eligibility. Distributors may extend trial offers to recipients or users for fees associated with any product or service listed in proposed Section 112(a) and version listed as eligible for a Trial Offer on *NasdaqTrader.com,*[15] subject to the usage reporting requirements,[16] and the Exchange will waive any fees owed by the distributor for the underlying customer. Distributors will administer this trial offer program for recipients and users on behalf of the Exchange, making trial offers available to new, prospective, or returning recipients and users on the same basis as the Exchange.

Proposed Section 112(b)(1) reads as follows:

Trial Offers. The Exchange shall waive any fee for up to 30 days, which may be taken in discontinuous segments, for any new, prospective, or returning distributor, recipient or user for any product or service listed in Subsection (a), for any version listed as eligible for a trial offer on *Nasdaqtrader.com* or any successor website (collectively, ''*Nasdaqtrader.com*''), provided that:

(A) The waiver is limited to 30 days for each version of the product or service over any 12 month period;

(B) The product or service is listed in Subsection (a), and the specific version of the product or service is listed as eligible for a trial offer on *NasdaqTrader.com* (the Exchange will provide a 30-day notice for the withdrawal of any version of product or service from eligibility); and

(C) The Exchange shall waive any fee to a distributor for any new, prospective or returning recipient or user for up to 30 days, which may be taken in discontinuous segments, for any product or service listed in Subsection (a) and any version listed as eligible for a trial offer on *Nasdaqtrader.com,* where the distributor is itself waiving its own fees to such new, prospective, or returning recipient or user for the same period of time, subject to usage reporting requirements set forth on *NasdaqTrader.com.*

As conforming changes, the Exchange proposes to delete the current trial offers at Sections 123(e), 146(b)(1), and 158(c) and renumber the remaining subparagraphs in Section 146.[17]

The purpose of the proposal is to reduce fees for new, prospective, or returning customers and to improve transparency and consistency in the application of trial offers. The proposed changes will not increase any fee or charge.

2. Pre-Production Waivers

The Exchange currently waives fees for new distributors for up to three months to allow them time to prepare systems and procedures for the distribution of Exchange information.[18] Distributors require data for testing and development before actually distributing such data, and the waiver reflects a long-standing industry and Exchange practice to waive fees during this period. The current policy, published on *NasdaqTrader.com,* provides that distributors may be exempt from distributor, subscriber and monthly administrative fees for up to three months ''while the Distributor is receiving a Data Feed and is in the process of development work to facilitate the intended internal or external distribution of the data.''[19] Fees commence at the end of the three month period, or when the distributor starts to distribute the data, whichever comes first.[20]

The Exchange proposes to reduce fees for distributors by introducing a pre-production waiver at Section 112(b)(2). The waiver will be available for any product or service identified in Subsection (a) and any version listed as eligible for such a waiver on *NasdaqTrader.com.* The proposed rule will specify that the Exchange shall waive distributor, subscriber and monthly administrative fees for up to 3 months[21] to allow the distributor to prepare its systems and procedures for ''production'' (*i.e.,* the distribution of Exchange information); the waiver will remain in place for the period of time required to prepare systems and procedures for production, or when production begins, whichever is earlier.[22] The version of the products eligible for the pre-production waiver will be listed on *NasdaqTrader.com.* Distributors must apply for this waiver and report to the Exchange how the information is used, providing the same categories of data as distributors in production.[23] The Exchange will approve the pre-production waiver for any distributor that successfully demonstrates through its application and reporting that it meets all of the criteria set forth in proposed Section 112(b)(2).[24] The proposed rule reads as follows:

Pre-Production Waivers. The Exchange shall waive any fees for a distributor that requires time to prepare its systems and procedures to distribute Exchange information, provided that:

(A) The waiver is only available for the period of time required to prepare systems and procedures to distribute Exchange information, or the start of production, whichever occurs first, for a period of time not to exceed 3 months;

(B) The waiver will only be available for products or services identified in Subsection (a) above and the version is listed as eligible for such a waiver on *NasdaqTrader.com;* and

(C) The waiver must be pre-approved by the Exchange based on an application and subject to usage reporting requirements set forth on *NasdaqTrader.com* that demonstrate compliance with the rules set forth herein.

that had purchased the product or service at one time, but cancelled that service at least six months before the trial offer is to take place.

[12] Some market data products are exclusive to distributors, recipients, or users, respectively. When announcing a product as eligible for a trial offer on *NasdaqTrader.com,* the Exchange will specify which of these three groups will be eligible for the offer in accordance with the applicable rule.

[13] The waiver may be taken in discontinuous segments, meaning, for example, that a customer may end the trial offer after a two week period, preserving the remaining time for further testing to take place at a later date within the 12 month period.

[14] For historical reports, the waiver will be for one month of data. Historical data are offered in Sections 122 (Historical Research and Administrative Reports), 140 (Nasdaq Share Volume Service), and 152 (Nasdaq Daily Short Volume and Monthly Short Sale Transaction Files), all of which may include historical data.

[15] As noted above, all references to *NasdaqTrader.com* refer to the current website and any successor website, as specified at proposed Section 112(b)(1).

[16] The usage reporting requirements for any distributor undergoing a trial offer shall be the same as distributors in full production. The trial offer proposal imposes no new reporting requirement.

[17] The Exchange also proposes to remove an outdated reference to a trial period ending March 21, 2011, at Section 155 (Short Sale Monitor).

[18] *See http://www.nasdaqtrader.com/content/AdministrationSupport/Policy/FEEEXEMPTIONSPOLICY.pdf.*

[19] *See id.*

[20] *See id.*

[21] The pre-production waiver may be less than 3 months if the distributor requires less time to prepare its systems and procedures for production, or if production begins in less than 3 months. Distributors bear the burden of demonstrating to the Exchange that the full 3 month period is required, based on its application and reporting as set forth on *NasdaqTrader.com.*

[22] Distributors may engage in further systems development after production has begun, but the proposed waiver shall not apply to any such post-production systems development.

[23] The usage reporting requirements for any distributor in Pre-Production shall be the same as distributors in full production.

[24] Typically, distributors will only be eligible for one pre-production waiver, as eligibility for the waiver ends once production begins. Nevertheless, distributors that terminate their relationship with Nasdaq may be eligible for a second waiver to the extent that changes in technology require additional pre-production development prior to restarting production.

The purpose of the proposal is to reduce development costs for new distributors entering into production and to improve transparency and consistency in the application of pre-production waivers. The proposal does not increase any fee or charge.

3. Academic Waivers

The Exchange has implemented an academic waiver policy that allows colleges, universities, and other accredited academic institutions to obtain a fee waiver for students and professors engaged in research or teaching.[25] To obtain the waiver, academic institutions must execute all agreements required for the product or service, report the number of subscribers, devices or other applicable units of count to Nasdaq on a monthly basis, and reapply on a yearly basis for continued eligibility.[26] Academic waivers may not be used for actual (as opposed to simulated) securities trading, and the waiver does not cover the following uses of data: vocational education, university endowment programs, unaccredited academic institutions, use in support of actual securities trading, external distribution of the data, or off-site distribution of the data.[27]

The Exchange proposes to encourage the use of Exchange information by academic institutions by eliminating the enumerated fees and expanding the academic waiver policy to include certain financial literacy programs. An accredited college or university or non-profit financial literacy program would be able to apply to either a distributor or the Exchange for the academic waiver, as is currently allowed under the existing policy. All applicants that can demonstrate that all of the criteria set forth in Section 112(b)(3) are met will be approved for the waiver by the Exchange or the distributor. The proposed rule would allow non-profit financial literacy programs to apply for a waiver as well—a policy which has been followed informally in the past, but which the Exchange now proposes to formalize as part of the rule book. Beneficiaries of the academic waiver would be required to reapply on a yearly basis, sign any agreement required to obtain that product or service, and report usage, subject to the same usage reporting requirements as non-academic recipients. No information obtained under this type of waiver may be distributed externally except in support of certain non-profit financial literacy programs or to support teaching or research at an accredited college or university.[28] Information disseminated pursuant to the academic waiver may not be used for actual (as opposed to simulated) trading activity, or to support for-profit activity, including, but not limited to, any use of Exchange information by an academic institution to provide services to a for-profit entity in support of any business or trading activity. Distributors may administer the academic waiver program on behalf of the Exchange on the same basis as the Exchange. Proposed Section 112(b)(3) reads as follows:

(3) Academic Waivers. Any accredited college or university, as well as non-profit financial literacy programs dedicated to serve primary or secondary school students or other underserved populations, may apply to a distributor or the Exchange to waive any fee or charge for any product or service identified in Subsection (a) and any version listed as eligible for such a waiver on *NasdaqTrader.com,* and used by students or professors to perform academic research or classroom-related activities. All such applications for waiver shall be approved by the Exchange or the distributor based on a determination that all of the criteria set forth herein are met, specifically the following:

(A) Recipients of an academic waiver must reapply on a yearly basis, must sign any agreement required to obtain that product or service, and report usage as specified on *NasdaqTrader.com;* and

(B) No information provided under an academic waiver may be distributed externally, except in support of non-profit financial literacy programs or to support teaching or research at an accredited college or university, or used in any way for actual (rather than simulated) trading, or to support for-profit activity, including, but not limited to, any use of Exchange information by an academic institution to provide services to a for-profit entity in support of any business or trading activity.

As a conforming change, the Exchange proposes to delete the last sentence of current Section 135, which relates to an academic waiver for administrative fees,[29] as superfluous in light of the addition of proposed Section 112(b)(3).

The purpose of this proposal is to promote university-level research and teaching, as well as overall financial literacy, by lowering the cost for professors, teachers and students and certain financial literacy programs to obtain and utilize Exchange information. The proposal will not increase any fee or charge.

4. Technical and Administrative Support

The Exchange currently exempts subscribers that are used in an enumerated list of indirect support functions—but not directly involved in the distribution of Exchange information or the trading of securities—from monthly subscriber fees.[30] This internal usage policy is described on *NasdaqTrader.com,* and derives from a long-standing industry practice of exempting support functions from fees. The currently-exempted support functions are: advertising, account maintenance, authorizations and entitlements, customer service, data control, data quality, development,[31] demonstration, distributor software sales, promotion, technical operations, technical support, testing and trade shows.[32] A distributor making use of this internal usage policy must provide Nasdaq with information about, or a demonstration of, how each technical and administrative support subscriber is used, and must be prepared to identify all administrative entitlements during any onsite review.[33] This fee waiver does not apply to a subscriber supporting the news, research or trading divisions of the distributor, or used in any way to support the trading of securities.[34] Exempt subscribers may only be used by employees of the distributor and must be located on the distributor's premises (unless the subscriber is used for sales or marketing).[35]

The Exchange proposes to lower distributor's fees by codifying this policy in its rule book, and to re-designate the name of the policy from ''internal usage'' to ''technical and administrative support.'' The proposed technical and administrative support

[25] *See http://www.nasdaqtrader.com/content/AdministrationSupport/Policy/ACADEMICWAIVERPOLICY.pdf.* Note that the waiver does not cover access or telecommunications charges. Section 135 also provides that the Exchange may waive its monthly Administrative Fee for colleges and universities for devices used by students and professors in performing university or college research or classroom-related activities.

[26] *See id.*

[27] *See id.*

[28] Non-profit financial literacy programs may distribute Nasdaq data to primary and secondary school students and other underserved groups for computer-assisted learning.

[29] Section 135 currently states: ''Nasdaq may waive the foregoing fee for colleges and universities for devices used by students and professors in performing university or college research or classroom-related activities.''

[30] *See http://www.nasdaqtrader.com/content/AdministrationSupport/Policy/FEEEXEMPTIONSPOLICY.pdf.*

[31] ''Development'' in this context refers to post-production systems development, in contrast to pre-production systems development, discussed above.

[32] *See http://www.nasdaqtrader.com/content/AdministrationSupport/Policy/FEEEXEMPTIONSPOLICY.pdf.*

[33] *See id.*

[34] *See id.*

[35] *See id.*

waiver will exempt the same support services from fees as the current policy: Advertising, account maintenance, authorizations and entitlements, customer service, data control, data quality, development, demonstration, distributor software sales, promotion,[36] technical operations, technical support and testing. As is the case under current policy, the fee waiver would not apply to a subscriber supporting the news, research or trading divisions of the distributor. All such waivers will be approved by the Exchange if the distributor demonstrates through materials submitted with the application, and ongoing reporting, that all of the criteria set forth in the rule are met.[37] Reporting for subscribers engaged in technical and administrative support will be the same as required for fee-liable subscribers, and such usage reporting requirements will be set forth on *NasdaqTrader.com.* As required under the current policy, the distributor must be able to provide Nasdaq with information about, or a demonstration of, how each technical and administrative support subscriber is used, and must be prepared to identify all technical and administrative entitlements during any onsite review. The aforementioned subscribers must be located on the distributor's premises, unless used for sales or marketing. No Exchange information obtained under such waiver may be distributed externally or used in support of trading activities.

Proposed Section 112(b)(4) reads as follows:

Technical and Administrative Support Waivers. ''Technical and Administrative Support'' is defined as the following activities of the distributor: Advertising, account maintenance, authorizations and entitlements, customer service, data control, data quality, development, demonstration, distributor software sales, promotion, technical operations, technical support and testing. The Exchange shall waive any fee or charge for the Technical and Administrative Support of a distributor, provided that:

(A) The distributor provides Nasdaq with information about, or a demonstration of, how each technical and administrative support subscriber is used, is able to identify all technical and administrative entitlements during an onsite review by Nasdaq representatives, and demonstrates to the Exchange through application and reporting that all of the criteria set forth herein are met;

(B) Any distributor granted such a waiver shall report exempt usage in the same manner as non-exempt usage as set forth on *NasdaqTrader.com;*

(C) Exempt subscribers must be located on the distributor's premises, unless used for sales or marketing; and

(D) No Exchange information obtained under such waiver may be distributed externally or used in support of trading activities.

The purpose of the proposed change is to eliminate the enumerated subscriber fees for technical and administrative support activities, thereby facilitating the accurate and efficient distribution of Exchange information by lowering the cost of support services essential for such distribution, and to improve transparency and consistency in the application of such waivers. The proposed change will not increase any fee or charge.

2. Broker-Dealer Enterprise License

The Exchange currently offers an enterprise license to enable broker-dealers to distribute Nasdaq Level 2 or Nasdaq TotalView service for Display Usage to customers with whom the firm has a brokerage relationship. Section 123(c)(3) states as follows:

As an alternative to subsections (1) and (2) above, a Distributor that is also a brokerdealer may pay a monthly fee of $500,000 to provide Nasdaq Level 2 or Nasdaq TotalView for Display Usage by Non-Professional Subscribers with whom the firm has a brokerage relationship. This Enterprise License shall not apply to relevant Level 1 or Depth Distributor fees.

The Exchange proposes to modify Section 123(c)(3) to include Professional Subscribers with whom the firm has a brokerage relationship within the scope of the enterprise license. In 2010, when the Exchange first proposed that the enterprise license be distributed to Non-Professional Subscribers with whom the firm has a brokerage relationship, the Exchange explained that the enterprise license covers not only non-professional customers, but also includes ''an allowance to distribute data to external professional subscribers with which the firm has a brokerage relationship,'' and the Exchange would ''permit[] distributors to designate an entire user population as 'non-professional' provided that the number of professional subscribers within that user population does not exceed ten percent (10%) of the total population.''[38]

As part of its effort to ease administrative burdens on its customers, the Exchange proposes to modify the text of Section 123(c)(3) to explicitly state that Nasdaq information may be distributed to both Professional and Non-Professional Subscribers in the context of a brokerage relationship. This will increase the value of the enterprise license to distributors by removing the 10 percent limitation and explicitly applying coverage to Professionals who receive the information in the context of a brokerage relationship, while also lowering the administrative burden on broker-dealers by eliminating any need to count Professional and Non-Professional Subscribers separately. The Exchange also proposes to effect a number of minor technical corrections.[39] The revised language is as follows:

As an alternative to subsections (1) and (2) above, a Distributor that is also a broker-dealer may pay a monthly fee of $500,000 to provide Nasdaq Level 2 or Nasdaq TotalView for Display Usage by Professional or Non-Professional Subscribers with whom the firm has a brokerage relationship. This Enterprise License shall not apply to relevant Level 1 or Depth Distributor fees.

The purpose of the proposal is to increase the value of the enterprise license to distributors by expanding coverage to professionals who receive the information in the context of a brokerage relationship, and to lower the administrative burden on broker-dealers by not requiring the broker-dealer to count the number of Professional Subscribers separately. The proposed change will not increase any fee or charge.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[40] in general, and Section 6(b)(4) in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities, and furthers the objectives of Section 6(b)(5) of the Act,[41] in particular, in that it fosters cooperation and coordination with persons engaged in processing information and facilitating transactions in securities and does not unfairly discriminate between customers, issuers, brokers or dealers.

[36] Trade shows, which are listed separately under the current policy, continue to be covered under the waiver as a type of ''promotion'' activity.

[37] All distributors currently operating under an internal usage waiver will be automatically approved for the technical and administrative support waiver for the nine months following the date of effectiveness of this proposed change, allowing the Exchange an opportunity to evaluate technical and administrative support usage.

[38] *See* Securities Exchange Act Release No. 63084 (October 13, 2010), 75 FR 64379 (October 19, 2010) (SR–NASDAQ–2010–125).

[39] The Exchange also proposes to add a hyphen to the word ''broker-dealer'' in Section 123(c)(3), and to correct an internal reference in Section 123(b)(1)(C) by replacing a reference to subsection (4) with a reference to subsection (3).

[40] 15 U.S.C. 78f(b).

[41] 15 U.S.C. 78f(b)(5).

As described above, the Exchange proposes to: (i) Codify fee waivers for trial offers, pre-production systems development, academic use, and technical and administrative support services; and (ii) modify the $500,000 enterprise license for the external distribution of Depth-of-Book data to allow distribution to all customers with whom the distributor has a brokerage relationship, including both Professional and Non-Professional Subscribers. For the reasons set forth below, each provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities, fosters cooperation and coordination with persons engaged in processing information and facilitating transactions in securities, and does not unfairly discriminate between customers, issuers, brokers or dealers.

Fee Waivers

The Exchange proposes to codify fee waivers for trial offers, pre-production systems development, academic use, and technical and administrative support. Each is an equitable allocation of reasonable dues, fees and other charges, and fosters cooperation and coordination with persons engaged in processing information and facilitating transactions in securities. Codifying these waivers will, among other things: (i) Allow new, prospective or returning customers an opportunity to test Exchange data free of charge, thereby lowering the cost of distributing Exchange information; (ii) reduce the cost of systems development for new distributors, thereby lowering their barriers to entry; (iii) lower the cost of academic research, teaching, and financial literacy programs, thereby promoting overall financial education; (iv) and lower the cost of data distribution by lowering the cost of technical and administrative support for distributors, thereby facilitating the accurate and efficient distribution of Exchange information by lowering the cost of support services essential for such distribution.

The proposed fee waivers do not unfairly discriminate between customers, issuers, brokers or dealers because: (i) Providing new, prospective or returning customers an opportunity to test Exchange data free of charge encourages the entry of new distributors and promotes the dissemination of Exchange information; (ii) reducing the cost of systems development for new distributors also encourages the entry of new distributors and promotes the dissemination of Exchange information; (iii) encouraging academic research by lowering the cost of research and teaching, and spreading financial literacy by facilitating financial education for underserved populations, promotes education in, and the understanding of, financial markets; and (iv) lowering the cost of data distribution by reducing the cost of technical and administrative support for distributors facilitates the accurate and efficient distribution of Exchange information by lowering the cost of support services essential for such distribution.

Trial Offers: Establishing a uniform standard for trial offers is an equitable allocation of reasonable dues, fees and other charges and fosters cooperation and coordination with persons engaged in processing information and facilitating transactions in securities by providing new, prospective or returning customers an opportunity to test Exchange data free of charge before purchasing the service. This will encourage the entry of new distributors and thereby promote the dissemination of Exchange information. The proposed section will also establish a framework for the consistent administration of trial offers across products, thereby avoiding potential disputes related to administering trials for different products that have slightly different terms. Publication of products and services on *NasdaqTrader.com* will, moreover, provide all current and potential customers the latest information identifying which products and services are eligible for trial offers. The proposed changes for trial offers do not unfairly discriminate between customers, issuers, brokers or dealers because providing new, prospective or returning customers an opportunity to test Exchange data free of charge will encourage the entry of new distributors and promote the dissemination of Exchange information. The Exchange will allow all eligible customers to take advantage of the same trial offers on the same terms.

Systems Development: Establishing a uniform waiver policy with regard to pre-production systems development is an equitable allocation of reasonable dues, fees and other charges, and fosters cooperation and coordination with persons engaged in processing information and facilitating transactions, by reducing the cost of systems development for new distributors, thereby lowering barriers to entry and encouraging broader dissemination of information. All new distributors will have the opportunity to prepare their systems using the proposed waiver, and current distributors have already had the benefit of this long-standing policy.

These waivers do not unfairly discriminate between customers, issuers, brokers or dealers because reducing costs for new distributors encourages the entry of new distributors and promotes the dissemination of Exchange information, and all new distributors will be able to benefit from the policy.

Academic Waivers: Establishing a uniform policy for academic waivers for research or classroom-related activity is an equitable allocation of reasonable dues, fees and other charges, and fosters cooperation and coordination with persons engaged in processing information and facilitating transactions in securities, because lowering the cost of research, teaching, and financial education will improve market operations by encouraging the dissemination of financial information. A fee waiver is, moreover, appropriate where the information obtained cannot be used to sell financial services or engage in any other for-profit activity, but rather to encourage research, teaching and financial literacy.

Academic waivers do not unfairly discriminate between customers, issuers, brokers or dealers because lowering the cost of research, teaching and financial education promotes the ability of the general investing public to effectively participate in financial markets. Academic institutions and financial literacy programs are, moreover, not profit-making entities and it is reasonable to waive fees for entities not engaged in for-profit activities.

Technical and Administrative Support: Allowing distributors to use Exchange information for administrative and technical support services is an equitable allocation of reasonable dues, fees and other charges, and fosters cooperation and coordination with persons engaged in processing information and facilitating transactions in securities, because the proposal will facilitate the accurate and efficient distribution of Exchange information by lowering the cost of support services essential for such distribution. All distributors will be eligible for the same waiver for the same administrative and support functions.

Technical and administrative support waivers do not unfairly discriminate between customers, issuers, brokers or dealers because the proposal will facilitate the accurate and efficient distribution of Exchange information by lowering the cost of support services essential for such distribution. These waivers also will be available to all distributors on the same terms.

Enterprise License

Expanding the availability of the enterprise license at Section 123(c)(3) to Professional Subscribers with whom the firm has a brokerage relationship is an equitable allocation of reasonable dues, fees and other charges and fosters cooperation and coordination with persons engaged in processing information and facilitating transactions in securities because the proposal will lower the administrative burden on broker-dealers by not requiring the broker-dealer to count the number of Professional Subscribers separately. All broker-dealers purchasing the license will be treated the same, without regard to whether the customer is Professional or a Non-Professional.

The proposal does not unfairly discriminate between customers, issuers, brokers or dealers for the same reasons. The proposal will lower the administrative burden on broker-dealers by not requiring the broker-dealer to count the number of Professional Subscribers separately. Removing the distinction between Professional and Non-Professional customers in a brokerage relationship lessens current distinctions among broker-dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Commission concluded that Regulation NMS—by deregulating the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[42]

The Commission was speaking to the question of whether broker-dealers should be subject to a regulatory requirement to purchase data, such as depth-of-book data, that is *in excess of* the data provided through the consolidated tape feeds, and the Commission concluded that the choice should be left to them. Accordingly, Regulation NMS removed unnecessary regulatory restrictions on the ability of exchanges to sell their own data, thereby advancing the goals of the Act and the principles reflected in its legislative history. If the free market should determine whether proprietary data is sold to broker-dealers at all, it follows that the price at which such data is sold should be set by the market as well.

The market data products affected by this proposal are all voluntary products for which market participants can readily find substitutes. Accordingly, Nasdaq is constrained from pricing these products in a manner that would be inequitable or unfairly discriminatory. Moreover, the fees for these products, like all proprietary data fees, are constrained by the Exchange's need to compete for order flow.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposals will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. All of the proposed changes—to codify fee waivers and expand the application of an enterprise license—do not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act, but rather enhance competition by providing both current and potential customers better, more precise information in making purchasing decisions.

The market for data products is extremely competitive and firms may freely choose alternative venues and data vendors based on the aggregate fees assessed, the data offered, and the value provided. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities, in a vigorously competitive market.

Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platform where the order can be posted, including the execution fees, data quality and price, and distribution of its data products. Without trade executions, exchange data products cannot exist. Moreover, data products are valuable to many end users only insofar as they provide information that end users expect will assist them or their customers in making trading decisions.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform, the cost of implementing cybersecurity to protect the data from external threats and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs.

Moreover, the operation of the Exchange is characterized by high fixed costs and low marginal costs. This cost structure is common in content and content distribution industries such as software, where developing new software typically requires a large initial investment (and continuing large investments to upgrade the software), but once the software is developed, the incremental cost of providing that software to an additional user is typically small, or even zero (*e.g.,* if the software can be downloaded over the internet after being purchased).[43]

In Nasdaq's case, it is costly to build and maintain a trading platform, but the incremental cost of trading each additional share on an existing platform, or distributing an additional instance of data, is very low. Market information and executions are each produced jointly (in the sense that the activities of trading and placing orders are the source of the information that is distributed) and each are subject to significant scale economies. In such cases, marginal cost pricing is not feasible because if all sales were priced at the margin, Nasdaq would be unable to defray its platform costs of providing the joint products. Similarly, data products cannot make use of TRF trade reports without the raw material of the trade reports themselves, and therefore necessitate the costs of operating, regulating,[44] and maintaining a trade reporting system, costs that must be covered through the fees charged for use

[42] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (''Regulation NMS Adopting Release'').

[43] *See* William J. Baumol and Daniel G. Swanson, ''The New Economy and Ubiquitous Competitive Price Discrimination: Identifying Defensible Criteria of Market Power,'' *Antitrust Law Journal,* Vol. 70, No. 3 (2003).

[44] It should be noted that the costs of operating the FINRA/Nasdaq TRF borne by Nasdaq include regulatory charges paid by Nasdaq to FINRA.

of the facility and sales of associated data.

An exchange's broker-dealer customers view the costs of transaction executions and of data as a unified cost of doing business with the exchange. A broker-dealer will disfavor a particular exchange if the expected revenues from executing trades on the exchange do not exceed net transaction execution costs and the cost of data that the broker-dealer chooses to buy to support its trading decisions (or those of its customers). The choice of data products is, in turn, a product of the value of the products in making profitable trading decisions. If the cost of the product exceeds its expected value, the broker-dealer will choose not to buy it. Moreover, as a broker-dealer chooses to direct fewer orders to a particular exchange, the value of the product to that broker-dealer decreases, for two reasons. First, the product will contain less information, because executions of the broker-dealer's trading activity will not be reflected in it. Second, and perhaps more important, the product will be less valuable to that broker-dealer because it does not provide information about the venue to which it is directing its orders. Data from the competing venue to which the broker-dealer is directing more orders will become correspondingly more valuable.

Similarly, vendors provide price discipline for proprietary data products because they control the primary means of access to end users. Vendors impose price restraints based upon their business models. For example, vendors that assess a surcharge on data they sell may refuse to offer proprietary products that end users will not purchase in sufficient numbers. Internet portals impose a discipline by providing only data that will enable them to attract ''eyeballs'' that contribute to their advertising revenue. Retail broker-dealers offer their retail customers proprietary data only if it promotes trading and generates sufficient commission revenue. Although the business models may differ, these vendors' pricing discipline is the same: They can simply refuse to purchase any proprietary data product that fails to provide sufficient value. Exchanges, TRFs, and other producers of proprietary data products must understand and respond to these varying business models and pricing disciplines in order to market proprietary data products successfully. Moreover, Nasdaq believes that market data products can enhance order flow to Nasdaq by providing more widespread distribution of information about transactions in real time, thereby encouraging wider participation in the market by investors with access to the internet or television. Conversely, the value of such products to distributors and investors decreases if order flow falls, because the products contain less content.

Competition among trading platforms can be expected to constrain the aggregate return each platform earns from the sale of its joint products, but different platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. Nasdaq pays rebates to attract orders, charges relatively low prices for market information and charges relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower liquidity rebates to attract orders, setting relatively low prices for accessing posted liquidity, and setting relatively high prices for market information. Still others may provide most data free of charge and rely exclusively on transaction fees to recover their costs. Finally, some platforms may incentivize use by providing opportunities for equity ownership, which may allow them to charge lower direct fees for executions and data.

In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering. Such regulation is unnecessary because an ''excessive'' price for one of the joint products will ultimately have to be reflected in lower prices for other products sold by the firm, or otherwise the firm will experience a loss in the volume of its sales that will be adverse to its overall profitability. In other words, an increase in the price of data will ultimately have to be accompanied by a decrease in the cost of executions, or the volume of both data and executions will fall.[45]

Moreover, the level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including SRO markets, internalizing broker-dealers and various forms of ATSs, including dark pools and ECNs. Each SRO market competes to produce transaction reports via trade executions, and the FINRA-regulated TRFs compete to attract internalized transaction reports. It is common for broker-dealers to further exploit this competition by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market. Competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products. The large number of SROs, TRFs, broker-dealers, and ATSs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, TRF, ATS, and broker-dealer is currently permitted to produce proprietary data products, and many currently do or have announced plans to do so, including Nasdaq, NYSE, NYSE American, NYSE Arca, IEX, and CBOE.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[46]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2019–033 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.

[45] *Cf. Ohio* v. *American Express,* 138 S. Ct. 2274 (2018) (recognizing the need to analyze both sides of a two sided platform market in order to determine its competitiveness).

[46] 15 U.S.C. 78s(b)(3)(A)(ii).

All submissions should refer to File Number SR–NASDAQ–2019–033. 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–NASDAQ–2019–033 and should be submitted on or before June 5, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[47]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–09964 Filed 5–14–19; 8:45 am]

BILLING CODE 8011–01–P

[47] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85812; File No. SR–NYSE–2019–14]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Amend Section 703.18 of the Listed Company Manual To Permit the Listing of Event-Based Contingent Value Rights and Make Other Changes to the Listing Standards for Contingent Value Rights

May 9, 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 25, 2019, New York Stock Exchange LLC (''NYSE'' 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 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 Section 703.18 of the Listed Company Manual (the ''Manual'') to expand the circumstances under which a Contingent Value Right may be listed on the Exchange. 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

Contingent Value Rights (''CVRs'') are unsecured obligations of the issuer providing for a possible cash payment either (i) at maturity based upon the price performance of an affiliate's equity security (a ''Price-Based CVR'') or (ii) within a specified time period, upon the occurrence of a specified event relating to the business of the issuer of the CVR or an affiliate of such issuer (an ''Event-Based CVR''). Section 703.18 of the Manual currently provides only for the listing of Price-Based CVRs. The Exchange proposes the following changes to its listing rules for CVRs:

- To permit the listing of Event-Based CVRs;
- To update the issuer listing standards in Section 703.18 to reflect changes to the initial listing requirements for operating companies referenced in that rule; and
- To modify the delisting provisions to reflect that a CVR will be delisted if its issuer's common stock ceases to be listed on a national securities exchange.

The Exchange proposes to amend Section 703.18 to also provide for the listing of Event-Based CVRs. With the exception of the payment triggering event, Event-Based CVRs are identical in structure to Price-Based CVRs, the listing of which has been permitted under Section 703.18 for many years.

Event-Based CVRs would qualify for listing under the Exchange's current listing standards for ''Other Securities.'' However, the Exchange is filing this proposed rule change because in the 1998 release adopting amendments to Exchange Act Rule 19b–4, which among other things added a definition of ''new derivative securities product,'' the Commission stated that ''[u]nder the amendment, if an SRO does not have listing standards, trading rules and procedures for CVRs approved by the Commission, such SRO must submit a proposed rule change for Commission approval, under Section 19(b), to establish listing standards, trading rules and procedures for the CVR product class, prior to listing CVRs.'' [4]

Price-Based CVRs are generally distributed to shareholders of an acquired company who are receiving shares of the acquirer as acquisition consideration. The Price-Based CVRs provide the acquiree's shareholders

[4] Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952, at 70956–57 (December 22, 1998).

with some medium term protection against poor stock price performance of the shares of the acquirer by guaranteeing them a specified cash payment if the acquirer's average stock price is below a specified level at the time of maturity of the Price-Based CVR.

Event-Based CVRs are also typically issued to the shareholders of an acquired entity as consideration in an acquisition transaction. Event-Based CVRs entitle their holders to receive a specified cash payment upon the occurrence of a specified event prior to the maturity date of the Event-Based CVR. The Event-Based CVR provides the shareholders of the acquiree an additional interest in the medium-term performance of the merged entity. A common example of an Event-Based CVR occurs in mergers of life sciences companies, when the CVR payment is triggered by the receipt of FDA approval of a new drug application. Another example of an Event-Based CVR is a CVR whose payment triggering event is the achievement of a specified level of financial performance by the combined entity or by a division of the combined entity representing the assets from the acquired company. Event-Based CVRs, which are transferrable, have become increasingly common in recent years, especially in connection with mergers of life sciences companies, and the Exchange believes it is appropriate to amend Section 703.18 to permit their listing on the NYSE.

Section 703.18 currently provides that the issuer of a listed CVR must be an entity that has assets in excess of $100 million and meets the ''size and earnings'' requirements of Section 102 of the Manual. The Exchange intends to retain the $100 million assets requirement, but it proposes to amend the reference to the ''size and earnings requirements'' of Section 102 by specifying instead that the issuer must meet the requirements of Sections 102.01B and 102.01C. The requirements of Section 102.01B include the size requirements applicable to all newly-listed operating companies (the applicable requirement would be the $100 million in market value of publicly-held shares requirement applied to companies transferring from another national securities Exchange), as well as a $4.00 stock price requirement. Section 102.01C sets forth two financial standards, the Earnings Test and the Global Market Capitalization Test, one of which must be met by an issuer seeking to list on the Exchange. The Global Market Capitalization Test, which was adopted subsequent to the approval of Section 703.18, requires that an issuer have $200 million in global market capitalization at the time of listing, but includes no earnings criteria. Because most issuers qualify for listing pursuant to the Global Market Capitalization Test, and such test has no earnings criteria, the Exchange believes it is appropriate to remove the reference to ''size and earning requirements'' in the current Section 703.18 and replace that language with a reference to Sections 102.01B and 102.01C instead. The Exchange believes that an issuer that meets the requirements of the Global Market Capitalization Test is likely to be a substantial company capable of meeting its financial obligations under the terms of a listed CVR.

Currently, Section 703.18 provides that a CVR may be delisted when the related equity security to which the cash payment at maturity is tied is delisted. To reflect the fact that the delisting provision will now relate to both Cash-Based CVRs and Event-Based CVRs and to reflect the fact that Event-Based CVRs are not tied to the performance of a specific security, the Exchange proposes to modify this provision to provide that a CVR will be delisted when the issuer's common stock ceases to be listed on a national securities exchange. Under the Exchange's proposed amendment, if the common stock of a CVR issuer ceases to be listed on a national securities exchange, the CVR will be automatically delisted and the Exchange will not have discretion to continue listing the CVR.

Finally, the Exchange proposes to update a reference in Section 703.18 to New York Stock Exchange, Inc., by replacing it with a reference to New York Stock Exchange LLC, which is the correct current legal entity name for the Exchange. In addition, the Exchange proposes to add an introductory sentence prior to the form of information circular contained in Section 703.18. The Exchange intends to issue an information circular as described in Section 703.18 immediately prior to the listing of any CVR, including any Event-Based CVR.

The Exchange will monitor activity in CVRs, including Event-Based CVRs, to identify and deter any potential improper trading activity in such securities and will adopt enhanced surveillance procedures to enable it to monitor CVRs alongside the common equity securities of the issuer or its affiliates, as applicable. The Exchange will rely on its existing trading surveillances, administered by the Exchange, or the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Exchange Act,[6] in particular in that it is designed 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 and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposal to permit the listing of Event-Based CVRs under Section 703.18 is designed to protect investors and the public interest. Listed companies have been issuing transferable Event-Based CVRs as acquisition consideration for a number of years.[7] The purpose of the proposed amendment is to provide a transparent regulated market for the trading of those securities. The Exchange notes that, with the exception of the payment triggering event, Event-Based CVRs are identical in structure to Price-Based CVRs. The listing of Price-Based CVRs has been permitted under Section 703.18 for many years.

The Exchange will distribute an information circular as described in Section 703.18 prior to the commencement of trading of any CVR apprising member firms of the special characteristics and risks of the CVR, as well as the Exchange's know-your-customer, suitability, and other rules applicable thereto. The distribution of this information circular will help address concerns, among others, that the complexity of a CVR could lead to investor confusion and create certain risks. In addition, the Exchange will monitor activity in CVRs, including Event-Based CVRs, to identify and deter any potential improper trading activity in such securities and will adopt enhanced surveillance procedures to enable it to monitor CVRs together with the common equity securities of the issuer or its affiliates, as applicable. The

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *See,* for example, CVRs listed by Sanofi (cash payment tied to achieving sales targets of certain drugs) and Wright Medical Group N.V. (cash payment tied to FDA approval of a certain drug and achieving revenue milestones), both listed on the Nasdaq Stock Market.

Exchange believes these measures will reduce the risks of manipulative or other improper activity in connection with CVRs.

The proposed modification to the issuer qualification requirements of Section 703.18 is designed to protect investors and the public interest, as it conforms those requirements to changes in the initial listing requirements for common stocks of operating companies pursuant to amendments to Section 102 that have been implemented since the adoption of Section 703.18. The issuer requirements under Section 703.18 are those applied to the initial listing of common stocks of operating companies and, as such, the Exchange believes that they are sufficiently rigorous to be used in connection with the listing of CVRs. The Exchange further believes that issuers that meek [sic] the Exchange's issuer qualification requirements are likely to be substantial companies capable of meeting their financial obligations under the terms of a listed CVR. The Exchange also notes that it will continue to require issuers of listed CVRs to have at least $100 million in total assets at the time of original listing.

The proposal to amend the continued listing requirements of Section 703.18 to provide that a listed CVR will be delisted if its issuer ceases to be listed on a national securities exchange is designed to protect investors and the public interest, as it ensures that issuers whose CVR s are listed on the Exchange will meet the qualitative and quantitative standards for listing on a national securities exchange on a continuous basis.

The updated reference to the Exchange's legal entity name and additional introductory language are simply factual corrections and have no substantive impact.

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 amendment to Section 703.18 will increase competition by providing an additional listing venue for Event-Based CVRs. The amendment to the issuer qualification requirements in Section 703.18 simply conforms those requirements to modifications to the initial listing requirements for common stocks of operating companies and does not impose any burden on competition. The amendment to the continued listing requirements in 703.18 is being proposed to ensure the ongoing suitability for listing of the issuers of CVRs and does not impose any burden on competition.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2019–14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2019–14. 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–NYSE–2019–14, and should be submitted on or before June 5, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–09961 Filed 5–14–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85817; File No. SR–CBOE–2019–026]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Adopt Reduced Subscription Fees for Academics for the Sale of Historical Cboe Open-Close Volume Data

May 9, 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 25, 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, 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.

[8] 17 CFR 200.30–3(a)(12).

[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 its fee schedule to adopt reduced subscription fees for academics for the sale of Historical Cboe Open-Close volume data. 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/CBOE LegalRegulatoryHome.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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Cboe LiveVol, LLC (''Cboe LiveVol'') Price List to adopt reduced subscription fees for academics for the sale of historical Cboe Open-Close volume data. In 2015, former Cboe Holdings (now Cboe Global Markets) acquired LiveVol, Inc, a market data services and trading analytics platform. In 2016, Cboe LiveVol launched its website, Cboe LiveVol DataShop [3] (''DataShop''), which offers clients, both Trading Permit Holders (''TPHs'') and non-TPHs, a range of market data sets, including historical data, and subscription options. Specifically, Open-Close Data is a Cboe proprietary data set offered on DataShop that consists of the volume summary (*i.e.* contracts traded) for each Exchange-listed option. Open-Close Data summarizes Cboe Options volume by origin (customer and firm orders only), original order size and the opening or closing position of the order. Customers may purchase Daily Open-Close Data on a monthly subscription basis or Historical Open-Close Data on an ad hoc request basis. The Exchange seeks only to amend the price per year for Historical Open-Close Data for academic purchasers. Currently, Historical Open-Close Data is available to all customers at the same price and in the same manner. The current charge for Historical Open-Close Data covering all of the Exchange's securities ((Equities, Indexes & ETF's) is $7,200 per year for requests for one to four years of data, and a 50% discount beginning with the fifth year of data (*i.e.* Cboe LiveVol charges $7,200 for each of the first four years of data and $3,600 for data the fifth year and on).

The Exchange now proposes to charge qualifying academic purchasers $1,500 per year for Historical Open-Close Data covering all of the Exchange's securities. As proposed, the 50% discount beginning with the fifth year of data is not applicable to academic pricing. The Exchange believes that academic institutions provide a valuable service for the Exchange in studying and promoting the options market. Though academic institutions and researchers have need for granular options data sets, they do not trade upon the data for which they subscribe. The Exchange believes the proposed reduced fees for qualifying academic purchasers of Historical Open-Close Data will encourage and promote academic studies of its market data by academic institutions. In order to qualify for the academic pricing, an academic purchasers must be (1) an accredited academic institution, (2) that will use the data in independent academic research, academic journals and other publications, teaching and classroom use, or for other bona fide educational purposes (*i.e.* academic use). Furthermore, use of the data must be limited to faculty and students of the accredited academic institution, and any commercial or profit-seeking usage is excluded. Academic pricing will not be provided to any purchaser whose research is funded by a securities industry participant. Cboe LiveVol subscriber policies will be updated to reflect the academic discount program, and academic institutions interested in qualifying will be required to submit a brief application. Cboe LiveVol Business Development will have the discretion to review and approve such applications and request additional information when it deems necessary.

The Exchange notes that other exchanges currently offer academic discounts for similar data feeds.[4] The Exchange recognizes the high value of academic research and educational instruction and publications, and believes that the proposed academic discount for Historical Open-Close Data will encourage the promotion academic research of the options industry, which will serve to benefit all market participants while also opening up a new potential user base among students. Finally, the Exchange notes that academic purchasers' subscriptions to Historical Open-Close Data are educational in use and purpose, and not vocational.

Lastly, the Exchange proposes to relocate the current Open-Close Data pricing schedule available on DataShop, along with the proposed academic discount, to its Exchange Fees Schedule, under the LiveVol Fees Table. The Open-Close Data will continue to be made available on DataShop. The Exchange proposes to change the format of the Open-Close Data of all Cboe securities received by a purchaser from a DVD to a download, noting that file sizes larger than 500GB will be shipped to the purchaser on a hard drive. The Exchange notes that this is the current process in which a purchaser receives Historical Open-Close Data via the DataShop website. As such, the proposed change does not substantively change the pricing schedule, but rather reflects the format in which purchasers are currently receiving Historical Open-Close Data via the DataShop website. As such, the Exchange notes no substantive changes are being made by relocating the pricing information, but rather believes the Open-Close Data fees would be better situated among the Exchange's current LiveVol Fees Table in the Exchange's Fees Schedule.

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

[3] Available at: *https://datashop.cboe.com/*.

[4] *See* Securities Exchange Act Release No. 67955 (October 1, 2012) 77 FR 61037 (October 5, 2012) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Reduced Fees for Historical ISE Open/Close Trade Profile Intraday Market Data Offering) (SR–ISE–2012–76); Securities and Exchange Act Release 34–60654 (September 11, 2009) 74 FR 47848 (September 17, 2009) (Notice of Filing of Proposed Rule Change Relating to Historical ISE Open/Close Trade Profile Fees) (SR–ISE–2009–64); Securities Exchange Act Release No. 53770 (May 8, 2006) 71 FR 27762 (May 12, 2006) (Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To Establish an Annual Administrative Fee for Market Data Distributors That Are Recipients of Nasdaq Proprietary Data Products) (SR–NASD–2006–030).

Section 6(b) of the Act.[5] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] 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)[7] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the discount for qualifying academic purchasers of the annual subscription to Historical Open-Close Data is reasonable because academic institutions are not able to monetize access to the data as they do not trade on the data set. The Exchange believes the proposed discount will allow for more academic institutions to purchase Historical Open-Close Data, and, as a result, promote research and studies of the options industry to the benefit of all market participants. The Exchange believes that the proposed discount is equitable and not unfairly discriminatory because it will apply equally to all academic institutions that submit an application and meet the accredited academic institution and academic use criteria. As stated above, qualified academic users will subscribe to the data set for educational use and purposes and are not permitted to use the data for commercial or monetizing purposes, nor can qualify if they are funded by an industry participant. As a result, the Exchange believes the proposed discount is equitable and not unfairly discriminatory because it maintains equal treatment for all industry participants or other subscribers that use the data for vocational, commercial or other for-profit purposes. Additionally, the Exchange believes its proposal to adopt the pricing schedule for Open-Close Data under its Fees Schedule is reasonable and equitable because maintaining the pricing information for Cboe proprietary data in a fee schedule in a centralized location on the main Cboe website[8] reduces confusion for investors and allows for easier access to such pricing for all market participants. Furthermore, the Exchange believes the proposed change from a purchaser's receipt of a DVD to a download of Historical Open-Close Data is reasonable and equitable because it reflects the format in which purchasers are already receiving such data via the DataShop website. As a result, this change will reduce confusion for all investors once the Open-Close pricing information is adopted under the Exchange's Fee Schedule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change will apply to all qualifying academic purchasers uniformly. While the proposed fee reduction applies only to qualifying academic purchasers, academic institutions' research and publications as a result of access to historical market data benefits all market participants. The Exchange also does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as other options exchanges currently offer similar historical data to academic institutions at a discounted price. Offering a discount for qualifying academic institutions that purchase the Exchange's Historical Open-Close Data may make that data more attractive to such academic institutions and further increase competition with exchanges that offer similar historical data products.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and paragraph (f) of Rule 19b–4[10] 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–2019–026 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–2019–026. 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

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *Id.*

[8] Available at: *http://www.cboe.com/trading-resources/fee-schedules.*

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f).

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–2019–026 and should be submitted on or before June 5, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–09965 Filed 5–14–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85820; File No. SR–NYSEArca–2019–30]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the NYSE Arca Options Fee Schedule

May 9, 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 30, 2019, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 modify the NYSE Arca Options Fee Schedule (''Fee Schedule''). The Exchange proposes to implement the fee change effective May 1, 2019. 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 purpose of this filing is to modify the Fee Schedule, effective May 1, 2019, to provide an additional method for Market Makers to qualify for enhanced posting credits in Penny Pilot issues and SPY. The filing will also eliminate a program that is no longer effective.

The Exchange currently provides a number of incentives for Market Makers and Lead Market Makers (collectively, ''Market Makers'') to achieve posting credits that are higher than the base posting credit of $0.28 per contract in Penny Pilot issues and SPY.[4] Among these incentives are enhanced posted liquidity credits based on achieving certain percentages of NYSE Arca Equity daily activity, also known as ''cross-asset pricing.'' Similarly, because the Exchange allows Market Makers to aggregate their volume executed on NYSE Arca with Affiliated or Appointed Order Flow Providers (''OFPs''), Market Makers may encourage an increased level of activity from these participants to qualify for various incentives. As a result, the Exchange becomes a more attractive venue for Customer (and Professional Customer) orders offering enhanced rebates. Pursuant to the Market Maker Penny Pilot and SPY Posting Credit Tiers (the ''Penny Credit Tiers''), Market Maker orders and quotes that post liquidity and are executed on the Exchange earn a base credit of $0.28 per contract, and may be eligible for increased credits based on the participant's activity. Currently, in addition to the base, there are three Penny Credit Tiers, with increasing minimum volume thresholds (as well as increasing credits) associated with each tier: The Select Tier, the Super Tier and the Super Tier II.

The Exchange proposes to add a new (third) alternative qualification volume threshold for Super Tier II, but will not modify the $0.42 per contract credit associated with this Tier.[5] Specifically, the proposed alternative method of qualifying would require a Market Maker to achieve at least 0.10% of Total Customer Average Daily Volume (''TCADV'') from Market Maker posted interest in all issues, plus at least 0.42% of executed Average Daily Volume (''ADV'') of Retail Orders of U.S. Equity Market Share Posted and Executed on NYSE Arca Equity Market.[6] This proposed change seeks to incent Market Makers to achieve this Tier by increasing trading on the equities market (while making the Tier easier to achieve based on a lower minimum threshold for options trading activity).

The Exchange also currently offers a special rate of $0.12 per contract Firm and Broker Dealer orders in manual executions of VXX that are not facilitating a Customer or Professional Customer (the ''Program''). The Exchange has decided to discontinue the Program as it did not attract additional participation or volume to the Exchange and therefore proposes to delete all references to the Program and the associated rate. The proposed change would add clarity, transparency and internal consistency to the program.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act, in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The base credit is available for executions of Market Maker posted interest in Penny Pilot Issues and SPY and has no minimum volume threshold requirement.

[5] The Exchange is not modifying the existing (two) alternative bases for a Market Maker to achieve Super Tier II, which require (1) a Market Maker to execute at least 0.20% of TCADV from Market Maker posted interest in all issues, plus ETP Holder and Market Maker posted volume in Tape B Securities (''Tape B Adding ADV'') that is equal to at least 1.50% of US Tape B consolidated average daily volume (''CADV'') for the billing month executed on NYSE Arca Equity Market; or (2) at least 1.60% of TCADV from Market Maker interest in all issues, with at least 0.90% of TCADV from Market Maker posted interest in all issues.

[6] For purposes of calculating the executed ADV of Retail Orders of U.S. Equity Market Share on the NYSE Arca Equity Market, a Retail Order must qualify for the Retail Order Tier set forth in the NYSE Arca Equities Fee Schedule.

discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed modification to Super Tier II is reasonable, equitable, and not unfairly discriminatory because offering a third alternative qualification basis should encourage more participants to qualify for the various Tiers, particularly those like Super Tier II that have a cross-asset pricing component. The proposed modification to Super Tier II, which would be available to all similarly-situated market participants on an equal and non-discriminatory basis, should incent Market Makers to increase trading on the equities market, while making it easier to meet the requisite volume threshold in options trading for this Tier. The Exchange notes that Market Makers are still eligible to qualify for Super Tier II under the existing alternatives (*see supra* note 5) based on posted Market Maker Electronic volume and overall volume, or by executing Posted Interest coupled with Tape B activity on the NYSE Arca Equity Market. By continuing to provide such alternative methods to qualify for a Tier, and adding an additional method, the Exchange believes the opportunities to qualify for credits is increased, which benefits all participants through increased Market Maker activity. Further, encouraging Market Maker activity on the Exchange would also contribute to the Exchange's depth of book as well as to the top of book liquidity.

To the extent that Market Maker activity that adds liquidity is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange. The resulting increased volume and liquidity would provide more trading opportunities and tighter spreads to all market participants and thus would 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, in general, to protect investors and the public interest.

The Exchange believes the proposed modification is reasonable, equitable and not unfairly discriminatory because it would encourage participants to enhance their order flow to interact with Market Maker orders and quotes, which potential increase in order flow would benefit all market participants by improving order execution and price discovery, which, in turn, promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market and a national market system.

Finally, the proposal to eliminate the Program is reasonable and equitable, and not unfairly discriminatory because the Exchange has decided to discontinue the Program, which is based on business conducted on the Exchange in a particular symbol, and therefore would impact all similarly-situated market participants equally. The Exchange proposes to delete all references to the Program and the associated rate, which would add clarity and transparency to the Fee Schedule making it easier to navigate to the benefit of the investing public.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, 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. Instead, the Exchange believes that the proposed changes would encourage competition, including by attracting additional liquidity to the Exchange, which would continue to make the Exchange a more competitive venue for, among other things, order execution and price discovery. The Exchange does not believe that the proposed changes would impair the ability of any market participants or competing order execution venues to maintain their competitive standing in the financial markets. Further, the incentive would be available to all similarly-situated participants, and, as such, the proposed changes would not impose a disparate burden on competition either among or between classes of market participants and may, in fact, encourage competition.

The proposal to eliminate the Program is reasonable and equitable, and not unfairly discriminatory because the Exchange has decided to discontinue the Program, which is based on business conducted on the Exchange in a particular symbol, and therefore would impact all similarly-situated market participants equally.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [7] of the Act and subparagraph (f)(2) of Rule 19b–4 [8] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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–NYSEArca–2019–30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2019–30. 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

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(2).

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–NYSEArca–2019–30 and should be submitted on or before June 5, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–09967 Filed 5–14–19; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85811; File No. SR–BX–2019–011]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing of Proposed Rule Change To Make Permanent the Pilot Program for the Exchange's Retail Price Improvement Program, Which Is Set To Expire on June 30, 2019

May 9, 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 26, 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.

[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 make permanent the pilot program for the Exchange's Retail Price Improvement (''RPI'') Program (the ''Program'' or ''BX RPI Program''), which is set to expire the earlier of approval of the filing to make this rule permanent or June 30, 2019.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to make permanent the Exchange's pilot RPI Program,[3] currently scheduled to expire the earlier of approval of the filing to make this rule permanent or June 30, 2019.

Background

In November 2014, the Commission approved the RPI Program on a pilot basis.[4] The Program is designed to attract retail order flow to the Exchange, and allow such order flow to receive potential price improvement. The Program is currently limited to trades occurring at prices equal to or greater than $1.00 per share. Under the Program, a class of market participant called a Retail Member Organization (''RMO'') is eligible to submit certain retail order flow (''Retail Orders'')[5] to the Exchange. BX members (''Members'') are permitted to provide potential price improvement for Retail Orders in the form of non-displayed interest that is priced more aggressively than the Protected National Best Bid or Offer (''Protected NBBO'').[6]

The Program was approved by the Commission on a pilot basis running one-year from the date of implementation.[7] The Commission approved the Program on November 28, 2014.[8] The Exchange implemented the Program on December 1, 2014 and the pilot has since been extended for a one-year period twice, as well as for a six-month period twice, with it now scheduled to expire the earlier of approval of the filing to make this rule permanent or June 30, 2019.[9]

Specifically, BX Rule 4780 will be amended to delete 4780(h) that says the Program is a pilot and that it is scheduled to expire the earlier of

[3] Securities Exchange Act Release No. 73702 (November 28, 2014), 79 FR 72049 (December 4, 2014) (SR–BX–2014–048) (''RPI Approval Order''). In addition to approving the RPI Program on a pilot basis, the Commission granted the Exchange's request for exemptive relief from Rule 612 of Regulation NMS, 17 CFR 242.612 (''Sub-Penny Rule''), which among other things prohibits a national securities exchange from accepting or ranking orders priced greater than $1.00 per share in an increment smaller than $0.01. *See id.* As part of this filing, and pursuant to the Exchange's separate written request, the Exchange also requests that the exemptive relief from the Sub-Penny Rule be made permanent. *See* Letter from Jeffrey S. Davis, Vice President and Deputy General Counsel, Nasdaq BX, Inc. to Eduardo A. Aleman, Deputy Secretary, Securities and Exchange Commission dated April 26, 2019.

[4] *See id.*

[5] A ''Retail Order'' is defined in BX Rule 4780(a)(2) by referencing BX Rule 4702, and BX Rule 4702(b)(6) says it is an order type with a non-display order attribute submitted to the Exchange by an RMO. A Retail Order must be an agency order, or riskless principal order that satisfies the criteria of FINRA Rule 5320.03. The Retail Order must reflect trading interest of a natural person with no change made to the terms of the underlying order of the natural person with respect to price (except in the case of a market order that is changed to a marketable limit order) or side of market and that does not originate from a trading algorithm or any other computerized methodology.

[6] The term Protected Quotation is defined in Chapter XII, Sec. 1(19) and has the same meaning as is set forth in Regulation NMS Rule 600(b)(58). The Protected NBBO is the best-priced protected bid and offer. Generally, the Protected NBBO and the national best bid and offer (''NBBO'') will be the same. However, a market center is not required to route to the NBBO if that market center is subject to an exception under Regulation NMS Rule 611(b)(1) or if such NBBO is otherwise not available for an automatic execution. In such case, the Protected NBBO would be the best-priced protected bid or offer to which a market center must route interest pursuant to Regulation NMS Rule 611.

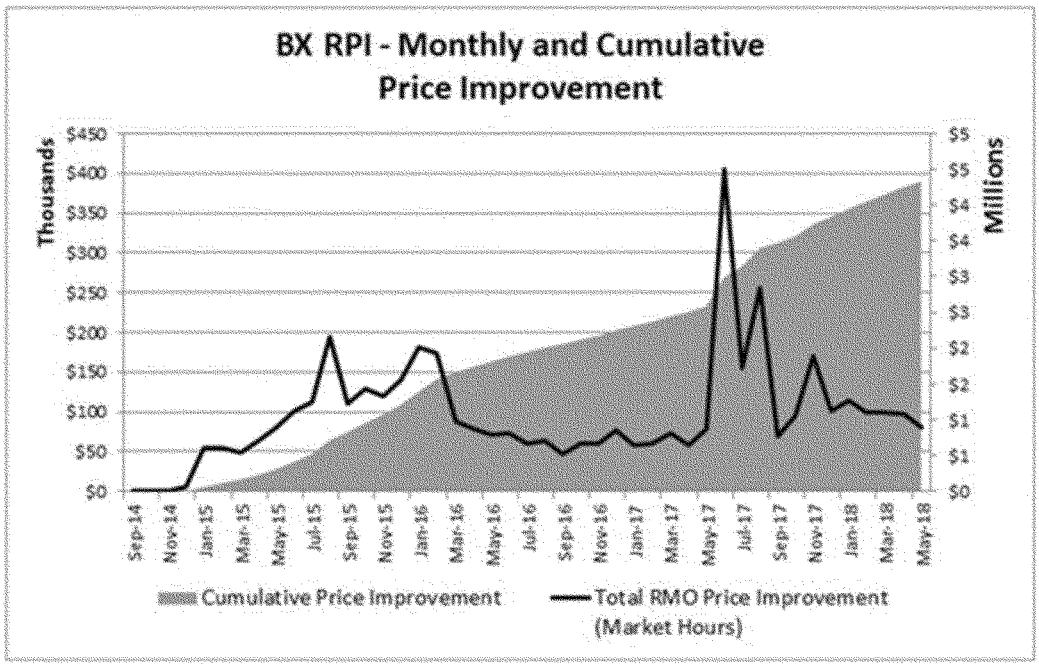
[7] *See* RPI Approval Order, *supra* note 3 at 72053.

[8] *Id.* at 72049.

[9] *See* Securities Exchange Act Release No. 76490 (November 20, 2015), 80 FR 74165 (November 27, 2015) (SR–BX–2015–073); Securities Exchange Act Release No. 79446 (December 1, 2016), 81 FR 88290 (December 7, 2016) (SR–BX–2016–065); Securities Exchange Act Release No. 82192 (December 1, 2017), 82 FR 57809 (December 7, 2017) (SR–BX–2017–055); Securities Exchange Act Release No. 83539 (June 28, 2018), 83 FR 31203 (July 3, 2018) (SR–BX–2018–026); and Securities Exchange Act Release No. 84847 (Dec. 18, 2018), 83 FR 66326 (Dec. 26, 2018) (SR–BX–2018–063).

approval of the filing to make this rule permanent or June 30, 2019. [sic] BX Rule 4780(g) will be amended to include at the end of the subsection that the Program will be limited to securities whose Bid Price on the Exchange is greater than or equal to $1.00 per share. [sic] [10]

The SEC approved the Program pilot, in part, because it concluded, ''the Program is reasonably designed to benefit retail investors by providing price improvement to retail order flow.'' [11] The Commission also found that ''while the Program would treat retail order flow differently from order flow submitted by other market participants, such segmentation would not be inconsistent with Section 6(b)(5) of the Act, which requires that the rules of an exchange are not designed to permit unfair discrimination.'' [12] As the SEC acknowledged, the retail order segmentation was designed to create greater retail order flow competition and thereby increase



the amount of this flow to transparent and well-regulated exchanges. This would help to ensure that retail investors benefit from competitive price improvement that exchange-based liquidity providers provide.

As discussed below, the Exchange believes that the Program supports these conclusions. The Program does not harm retail investors. In fact, so far it has provided price improvement of more than $4 million since inception to retail investors that they may not otherwise have received. As a result, the Exchange believes that it is therefore appropriate to make the pilot Program permanent.

Definitions

The Exchange adopted the following definitions under BX Rule 4780. First, the term ''Retail Member Organization'' (or ''RMO'') is defined as a Member (or a division thereof) that has been approved by the Exchange to submit Retail Orders.

Second, the term ''Retail Order'' is defined by BX Rule 4702(b)(6)(A) as an order type with a non-display order attribute submitted to the Exchange by an RMO. A Retail Order must be an agency Order, or riskless principal Order that satisfies the criteria of FINRA Rule 5320.03. The Retail Order must reflect trading interest of a natural person with no change made to the terms of the underlying order of the natural person with respect to price (except in the case of a market order that is changed to a marketable limit order) or side of market and that does not originate from a trading algorithm or any other computerized methodology.[13]

The criteria set forth in FINRA Rule 5320.03 adds additional precision to the definition of ''Retail Order'' by clarifying that an RMO may enter Retail Orders on a riskless principal basis, provided that (i) the entry of such riskless principal orders meet the requirements of FINRA Rule 5320.03, including that the RMO maintains supervisory systems to reconstruct, in a time-sequenced manner, all Retail Orders that are entered on a riskless principal basis; and (ii) the RMO submits a report, contemporaneously with the execution of the facilitated order, that identifies the trade as riskless principal.

The term ''Retail Price Improving Order'' or ''RPI Order'' or collectively ''RPI interest'' is defined as an Order Type with a Non-Display Order Attribute that is held on the Exchange Book in order to provide liquidity at a price at least $0.001 better than the NBBO through a special execution process described in Rule 4780. An RPI Order may be entered in price increments of $0.001. An RPI Order will be posted to the Exchange Book regardless of its price, but an RPI Order may execute only against a Retail Order, and only if its price is at least $0.001 better than the NBBO.[14] RPI orders can

[10] The Commission notes that the Exchange is not proposing to delete Rule 4780(h) in its entirety. Under the proposed rule change, Rule 4780(h) will state, ''The Program will be limited to securities whose Bid Price on the Exchange is greater than or equal to $1.00 per share.'' Rule 4780(g) will remain unchanged under the proposed rule change.

[11] *See* RPI Approval Order, *supra* note 3 at 72051.

[12] *Id.*

[13] *See supra* note 5.

[14] Exchange systems prevent Retail Orders from interacting with RPI Orders if the RPI Order is not priced at least $0.001 better than the Protected

Continued

be priced either as an explicitly priced limit order or implicitly priced as relative to the NBBO with an offset of at least $0.001.

The price of an RPI Order with an offset is determined by a Member's entry of the following into the Exchange: (1) RPI buy or sell interest; (2) an offset from the Protected NBBO, if any; and (3) a ceiling or floor price. RPI Orders submitted with an offset are similar to other peg orders available to Members in that the order is tied or ''pegged'' to a certain price, and would have its price automatically set and adjusted upon changes in the Protected NBBO, both upon entry and any time thereafter. RPI sell or buy interest typically are entered to track the Protected NBBO, that is, RPI Orders typically are submitted with an offset. The offset is a predetermined amount by which the Member is willing to improve the Protected NBBO, subject to a ceiling or floor price. The ceiling or floor price is the amount above or below which the Member does not wish to trade. RPI Orders in their entirety (the buy or sell interest, the offset, and the ceiling or floor) will remain non-displayed. The Exchange also allows Members to enter RPI Orders that establish the exact limit price, which is similar to a non-displayed limit order currently accepted by the Exchange except the Exchange accepts sub-penny limit prices on RPI Orders in increments of $0.001. The Exchange monitors whether RPI buy or sell interest, adjusted by any offset and subject to the ceiling or floor price, is eligible to interact with incoming Retail Orders.

Members and RMOs may enter odd lots, round lots or mixed lots as RPI Orders and as Retail Orders respectively. As discussed below, RPI Orders are ranked and allocated according to price and time of entry into the BX trading system (''System'') consistent with BX Rule 4757 and therefore without regard to whether the size entered is an odd lot, round lot or mixed lot amount. Similarly, Retail Orders interact with RPI Orders and other price-improving orders available on the Exchange (*e.g.,* non-displayed liquidity priced more aggressively than the NBBO) [15] according to the Priority and Allocation rules of the Program and without regard to whether they are odd lots, round lots or mixed lots. Finally, Retail Orders are designated as Type 1 or Type 2 without regard to the size of the order.

RPI Orders interact with Retail Orders as follows. Assume a Member enters RPI sell interest with an offset of $0.001 and a floor of $10.10 while the Protected NBO is $10.11. The RPI Order could interact with an incoming buy Retail Order at $10.109. If, however, the Protected NBO was $10.10, the RPI Order could not interact with the Retail Order because the price required to deliver the minimum $0.001 price improvement ($10.099) would violate the Member's floor of $10.10. If a Member otherwise enters an offset greater than the minimum required price improvement and the offset would produce a price that would violate the Member's floor, the offset would be applied only to the extent that it respects the Member's floor. By way of illustration, assume RPI buy interest is entered with an offset of $0.005 and a ceiling of $10.112 while the Protected NBBO is at $10.11. The RPI Order could interact with an incoming sell Retail Order at $10.112, because it would produce the required price improvement without violating the Member's ceiling, but it could not interact above the $10.112 ceiling. Finally, if a Member enters an RPI Order without an offset (*i.e.,* an explicitly priced limit order), the RPI Order will interact with Retail Orders at the level of the Member's limit price as long as the minimum required price improvement is produced. Accordingly, if RPI sell interest is entered with a limit price of $10.098 and no offset while the Protected NBBO is $10.11, the RPI Order could interact with the Retail Order at $10.098, producing $0.012 of price improvement. The System will not cancel RPI interest when it is not eligible to interact with incoming Retail Orders; such RPI interest will remain in the System and may become eligible again to interact with Retail Orders depending on the Protected NBBO. RPI Orders are not accepted during halts.

RMO Qualifications and Approval Process

Under BX Rule 4780(b), any Member may qualify as an RMO if it conducts a retail business or routes retail orders on behalf of another broker-dealer. For purposes of BX Rule 4780, conducting a retail business shall include carrying retail customer accounts on a fully disclosed basis. Any Member that wishes to obtain RMO status is required to submit: (i) An application form; (ii) supporting documentation sufficient to demonstrate the retail nature and characteristics of the applicant's order flow [16] and (iii) an attestation, in a form prescribed by the Exchange, that substantially all orders submitted by the Member as a Retail Order would meet the qualifications for such orders under proposed BX Rule 4780(b). The Exchange shall notify the applicant of its decision in writing.

An RMO is required to have written policies and procedures reasonably designed to assure that it will only designate orders as Retail Orders if all requirements of a Retail Order are met. Such written policies and procedures must require the Member to (i) exercise due diligence before entering a Retail Order to assure that entry as a Retail Order is in compliance with the requirements of this rule, and (ii) monitor whether orders entered as Retail Orders meet the applicable requirements. If the RMO represents Retail Orders from another broker-dealer customer, the RMO's supervisory procedures must be reasonably designed to assure that the orders it receives from such broker-dealer customer that it designates as Retail Orders meet the definition of a Retail Order. The RMO must (i) obtain an annual written representation, in a form acceptable to the Exchange, from each broker-dealer customer that sends it orders to be designated as Retail Orders that entry of such orders as Retail Orders will be in compliance with the requirements of this rule, and (ii) monitor whether its broker-dealer customers' Retail Order flow continues to meet the applicable requirements.[17]

NBBO. The Exchange notes, however, that price improvement of $0.001 would be a minimum requirement and Members can enter RPI Orders that better the Protected NBBO by more than $0.001. Exchange systems accept RPI Orders without a minimum price improvement value; however, such interest execute at its floor or ceiling price only if such floor or ceiling price is better than the Protected NBBO by $0.001 or more.

[15] Other price improving liquidity may include, but is not limited to: Booked non-displayed orders with a limit price that is more aggressive than the then-current NBBO; midpoint-pegged orders (which are by definition non-displayed and priced more aggressively than the NBBO); non-displayed orders pegged to the NBBO with an aggressive offset, as defined in BX Rule 4780(a)(4) as Other Price Improving Contra-Side Interest. Orders that do not constitute other price improving liquidity include, but are not limited to: Orders with a time-in-force instruction of IOC; displayed orders; limit orders priced less aggressively than the NBBO.

[16] For example, a prospective RMO could be required to provide sample marketing literature, website screenshots, other publicly disclosed materials describing the retail nature of their order flow, and such other documentation and information as the Exchange may require to obtain reasonable assurance that the applicant's order flow would meet the requirements of the Retail Order definition.

[17] The Exchange or another self-regulatory organization on behalf of the Exchange will review an RMO's compliance with these requirements through an exam based review of the RMO's internal controls.

If the Exchange disapproves the application, the Exchange provides a written notice to the Member. The disapproved applicant could appeal the disapproval by the Exchange as provided in proposed BX Rule 4780(d), and/or reapply for RMO status 90 days after the disapproval notice is issued by the Exchange. An RMO also could voluntarily withdraw from such status at any time by giving written notice to the Exchange.

Failure of RMO To Abide by Retail Order Requirements

BX Rule 4780(c) addresses an RMO's failure to abide by Retail Order requirements. If an RMO designates orders submitted to the Exchange as Retail Orders and the Exchange determines, in its sole discretion, that those orders fail to meet any of the requirements of Retail Orders, the Exchange may disqualify a Member from its status as an RMO. When disqualification determinations are made, the Exchange provides a written disqualification notice to the Member. A disqualified RMO may appeal the disqualification as provided in proposed BX Rule 4780(d) and/or reapply for RMO status 90 days after the disqualification notice is issued by the Exchange.

Appeal of Disapproval or Disqualification

BX Rule 4780(d) provides appeal rights to Members. If a Member disputes the Exchange's decision to disapprove it as an RMO under BX Rule 4780(b) or disqualify it under BX Rule 4780(c), such Member (''appellant'') may request, within five business days after notice of the decision is issued by the Exchange, that the Retail Price Improvement Program Panel (''RPI Panel'') review the decision to determine if it was correct.

The RPI Panel consists of the Exchange's Chief Regulatory Officer (''CRO''), or a designee of the CRO, and two officers of the Exchange designated by the Chief Executive Officer of BX. The RPI Panel reviews the facts and render a decision within the time frame prescribed by the Exchange. The RPI Panel may overturn or modify an action taken by the Exchange and all determinations by the RPI Panel constitute final action by the Exchange on the matter at issue.

Retail Liquidity Identifier

Under BX Rule 4780(e), the Exchange disseminates an identifier when RPI interest priced at least $0.001 better than the Exchange's Protected Bid or Protected Offer for a particular security is available in the System (''Retail Liquidity Identifier''). The Retail Liquidity Identifier is disseminated through consolidated data streams (*i.e.,* pursuant to the Consolidated Tape Association Plan/Consolidated Quotation System, or CTA/CQS, for Tape A and Tape B securities, and The Nasdaq Stock Market, LLC (''Nasdaq'') UTP Plan for Tape C securities) as well as through proprietary Exchange data feeds.[18] The Retail Liquidity Identifier reflects the symbol and the side (buy or sell) of the RPI interest, but does not include the price or size of the RPI interest. In particular, CQS and UTP quoting outputs include a field for codes related to the Retail Liquidity Identifier. The codes indicate RPI interest that is priced better than the Exchange's Protected Bid or Protected Offer by at least the minimum level of price improvement as required by the Program.

Retail Order Designations

Under BX Rule 4780(f), an RMO can designate how a Retail Order interacts with available contra-side interest as provided in Rule 4702.

A Type 1-designated Retail Order will attempt to execute against RPI Orders and any other orders on the Exchange Book with a price that is (i) equal to or better than the price of the Type-1 Retail Order and (ii) at least $0.001 better than the NBBO. A Type-1 Retail Order is not routable and will thereafter be cancelled.

A Type 2-designated Retail Order will first attempt to execute against RPI Orders and any other orders on the Exchange Book with a price that is (i) equal to or better than the price of the Type-2 Retail Order and (ii) at least $0.001 better than the NBBO and will then attempt to execute against any other order on the Exchange Book with a price that is equal to or better than the price of the Type-2 Retail Order, unless such executions would trade through a Protected Quotation. A Type-2 Retail Order may be designated as routable.

Priority and Order Allocation

Under BX Rule 4780(g), competing RPI Orders in the same security are ranked and allocated according to price then time of entry into the System. Executions occur in price/time priority in accordance with BX Rule 4757. Any remaining unexecuted RPI interest remain available to interact with other incoming Retail Orders if such interest is at an eligible price. Any remaining unexecuted portion of the Retail Order will cancel or execute in accordance with BX Rule 4780(f). The following example illustrates this method:

- Protected NBBO for security ABC is $10.00–$10.05
- Member 1 enters an RPI Order to buy ABC at $10.015 for 500
- Member 2 then enters an RPI Order to buy ABC at $10.02 for 500
- Member 3 then enters an RPI Order to buy ABC at $10.035 for 500

An incoming Retail Order to sell 1,000 shares of ABC for $10.00 executes first against Member 3's bid for 500 at $10.035, because it is the best-priced bid, then against Member 2's bid for 500 at $10.02, because it is the next best-priced bid. Member 1 is not filled because the entire size of the Retail Order to sell 1,000 is depleted. The Retail Order executes against RPI Orders in price/time priority.

However, assume the same facts above, except that Member 2's RPI Order to buy ABC at $10.02 is for 100. The incoming Retail Order to sell 1,000 executes first against Member 3's bid for 500 at $10.035, because it is the best-priced bid, then against Member 2's bid for 100 at $10.02, because it is the next best-priced bid. Member 1 then receives an execution for 400 of its bid for 500 at $10.015, at which point the entire size of the Retail Order to sell 1,000 is depleted.

As a final example, assume the same facts as above, except that Member 3's order was not an RPI Order to buy ABC at $10.035, but rather, a non-displayed order to buy ABC at $10.03. The result would be similar to the result immediately above, in that the incoming Retail Order to sell 1,000 executes first against Member 3's bid for 500 at $10.03, because it is the best-priced bid, then against Member 2's bid for 100 at $10.02, because it is the next best priced bid. Member 1 then receives an execution for 400 of its bid for 500 at $10.015, at which point the entire size of the Retail Order to sell 1,000 is depleted.

All Regulation NMS securities traded on the Exchange are eligible for inclusion in the RPI Program. The Exchange limits the Program to trades occurring at prices equal to or greater than $1.00 per share. Toward that end, Exchange trade validation systems prevent the interaction of RPI buy or sell interest (adjusted by any offset) and Retail Orders at a price below $1.00 per

[18] The Exchange notes that the Retail Liquidity Identifier for Tape A and Tape B securities are disseminated pursuant to the CTA/CQS Plan. The identifier is also available through the consolidated public market data stream for Tape C securities. The processor for the Nasdaq UTP quotation stream disseminates the Retail Liquidity Identifier and analogous identifiers from other market centers that operate programs similar to the RPI Program.

share.[19] For example, if there is RPI buy interest tracking the Protected NBB at $0.99 with an offset of $0.001 and a ceiling of $1.02, Exchange trade validation systems would prevent the execution of the RPI Order at $0.991 with a sell Retail Order with a limit of $0.99. However, if the Retail Order was Type 2 as defined the Program,[20] it would be able to interact at $0.99 with liquidity outside the Program in the Exchange's order book. In addition to facilitating an orderly [21] and operationally intuitive program, the Exchange believes that limiting the Program to trades equal to or greater than $1.00 per share enabled it better to focus its efforts to monitor price competition and to assess any indications that data disseminated under the Program is potentially disadvantaging retail orders. As part of that review, the Exchange produced data throughout the pilot, which included statistics about participation, the frequency and level of price improvement provided by the Program, and any effects on the broader market structure.

Rationale for Making the Program Pilot Permanent

The Exchange established the RPI Program in an attempt to attract retail order flow to the Exchange by providing an opportunity price improvement to such order flow. The Exchange believes that the Program promotes transparent competition for retail order flow by allowing Exchange members to submit RPI Orders [22] to interact with Retail Orders. BX also believes that such competition promotes efficiency by facilitating the price discovery process and generating additional investor interest in trading securities, thereby promoting capital formation and retail investment opportunities. The Program will continue to be limited to trades occurring at prices equal to or greater than $1.00 per share.

The Exchange believes, in accordance with its filing establishing the pilot Program, which BX did ''produce data throughout the pilot, which will include statistics about participation, the frequency and level of price improvement provided by the Program, and any effects on the broader market structure.'' [23] The Exchange has fulfilled this obligation through the reports and assessments it has submitted to the Commission since the implementation of the pilot Program.

The SEC stated in the RPI Approval Order that the Program could promote competition for retail order flow among execution venues, and that this could benefit retail investors by creating additional well-regulated and transparent price improvement opportunities for marketable retail order flow, most of which is currently executed in the Over-the-Counter (''OTC'') markets without ever reaching a public exchange.[24] The Exchange believes that the Program does not harm retail investors and so far has provided price improvement of more than $4 million since inception to retail investors that they may not otherwise have received. The data demonstrates that the Program has continued to grow over time and the Exchange has not detected any negative impact to market quality. The Exchange also has not received any complaints or negative feedback concerning the Program.

As seen in the table below, RMO orders and shares executed have continued to rise since the introduction of the Program in December 2014. RMO executed share volume on BX accounted for 0.05% of total consolidated volume in eligible U.S. listed securities in Q4 2017. Despite its size relative to total consolidated trading, however, the Program has continued to provide some price improvement to RMO orders each month with total price improvement during market hours from the start of the Program through May 2018 totaling over $4.3 million.

Retail orders are routed by sophisticated brokers using systems that seek the highest fill rates and amounts of price improvement. These brokers have many choices of execution venues for retail orders. When they choose to route to the Program, they have determined that it is the best opportunity for fill rate and price improvement at that time.

Month	Total RMO orders (market hours)	RMO shares executed (market hours)	Total RMO price improvement (market hours)
Sep–14	0	0	$0
Oct–14	0	0	0
Nov–14	0	0	0
Dec–14	4,003	521,587	6,572
Jan–15	66,903	9,723,791	55,480
Feb–15	71,204	12,948,664	54,769
Mar–15	62,216	10,818,042	49,232
Apr–15	75,558	12,121,577	63,247
May–15	98,859	16,723,281	81,268
Jun–15	116,570	20,341,305	100,520
Jul–15	133,917	22,310,364	111,657
Aug–15	192,546	30,011,636	194,706
Sep–15	141,496	23,199,937	110,415
Oct–15	148,414	25,745,772	128,838
Nov–15	123,267	20,788,967	120,037
Dec–15	145,022	24,414,783	140,444

[19] As discussed above, the price of an RPI is determined by a Member's entry of buy or sell interest, an offset (if any) and a ceiling or floor price. RPI sell or buy interest typically tracks the Protected NBBO.

[20] Type 2 Retail Orders are treated as IOC orders that execute against displayed and non-displayed liquidity in the Exchange's order book where there is no available liquidity in the Program. Type 2 Retail Orders can either be designated as eligible for routing or as non-routable, as described above.

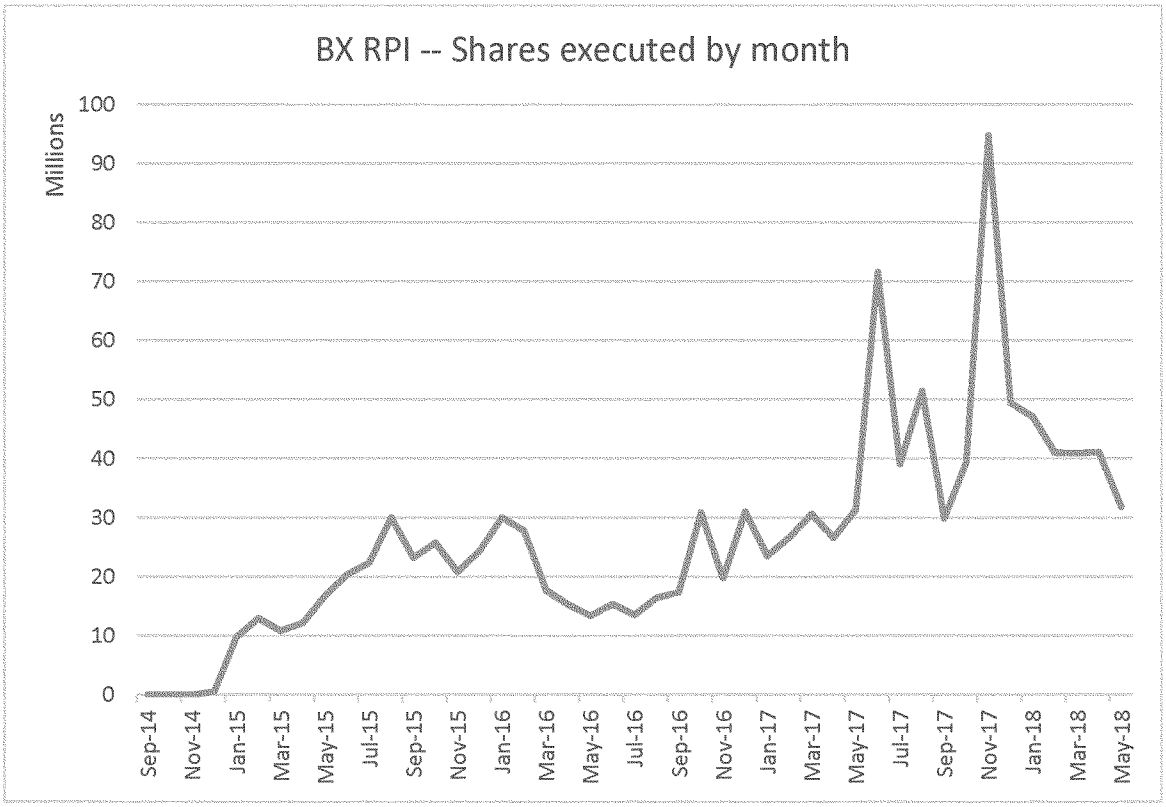
[21] Given the proposed limitation, the Program would have no impact on the minimum pricing increment for orders priced less than $1.00 and therefore no effect on the potential of markets executing those orders to lock or cross. In addition, the non-displayed nature of the liquidity in the Program simply has no potential to disrupt displayed, protected quotes. In any event, the Program would do nothing to change the obligation of exchanges to avoid and reconcile locked and crossed markets under NMS Rule 610(d).

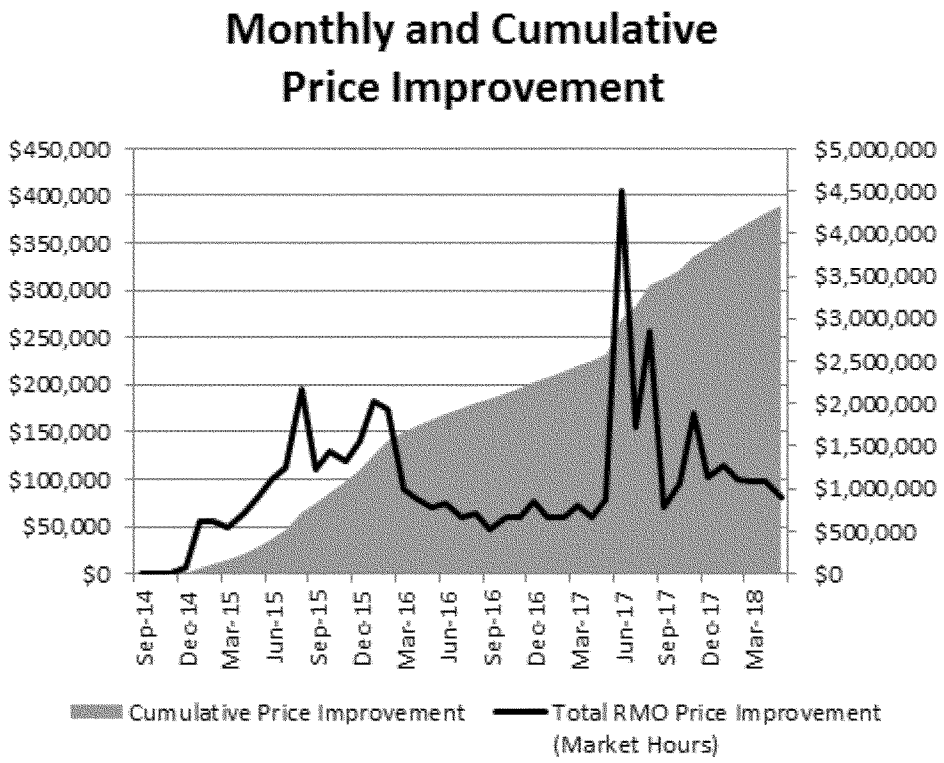
[22] A Retail Price Improvement Order is defined in BX Rule 4780(a)(3) by referencing BX Rule 4702 and BX Rule 4702(b)(5) says that it is as an order type with a non-display order attribute that is held on the Exchange Book in order to provide liquidity at a price at least $0.001 better than the NBBO through a special execution process described in Rule 4780.

[23] *See* Securities Exchange Act Release No. 73410 (October 23, 2014), 79 FR 64447 at 64450 (SR–BX–2014–048).

[24] RPI Approval Order, 79 FR at 72053.

Month	Total RMO orders (market hours)	RMO shares executed (market hours)	Total RMO price improvement (market hours)
Jan–16	162,025	30,010,815	181,781
Feb–16	135,409	27,794,644	173,988
Mar–16	93,729	17,688,230	88,900
Apr–16	82,819	15,269,513	78,241
May–16	70,192	13,336,738	71,145
Jun–16	76,092	15,356,152	74,035
Jul–16	65,121	13,532,803	59,305
Aug–16	78,611	16,412,113	64,231
Sep–16	84,240	17,368,907	46,792
Oct–16	146,207	30,827,361	60,624
Nov–16	103,046	19,744,407	60,391
Dec–16	168,638	31,003,843	76,025
Jan–17	140,203	23,474,999	58,887
Feb–17	139,447	26,643,083	59,372
Mar–17	161,154	30,595,963	73,250
Apr–17	126,665	26,587,486	59,141
May–17	143,927	31,368,371	78,979
Jun–17	332,266	71,569,426	405,933
Jul–17	210,309	39,061,892	155,669
Aug–17	266,762	51,442,492	255,999
Sep–17	154,846	29,831,646	69,634
Oct–17	205,399	39,409,251	95,051
Nov–17	370,064	94,703,209	169,738
Dec–17	219,528	49,424,240	102,082
Jan–18	248,419	47,080,453	113,956
Feb–18	263,576	40,979,066	100,148
Mar–18	597,460	40,896,277	98,779
Apr–18	1,095,396	41,067,806	97,015
May–18	1,031,527	31,843,167	81,199
Total	8,353,052	1,193,994,059	4,327,477





The table below shows that between April 2017 and May 2018, roughly 50% of RMO orders were for 100 shares or less and around 70% of orders were for 300 shares or less. Larger orders of 7,500 shares or more accounted for approximately 2%, ranging from 0.62% to 3.09%. Although large order were a small percentage of total orders, they make up a significant portion of total shares ordered, ranging from 21.11% to 46.22%. Orders of 300 shares or less, which accounted for the vast majority of total RMO orders, accounted for only between 4.81% and 15.38% of total shares ordered.

DISTRIBUTION OF RMO ORDERS BY ORDER SIZE

Month	<=100 (percent)	101–300 (percent)	301–500 (percent)	501–1,000 (percent)	1,001–2,000 (percent)	2,001–4,000 (percent)	4,001–7,500 (percent)	7,500–15,000 (percent)	>15,000 (percent)
Apr–17	49.50	18.53	8.67	9.47	5.69	3.84	2.24	1.38	0.69
May–17	46.55	23.79	8.25	8.42	5.26	3.71	2.12	1.29	0.62
Jun–17	59.60	13.26	6.62	7.91	4.75	3.48	2.36	1.52	0.51
Jul–17	57.30	14.61	7.32	8.50	5.17	3.28	2.00	1.19	0.65
Aug–17	56.38	15.19	7.54	8.49	5.23	3.41	1.91	1.22	0.63
Sep–17	53.16	16.29	7.69	8.79	5.71	4.05	2.22	1.38	0.70
Oct–17	54.28	16.00	7.46	8.65	5.64	3.84	2.15	1.33	0.66
Nov–17	47.76	15.30	8.19	10.23	7.38	5.10	2.95	2.04	1.06
Dec–17	48.66	15.30	8.27	10.34	6.99	4.82	2.79	1.87	0.98
Jan–18	53.60	14.93	7.73	9.20	5.98	4.04	2.28	1.53	0.71
Feb–18	58.44	14.58	7.14	8.02	4.93	3.29	1.91	1.14	0.55
Mar–18	55.29	17.97	8.63	8.38	5.12	2.64	1.07	0.61	0.28
Apr–18	54.52	19.12	9.04	8.31	5.02	2.50	0.87	0.42	0.19
May–18	50.44	20.21	9.89	9.10	5.77	2.88	0.96	0.50	0.26

DISTRIBUTION OF RMO SHARES ORDERED BY ORDER SIZE

Month	<=100 (percent)	101–300 (percent)	301–500 (percent)	501–1,000 (percent)	1,001–2,000 (percent)	2,001–4,000 (percent)	4,001–7,500 (percent)	7,500–15,000 (percent)	>15,000 (percent)
Apr–17	3.04	4.63	4.42	8.78	10.06	12.89	13.89	16.06	26.23
May–17	3.28	6.49	4.49	8.34	9.98	13.38	14.28	16.05	23.71
Jun–17	2.47	3.78	3.95	8.89	10.15	13.74	17.06	20.07	19.88
Jul–17	2.82	4.20	4.36	9.31	10.78	12.94	14.44	16.47	24.67
Aug–17	2.80	4.28	4.42	9.21	10.84	13.21	13.55	16.63	25.08
Sep–17	2.88	4.16	3.98	8.36	10.50	14.04	14.17	16.78	25.14
Oct–17	2.89	4.31	4.09	8.73	11.02	14.04	14.49	17.11	23.32
Nov–17	1.80	3.01	3.26	7.48	10.45	13.51	14.27	18.89	27.33
Dec–17	2.00	3.17	3.48	8.02	10.45	13.46	14.18	18.35	26.91

DISTRIBUTION OF RMO SHARES ORDERED BY ORDER SIZE—Continued

Month	<=100 (percent)	101–300 (percent)	301–500 (percent)	501–1,000 (percent)	1,001–2,000 (percent)	2,001–4,000 (percent)	4,001–7,500 (percent)	7,500–15,000 (percent)	>15,000 (percent)
Jan–18	2.50	3.78	4.01	8.82	11.05	13.94	14.30	18.35	23.26
Feb–18	3.25	4.52	4.52	9.34	11.08	13.87	14.53	16.86	22.02
Mar–18	5.73	6.96	6.80	12.44	14.90	14.65	11.00	12.34	15.17
Apr–18	7.27	8.11	7.84	13.68	16.23	15.46	10.29	9.51	11.61
May–18	6.31	7.54	7.50	13.09	16.40	15.66	10.00	9.80	13.70

DISTRIBUTION OF RMO SHARES EXECUTED BY ORDER SIZE

Month	<=100 (percent)	101–300 (percent)	301–500 (percent)	501–1,000 (percent)	1,001–2,000 (percent)	2,001–4,000 (percent)	4,001–7,500 (percent)	7,500–15,000 (percent)	>15,000 (percent)
Apr–17	11.39	15.32	11.28	16.25	12.77	10.87	9.27	9.25	3.61
May–17	10.86	20.10	10.47	13.77	11.37	10.58	8.96	9.44	4.45
Jun–17	7.65	10.05	8.48	14.31	11.28	11.85	12.00	18.69	5.68
Jul–17	10.07	12.67	10.18	15.57	12.94	11.79	9.97	10.27	6.56
Aug–17	9.93	12.98	10.89	17.05	14.16	11.94	9.38	8.23	5.45
Sep–17	11.36	13.46	10.12	16.01	13.80	13.07	8.60	8.61	4.97
Oct–17	10.83	13.37	10.07	16.40	14.46	12.48	9.47	7.96	4.96
Nov–17	7.04	10.64	10.14	19.81	18.19	13.96	9.04	7.10	4.09
Dec–17	8.25	11.27	10.37	19.49	17.05	13.33	8.82	7.13	4.28
Jan–18	9.93	12.43	10.92	19.37	16.07	12.66	8.49	6.49	3.64
Feb–18	12.63	14.31	11.81	19.45	15.07	11.22	6.81	5.55	3.16
Mar–18	13.92	15.35	11.92	19.14	14.77	10.05	6.35	5.49	3.00
Apr–18	14.81	15.76	11.86	18.35	13.47	10.21	6.75	5.41	3.39
May–18	13.65	15.78	12.38	18.77	13.92	10.57	6.25	5.27	3.40

The table below shows the average and median sizes of RMO removing orders.

AVERAGE AND MEDIAN RMO SIZES

Year	RMO taking order size	
	Avg	Median
Apr–17	863	111
May–17	802	180
Jun–17	743	82
Jul–17	739	100
Aug–17	753	100
Sep–17	841	100
Oct–17	793	100
Nov–17	1,103	150
Dec–17	1,044	132
Jan–18	844	100
Feb–18	690	100
Mar–18	512	100
Apr–18	454	100
May–18	517	100

The data provided by the Exchange describes a valuable service that delivers some price improvement in a transparent and well-regulated environment. The Program represents just a fraction of retail orders, most of which are executed off-exchange by a wide range of order handling services that have considerably more market share and which operate pursuant to different rules and regulatory requirements. BX found no data or received any customer feedback that indicated any negative impact of the Program on overall market quality or for retail investors.

As discussed herein, the Program is a minor participant in the overall market to price improve marketable retail order flow. As the Exchange has noted, although participation was low, retail investors that participated in the Program received price improvement on their orders, which was one of the stated goals of the Program. The Exchange, therefore, believes that this pilot data supports making the Program permanent.

As discussed more fully below, the reports and assessments provided by the Exchange to the SEC have covered (i) the economic impact of the Program on the entire market; (ii) the economic impact of the Program on execution quality; (iii) whether only eligible participants are accessing Program liquidity; (iv) whether the Program is attracting retail participants; (v) the net benefits of the Program on participants; (vi) the overall success in achieving intended benefits; and (vii) whether the Program can be improved.

1. Economic Impact of the RPI Program on the Entire Market

The following table illustrates the level of volume done through the Program relative to consolidated volume. The columns labeled 'Daily Results' show the distribution of the percentage of RPI to consolidated volume for all stock/date combinations during 2017–2018. Only stock/date combinations with positive consolidated volume are represented. The table shows that the overwhelming number of stock/date combinations are those in which BX RPI volume was less than 0.01% of consolidated volume. In most of these cases, BX RPI volume was zero. In only a comparative handful of cases does the percentage amount to a substantial portion of the security's volume.

The columns labeled 'Two-Year Aggregate' present results for stocks summed over the entire two-year period (sum of RPI Program volume to sum of consolidated volume). Only stocks listed during the entire two years are represented. Virtually all stocks have RPI volume less than 0.5% of consolidated volume.

Distribution	Daily results		Two-year aggregate	
	Count	Percentage	Count	Percentage
>50%	22	0.0005	0	0.0000
25%–50%	44	0.0011	0	0.0000
10%–25%	368	0.0090	0	0.0000
5%–10%	1,444	0.0355	0	0.0000
1%–5%	25,730	0.6321	0	0.0000
0.75%–1%	11,835	0.2907	4	0.0542
0.50%–0.75%	22,413	0.5506	10	0.1354
0.25%–0.50%	56,130	1.3789	91	1.2321
0.10%–0.25%	111,937	2.7499	559	7.5684
0.05%–0.10%	105,651	2.5955	951	12.8757
0.01%–0.05%	220,649	5.4206	3,181	43.0680
<0.01%	3,514,320	86.3354	2,590	35.0663

Difference in Difference Analysis

The aim of this analysis was to compare the values of a set of general market metrics prior to the December 2014 introduction of the Program to those prevailing after. The Exchange follows what is commonly termed the 'difference-in-difference' approach (''DnD''). A DnD analysis involves identifying a group of subjects (stocks in this case) that receive a given 'treatment.' In this case, the 'treatment' is the introduction of the BX RPI Program. The Exchange would then observe the change (difference) in a set of empirical indicia of market quality, before and after Program introduction. The analysis is enhanced by observing the intertemporal change in the same indicia for a set of stocks that *did not* receive the treatment. The non-treated stocks would serve as 'controls.' The impact of the Program could therefore be assessed by comparing the pre/post changes in the treated stocks with those from the control stocks, hence the difference in differences. Observed changes in the control stocks would account for environmental effects, such as changes in general market volatility, that are unrelated to the introduction of the BX RPI Program.

The RPI introduction in December 2014 applied to all stocks traded on BX. Thus, control stocks in the strict sense are not available. The Exchange applies therefore a fallback approach, in which it identifies stocks with relatively high levels of RPI participation and use these as the 'treatment' stocks. Those for which Program participation was light serve as the 'control' stocks. The approach suffers from the limitation that Program participation is a determined by endogenous choice. It is possible that stocks with high levels of participation are systematically different from those with low participation. That is, the controls may be different from the treated stocks in important ways. With this caveat in mind, it is nevertheless of interest to see differences in outcomes between the two groups of stocks.

While the treatment and control stocks differ substantially in terms of RPI participation, the validity of the DnD analysis is enhanced to the extent that the two groups are otherwise as similar to each other as possible. To achieve this objective, the Exchange first breaks its analysis into two parts: One dealing with active securities, the other with less active securities. The Exchange's set of active securities are those with consolidated average daily volume (''CADV'') of 500,000 shares or more both before and after Program introduction. The less active group have CADV between 50,000 and 500,000 shares both before and after Program introduction. Then, within each volume grouping, the Exchange conducts a 'matched pairs' process to identify a smaller set of treatment and control groups that are as close to each other as possible across three dimensions: Consolidated average daily share volume, average price, and average time-weighted quoted NBBO dollar spread. The values of these variables prior to Program introduction were used.

Data from the pre-treatment period was obtained from trading during the three months of September through November 2014. The Exchange looks at two post-treatment periods. The first is based on trading from January through December 2015. The second is based on trading from the two years from January 2017 through December 2018. Note that December 2014, the month of Program introduction, is not used. Further, the Exchange excluded data from trading days when the Exchange closed early (such as the day after Thanksgiving) from the analysis.

The overall set of four DnD analyses can be represented and hereafter labeled as follows:

CADV	Post-period dates	
	2015	2018
500,000 or more	I	III
Between 50,000 and 500,000.	II	IV

For each of the four DnD analyses, the specific matched-pairs process employed the following steps:

1. Daily averages for a set of variables are computed for each stock (excluding preferred stocks and warrants) listed on Nasdaq or NYSE for the appropriate pre/post time frames. For the 2017–2018 post-period, stocks trading with a nickel tick size pursuant to the Tick Size Pilot were excluded.

2. The initial universe of stocks are identified as having, in the post period, the appropriate CADV, an average share price greater than $2, positive average daily BX share volume, and being listed during at least 80% of the designated time frame. To exclude stocks that may have experienced stock splits or other extreme price movement, stocks with the 95th and 5th percentile of daily price within the period differed by more than a factor of two were excluded.

3. These stocks are ranked on the percentage of consolidated volume that was done in the Program (in the post period). Selection of the treatment stocks starts with the top 100 stocks in terms of post-introduction RPI Program volume as percentage of consolidated volume for the stock.

4. Pre-period data for the provisional treatment stocks is obtained. During the pre-period, the treatment stocks must also have the appropriate CADV level, an average price greater than $2, positive BX share volume, listed during the entire pre-period, and not have experienced extreme price movement (measured as described in condition 2 above). This process will generally result in fewer than 100 remaining treatment candidates.

5. The candidate control stocks are selected from those with low RPI Program volume as a percentage of consolidated volume. For the two high-volume analyses (I. and III.), the control stocks were selected from stocks whose RPI volume percentage was less than one-tenth that of the lowest RPI percentage from the treatment stocks. For the lower-volume analyses (II. and IV.), the control stocks were selected from stocks whose RPI volume percentage was less than one-fifth that of the lowest RPI percentage from the treatment stocks. This change was made to ensure a sufficient number of control stocks.

6. The control stocks must also have similar restrictions to the treatment stocks in both pre- and post-periods: CADV in the appropriate range, price greater than $2, positive BX volume, sufficient presence, and no extreme price movements during the period.

7. Each treatment stock was compared with each candidate control stock. Using pre-period data, a discrepancy score was computed as:

$$Score = Abs\left(\log\left(\frac{CADV_{Tr}}{CADV_{Cn}}\right)\right) + Abs\left(\log\left(\frac{Price_{Tr}}{Price_{Cn}}\right)\right) + Abs\left(\log\left(\frac{Sprd_{Tr}}{Sprd_{Cn}}\right)\right),$$

where the subscripts *Tr* and *Cn* refer to Treatment and Control values of the indicated variable. In words, the score is the sum of the absolute value of the percentage differences in the indicated values. The lower the score, the closer the match.

8. Each treatment stock was paired with the best possible match, subject to the constraint that a given control stock could be used only once (often termed 'sampling without replacement').

9. Finally, only stock pairs with reasonable discrepancy scores were retained, recognizing the trade-off between quality of the matches and the resulting sample size. For the high-volume/2015 analysis (I.) the discrepancy scores were 1.2 or lower. For the low-volume/2015 analysis (II,), the larger set of control stocks led to an upper bound of 0.6 for the discrepancy score. For both analyses with 2017–18 as the post period (III. and IV.) an upper bound of 2.0 was used, due to a smaller set of potential control stocks.

Once a set of matched pairs was determined for a given analysis, the Exchange computed the DnD result using a standard linear regression framework. A DnD regression model can be expressed as:

$$\gamma_{it} = \alpha + \beta_1 D_{Grp} + \beta_2 D_{Period} + \beta_3 D_{\mathrm{Grp}} \times D_{\mathrm{Prd}} + \varepsilon_{it}$$

where γ_{it} represents the metric of interest for stock *i* in time period *t* (pre or post). The 'dummy' variables D_{Grp} and D_{Prd} are constructed such that $D_{Grp} = 1$ when stock *i* is a treatment stock, and zero otherwise. Variable D_{prd} has value = 1 when the observation is from the post period, zero otherwise. The coefficient β_3 of the interaction term represents the DnD result. Standard regression software provides both the estimated coefficient as well as its standard error and t-statistic. The level of statistical significance can be assessed using the t-statistic.

The Exchange considered eight metrics of interest, all of which were computed during standard 9:30 a.m.–4:00 p.m. (Eastern time) trading hours:

- The time-weighted NBBO quoted spread, measured in dollars;
- The time-weighted NBBO relative (to the bid-ask midpoint) quoted spread, measured in basis points;
- The trade-weighted effective spread of all trades done on BX, measured in dollars;
- The trade-weighted relative effective spread of all trades done on BX, measured in basis points;
- As a measure of short-term volatility, the average high/low range of consolidated trade prices during 5-minute windows. The daily high/low range measure is divided by the VWAP each day to yield a metric measured in percent;
- As another measure of short-term volatility, the average absolute change in consolidated trade-to-trade price changes. The trade-to-trade measure is divided by the VWAP each day to yield a metric measured in percent;
- The average share volume market share of TRF volume, including auctions and all trading hours; and
- The average share volume market share of BX volume, including auctions and all trading hours.

In assessing the results of the DnD analysis, two caveats are worth bearing in mind. As shown above, BX RPI volume represents a very small fraction of consolidated volume. Further, the Program was introduced at a time when similar exchange-based retail programs were already in place. Among those programs was Nasdaq's retail program, which was discontinued at the time the BX RPI Program was introduced. To a large extent, the BX RPI volume replaced that of Nasdaq.

It is also important to recognize that much, if not most, marketable retail order flow is routed to off-exchange market makers. For example, the Exchange examined Rule 606 disclosures from four prominent retail brokerages: E-Trade, TD Ameritrade, Charles Schwab, and Fidelity. For securities listed on the New York Stock Exchange LLC (''NTSE'') in the fourth quarter of 2018, only Fidelity reported routing any market orders to exchanges, and its total exchange percentage was only 2.1%. This practice of routing retail marketable orders to off-exchange venues has been in place for a long time, both before and after the introduction of the Program.

Combining the smallness of the Program, the concurrent discontinuation of the Nasdaq retail program, and the continuing prevalence of off-exchange trading of retail orders, the incremental impact of the Program on market quality generally would not be expected to be large.

A second caveat stems from the way that the treatment and control groups are created. The Exchange observes that some types of stocks have higher BX RPI Program usage than others. For example,

consider Nasdaq- and NYSE-listed securities trading in 2015 with CADV greater than 500,000 shares (a sample of 1,737 stocks, used in analysis I.). The Exchange found the following concerning the percentage of BX RPI volume relative to consolidated volume:

Avg CADV of stock	RPI/consol. (percent)
500,000–1,000,000	0.026
1,000,000–10,000,000	0.015
10,000,000+	0.010

Avg price level	RPI/consol. (percent)
Less than $100	0.017
$100–$200	0.032
$200–$500	0.074
$500+	0.127

This sample shows higher Program percentages for less-active stocks, and much higher percentages for higher-priced stocks. This suggests that RPI usage across stocks does not randomly vary, but is driven by certain stock characteristics, some of which may not be directly observable.

As noted above, Rule 606 disclosures show that the majority of retail market orders are routed off-exchange for execution. BX RPI activity is therefore itself somewhat anomalous in the first place. Why some retail flow reaches exchanges via the Program (or that of similar exchange programs), and why it varies across stocks is not clear.

Since treatment and control stocks are determined on the basis of observed RPI usage—resulting from participant choice—they may be different in important ways. The DnD study attempts to take into account differences in average share volume, price, and spread in the pre-period. If, however, the two groups of stocks are nevertheless still not properly fully matched, it is possible that results drawn from the DnD may be spurious. 'Spurious' in this context means a result that is robust statistically, but nevertheless does not indicate the impact of the intended factor. In other words, a spurious result is caused by some extraneous factor.

Matching Summary

The full set of matched pairs data for each of the four analyses will be provided below, but the following table provides summary information. Shown are the number of matched pairs, and sample averages for the three matching variables. Also shown is the average of the discrepancy score used in the matching process.

MATCHED PAIRS AVERAGES

Analysis	N	Treatment				Control				
		RMO (percent)	ADV	Price	Spread	RMO (percent)	ADV	Price	Spread	Score
I	44	0.0763	1,478,796	$50.79	$0.039	0.0033	1,464,376	$48.28	$0.031	0.492
II	71	0.1534	156,902	26.92	0.062	0.0123	157,105	27.22	0.064	0.264
III	41	0.0531	4,325,804	35.51	0.029	0.0023	3,329,018	38.94	0.019	0.812
IV	49	0.0889	166,435	19.37	0.051	0.0082	179,551	23.95	0.046	0.684

The table again illustrates the low level of Program participation, even for the treatment stocks. The RMO percentages are especially low for the higher volume samples (I and III). As intended, the RMO percentages for the control stocks are much lower still, averaging at least an order of magnitude lower than the treatment stocks.

Other than these differences, the pairs exhibit strong average similarity in terms of the values of the pre-period matching variables. It can be seen that the average quality of matches is lower for the samples using 2017–18 as the post period (III and IV). As noted above, the maximum allowable discrepancy score was increased for these samples, needed to provide for a sample size similar to those of samples I and II.

Regression Results

The following table provides the estimated coefficients for the DnD regressions for the indicated market indicator and sample. In addition to the estimated coefficient, the t-statistic is provided. This statistic can be used to gauge the statistical significance of the coefficient—the confidence that the true value of the coefficient is different than zero. The t-statistics are accompanied, as appropriate, with a set of asterisks indicating the associated level of significance: * = 10%, ** = 5%, and *** = 1%.

It is useful to compare the results across the four samples to assess their consistency.

ANALYSIS SAMPLE

	I.		II.		III.		IV.	
	Coeff	t-stat	Coeff	t-stat	Coeff	t-stat	Coeff	t-stat
NBBO Spreads:								
Dollar	$0.018	***3.16	$0.011	0.93	−$0.003	−0.31	−$0.030	*−1.91
bps	1.52	0.89	4.38	0.99	1.66	0.73	7.27	0.97
BX Effective Spreads:								
Dollar	$0.014	***4.31	$0.008	1.32	−$0.001	−0.32	−$0.008	−1.45
bps	1.84	1.65	3.65	1.06	1.78	0.99	8.75	*1.79
Volatility:								
Hi-Lo Range	−0.001%	−0.02	0.008%	0.38	−0.014%	−0.41	−0.022%	−0.78
Trade-to-Trade	0.003%	0.99	0.009%	1.03	0.004%	1.19	0.023%	1.49
Market Share Change:								
TRF	2.86%	1.36	0.58%	0.24	3.13%	1.87*	1.75%	0.50
BX	0.31%	**2.23	0.42%	**2.02	−0.56%	***−2.7	−0.16%	−0.56

Spreads

Four spread measures are analyzed: NBBO quoted spreads and BX effective spreads, expressed in dollar and bps terms. The table above shows substantial consistency between the NBBO quoted and BX effective spread results across all samples.

Sample I. indicates increases in dollar quoted and effective spreads of about 1½ cents. The results are statistically significant. Relative (bps) spreads also increased about 1½ basis points. The bps spread results do not meet the standards of statistical significance, however. Compared to Sample I, Sample II shows increases in dollar spreads of about the same amount and increases in bps spreads of a higher amount, likely due to the fact that the Sample II stocks tend to have lower share prices. None of the Sample II spread increases meet the standard of statistical significance, however. Both samples III and IV show small decreases in dollar spreads and increases in relative spreads. None of the results from sample III are statistically significant. From sample IV, one of the dollar spread decreases and one of the relative spread increases indicate marginal statistical significance.

Overall, the Exchange does not see sufficient consistency across the four samples to conclude that the introduction of the Program caused spreads to widen.

Volatility

Compared to the spread results, results on short-term volatility are easier to characterize. Across the two metrics and four samples, there is no evidence of a systematic increase or decrease in volatility, some estimates are positive, some negative, and none meet the standards of statistical significance.

Market Share

The market share coefficients are expressed in market share points. For example, a value of 1% means that market share increased by one point (*e.g.,* 30% to 31%). The nearer-term samples I and II suggest statistically significant increases in BX market share of about one-third of a point. This increase may be partially reflective of the transfer of Nasdaq's retail program to BX. The more distant-term samples III and IV show, however, declines in BX share. The regressions on TRF share all produce positive coefficients, though only one has any level of statistical significance. Collectively, it can be safely stated that the introduction of the BX RPI program did not work towards decreasing TRF share. More likely what the results tell us is that the treatment stocks with relatively high RMO volume also had high levels of retail interest generally. As noted above, most retail flow is executed off exchange, hence the increase in TRF share.

I. Active Stocks (CADV > 500,000) and Post-Period = 2015

For this sample, there were 44 matched pairs that emerged from this process. The pairs, along with values of selected variables, pre- and post-Program introduction, are shown as follows:

TABLE 1A—RETAIL PROGRAM MATCHED SAMPLE CADV >500,000

[Sep–Nov 2014]

Treatment stocks					Control stocks				
Symbol	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)	Symbol	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)
ACAD	1,301,549	$26.71	$0.035	13.20	RSPP	1,006,435	$25.41	$0.042	16.44
AFSI	963,827	45.37	0.058	12.53	CNW	1,035,534	47.10	0.027	5.85
ALK	1,421,387	48.80	0.025	5.26	AER	1,420,894	42.73	0.025	5.80
AVGO	2,296,967	84.93	0.042	4.94	DLPH	2,274,323	67.10	0.022	3.28
BDX	1,544,016	122.52	0.039	3.22	SIAL	1,139,858	128.25	0.034	2.81
CAMP	712,958	18.53	0.027	14.71	MIK	633,004	18.48	0.032	17.24
CELG	4,941,261	98.16	0.034	3.52	LYB	5,063,747	98.75	0.028	2.90
CI	1,621,670	95.17	0.033	3.45	MJN	1,416,148	98.05	0.033	3.41
CLX	1,176,737	96.35	0.027	2.77	DTE	1,145,735	78.91	0.024	3.04
COST	2,068,993	130.14	0.031	2.38	ITW	1,952,683	88.27	0.018	2.10
CRZO	1,162,062	51.73	0.069	13.56	JAH	1,115,067	61.48	0.032	5.17
DXCM	639,488	44.44	0.052	11.72	KMT	650,995	40.82	0.029	7.10
ENLK	737,216	30.01	0.050	16.82	MYGN	756,758	36.29	0.054	14.74
FSC	1,199,762	9.10	0.010	11.20	EXG	1,043,356	9.97	0.010	10.18
FSLR	2,507,147	59.85	0.040	6.73	CAM	2,841,939	62.83	0.025	4.05
IBKR	507,360	25.51	0.024	9.42	WERN	542,473	26.12	0.022	8.38
ICLR	582,300	54.93	0.051	9.34	SLH	582,309	55.54	0.042	7.47
ISIS	2,304,953	42.90	0.050	11.87	DO	2,028,802	37.29	0.026	6.93
JACK	550,619	67.89	0.057	8.37	REG	509,779	57.69	0.031	5.39
LAZ	704,069	50.59	0.045	9.02	HDB	834,887	49.84	0.025	5.12
MANH	512,845	35.01	0.037	10.67	MR	610,957	30.32	0.030	9.83
MHK	737,514	139.12	0.084	6.08	SLG	788,370	109.07	0.057	5.28
MNST	1,194,231	96.92	0.051	5.33	EQT	1,625,380	91.54	0.059	6.48
NXPI	4,256,770	68.85	0.031	4.48	CCI	3,275,501	80.56	0.024	2.93
NYMT	1,596,486	7.76	0.010	12.98	PMCS	1,483,102	7.49	0.011	14.09
OLED	709,659	31.24	0.045	14.50	FET	713,162	28.85	0.033	11.66
PSEC	3,891,913	9.79	0.010	10.25	SLM	4,532,083	9.17	0.010	11.09
Q	739,497	56.41	0.039	6.96	OIS	913,560	59.56	0.048	7.97
RMTI	677,364	9.70	0.031	32.18	COUP	770,002	14.10	0.031	22.28
SINA	1,550,979	41.43	0.036	8.79	YPF	1,668,599	33.94	0.031	9.11
SKYW	558,570	9.63	0.018	19.30	BEL	504,230	11.61	0.018	15.88
SMCI	520,354	28.97	0.044	15.62	SERV	594,059	24.05	0.038	15.87
SNCR	615,801	45.95	0.068	14.76	LTRPA	688,159	30.63	0.069	22.17
SPLK	2,740,926	60.05	0.054	9.13	FTI	2,360,200	54.47	0.024	4.39
SWKS	4,301,104	56.96	0.024	4.33	NOV	4,357,777	75.03	0.023	3.04
TASR	3,094,977	17.08	0.017	9.88	LPI	3,200,381	19.98	0.016	8.34

TABLE 1A—RETAIL PROGRAM MATCHED SAMPLE CADV >500,000—Continued

[Sep–Nov 2014]

Treatment stocks					Control stocks				
Symbol	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)	Symbol	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)
TGTX	509,492	11.16	0.036	32.33	MEG	592,554	14.46	0.028	19.67
TSCO	1,270,325	66.28	0.031	4.66	FLS	1,201,366	68.85	0.033	4.74
TUP	527,236	68.49	0.044	6.47	KRC	535,203	63.70	0.037	5.78
UA	2,678,432	67.54	0.032	4.80	NBL	2,781,689	61.96	0.025	4.08
UBNT	1,115,056	36.37	0.051	14.34	ERJ	1,106,399	37.84	0.021	5.52
VDSI	851,633	21.13	0.035	17.03	LQ	827,960	19.86	0.025	12.65
YRCW	750,968	20.65	0.036	17.55	STAY	627,766	21.90	0.029	13.44
ZLTQ	720,533	24.55	0.041	16.88	CTLT	679,346	24.50	0.045	18.20
Avg	1,478,796	50.79	0.039	10.76	Avg	1,464,376	48.28	0.031	8.91

TABLE 1B—RETAIL PROGRAM MATCHED SAMPLE CADV >500,000

[2015]

Treatment stocks							Control stocks						
Symbol	RMO % BX	RMO % Ind	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)	Symbol	RMO % BX	RMO % Ind	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)
ACAD	3.07	0.06	1,448,310	$37.47	$0.050	13.46	RSPP	0.04	0.00	1,491,504	$26.31	$0.037	14.38
AFSI	2.13	0.06	563,733	60.48	0.061	10.07	CNW	0.22	0.00	1,314,088	42.22	0.025	6.04
ALK	3.21	0.07	1,387,460	71.24	0.047	6.49	AER	0.28	0.00	2,093,683	43.92	0.022	4.96
AVGO	2.24	0.06	3,166,689	125.32	0.077	6.18	DLPH	0.20	0.00	2,148,818	80.26	0.033	4.11
BDX	3.08	0.08	1,115,839	143.84	0.065	4.51	SIAL	0.10	0.00	1,009,690	138.89	0.015	1.10
CAMP	3.90	0.07	511,751	18.28	0.028	15.24	MIK	0.17	0.00	769,285	25.40	0.030	11.79
CELG	3.98	0.08	5,171,549	118.39	0.059	4.96	LYB	0.25	0.00	3,973,998	91.43	0.037	4.11
CI	3.06	0.08	2,008,125	134.28	0.073	5.40	MJN	0.21	0.00	1,810,637	89.46	0.038	4.21
CLX	3.17	0.08	891,999	113.19	0.048	4.24	DTE	0.27	0.01	1,090,860	80.57	0.030	3.67
COST	2.32	0.05	2,150,134	147.70	0.051	3.44	ITW	0.16	0.00	1,750,442	92.38	0.025	2.76
CRZO	2.40	0.06	1,330,366	42.86	0.055	13.12	JAH	0.35	0.01	2,179,212	51.58	0.021	4.17
DXCM	2.90	0.08	843,867	75.80	0.094	12.13	KMT	0.29	0.00	940,811	31.32	0.026	8.52
ENLK	2.54	0.06	771,866	21.79	0.047	22.55	MYGN	0.15	0.00	830,603	36.81	0.052	13.95
FSC	2.17	0.06	1,166,959	6.75	0.010	15.32	EXG	0.22	0.00	798,806	9.47	0.010	10.76
FSLR	4.17	0.06	2,388,265	52.34	0.034	6.49	CAM	0.17	0.00	3,147,765	54.73	0.021	3.96
IBKR	4.22	0.09	565,525	37.70	0.037	9.90	WERN	0.31	0.01	706,866	28.13	0.023	8.33
ICLR	2.14	0.08	504,514	69.04	0.108	15.63	SLH	0.23	0.00	1,070,428	50.40	0.034	7.00
ISIS	3.14	0.06	2,342,444	59.10	0.065	11.39	DO	0.29	0.00	2,342,540	26.18	0.023	8.44
JACK	2.34	0.07	633,677	85.40	0.092	10.94	REG	0.10	0.00	580,153	64.77	0.039	6.05
LAZ	3.93	0.10	859,575	50.54	0.053	10.52	HDB	0.29	0.01	914,212	59.33	0.034	5.74
MANH	3.77	0.10	539,552	59.23	0.077	12.82	MR	0.21	0.00	623,598	27.00	0.025	9.47
MHK	3.17	0.09	689,602	187.12	0.182	9.68	SLG	0.12	0.00	702,818	118.81	0.088	7.49
MNST	2.37	0.07	1,228,688	136.21	0.105	7.65	EQT	0.18	0.00	1,556,329	75.25	0.055	7.45
NXPI	2.55	0.06	3,865,611	91.55	0.052	5.71	CCI	0.30	0.01	2,336,521	83.67	0.025	2.97
NYMT	3.82	0.07	1,196,276	7.05	0.010	14.71	PMCS	0.13	0.00	3,442,623	9.05	0.010	12.01
OLED	6.59	0.14	658,991	42.93	0.063	14.81	FET	0.17	0.00	1,113,426	17.10	0.022	13.33
PSEC	3.80	0.07	2,747,484	7.81	0.010	12.96	SLM	0.06	0.00	3,593,895	8.77	0.010	12.01
Q	3.25	0.08	746,869	68.71	0.048	6.98	OIS	0.07	0.00	1,109,903	35.88	0.037	10.89
RMTI	4.62	0.07	726,795	11.47	0.031	27.33	COUP	0.05	0.00	689,630	11.56	0.024	20.81
SINA	3.74	0.06	1,351,205	42.49	0.041	9.53	YPF	0.28	0.00	1,301,107	23.91	0.024	10.05
SKYW	4.56	0.08	540,128	16.11	0.027	17.05	BEL	0.05	0.00	520,858	11.45	0.015	13.50
SMCI	4.34	0.10	623,673	30.57	0.044	14.48	SERV	0.09	0.00	1,084,056	34.47	0.027	7.96
SNCR	3.23	0.08	531,811	42.90	0.066	15.60	LTRPA	0.04	0.00	570,674	29.05	0.034	11.75
SPLK	3.13	0.07	1,908,069	62.58	0.053	8.53	FTI	0.08	0.00	3,385,051	36.74	0.016	4.52
SWKS	7.33	0.13	4,040,788	89.48	0.047	5.24	NOV	0.26	0.00	5,929,343	45.85	0.015	3.23
TASR	4.96	0.06	2,066,379	25.79	0.022	8.55	LPI	0.34	0.00	3,845,352	11.60	0.013	11.79
TGTX	7.27	0.12	597,807	14.62	0.042	29.22	MEG	0.26	0.00	1,314,175	15.20	0.017	11.22
TSCO	4.01	0.10	942,912	87.47	0.063	7.18	FLS	0.33	0.00	1,488,778	50.86	0.025	4.96
TUP	3.09	0.07	583,728	61.66	0.054	8.90	KRC	0.16	0.00	567,612	69.92	0.051	7.33
UA	5.23	0.09	2,652,795	85.27	0.038	4.39	NBL	0.21	0.00	4,862,641	40.75	0.017	4.21
UBNT	3.42	0.06	664,805	31.72	0.048	14.89	ERJ	0.13	0.00	979,065	30.32	0.017	5.58
VDSI	5.87	0.08	1,258,250	22.45	0.037	17.11	LQ	0.09	0.00	1,511,426	20.36	0.014	6.87
YRCW	3.30	0.06	640,874	16.21	0.028	17.65	STAY	0.31	0.01	520,061	18.89	0.028	14.43
ZLTQ	2.71	0.06	598,245	31.73	0.055	17.10	CTLT	0.18	0.00	718,026	28.92	0.040	14.02
Avg	3.64	0.08	1,391,454	62.38	0.054	11.59	Avg	0.19	0.00	1,698,440	44.98	0.028	8.22

II. Less Active Stocks (CADV Between 50,000 and 500,000) and Post-Period = 2015

For this sample, there were 71 matched pairs that emerged from the process. The pairs, along with values of the matching variables (pre-period), are shown as follows:

TABLE 2A—RETAIL PROGRAM MATCHED SAMPLE >50,000 AND <500,000

[Sep–Nov 2014]

Treatment stocks					Control stocks				
Symbol	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)	Symbol	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)
AB	257,695	$26.20	$0.052	19.81	TBI	218,856	$25.33	$0.047	18.60
ACET	201,593	20.49	0.053	26.13	DFRG	213,718	21.87	0.052	23.95
ADC	65,799	29.22	0.072	24.58	ORA	66,867	27.55	0.069	25.05
AFOP	354,650	13.00	0.027	20.64	LQDT	343,166	12.97	0.025	18.91
ALDW	190,282	18.43	0.050	27.26	NEWP	171,264	17.79	0.044	24.54
APU	310,097	45.68	0.046	10.16	WST	306,905	46.65	0.050	10.72
ARII	258,499	70.06	0.171	24.73	AXE	240,764	85.14	0.162	19.11
AVAV	259,080	29.89	0.052	17.50	MBFI	282,952	29.29	0.047	16.12
BEAT	222,665	7.49	0.025	34.28	SPWH	227,710	6.86	0.025	35.76
BIP	218,853	39.85	0.051	12.70	ALE	229,126	48.74	0.049	10.09
BOI	103,890	16.93	0.030	17.74	MMD	101,908	17.98	0.034	18.95
BSTC	51,863	36.16	0.264	73.16	OPB	51,453	29.37	0.201	67.86
BTO	57,833	22.56	0.038	17.08	EMF	59,607	17.77	0.041	23.11
CLFD	75,466	13.16	0.069	52.54	ZPIN	91,340	13.90	0.089	64.59
CLMS	110,782	12.66	0.037	28.97	MHG	111,804	13.89	0.033	23.75
CLMT	313,715	27.57	0.063	23.09	MRKT	401,812	23.98	0.059	24.76
CMP	259,246	86.79	0.108	12.46	SPB	235,834	88.42	0.106	12.00
CODI	217,722	17.82	0.036	20.41	HZO	176,311	17.93	0.036	20.33
CSCD	110,524	10.99	0.056	51.94	UNTD	127,615	11.83	0.046	38.70
CTT	223,611	11.18	0.022	19.48	FLY	205,417	12.99	0.022	17.28
CUI	78,138	7.18	0.045	63.45	CRCM	98,265	8.40	0.047	56.22
CVTI	219,409	18.92	0.076	41.35	KANG	277,438	18.93	0.074	39.12
DBL	78,900	23.75	0.044	18.48	KIO	74,822	17.56	0.043	24.31
EDF	65,045	18.69	0.053	28.45	BCA	71,870	19.26	0.055	28.43
EPAM	395,347	43.65	0.063	14.35	HIBB	415,031	44.48	0.062	13.90
ETB	60,457	15.78	0.023	14.75	ZF	53,909	15.10	0.022	14.95
EZCH	158,140	22.41	0.058	25.94	CMRE	173,076	21.06	0.057	23.49
FDUS	68,041	17.12	0.061	35.44	OKSB	58,803	16.97	0.066	38.50
FGP	160,267	27.28	0.060	22.18	IBOC	172,092	26.03	0.060	23.28
FNHC	271,398	27.32	0.079	28.80	WMS	260,316	21.05	0.066	31.32
GLAD	128,184	9.02	0.026	28.43	IRR	101,145	9.95	0.026	25.71
GLRE	136,838	32.52	0.059	18.18	STC	120,951	32.12	0.061	19.03
GNCMA	193,608	11.39	0.026	22.57	PGI	204,861	11.66	0.025	21.87
GOOD	112,763	17.57	0.031	17.67	CPF	114,830	18.46	0.031	16.70
GSIG	72,335	12.22	0.049	40.42	XOXO	67,052	12.46	0.049	40.03
GSL	66,072	3.78	0.031	85.13	CO	68,003	4.99	0.030	59.74
GSVC	139,253	10.14	0.034	33.84	ICD	135,638	9.33	0.038	43.28
HII	283,916	103.19	0.102	9.93	TFX	243,588	110.37	0.132	12.05
HIIQ	96,520	10.25	0.090	88.44	EDN	94,386	11.67	0.104	89.69
HQH	162,147	29.19	0.042	14.44	COLB	204,528	26.38	0.045	17.12
HQL	103,968	22.85	0.040	17.48	CTY	93,639	23.60	0.036	15.29
IGOV	69,992	99.56	0.179	17.99	KOF	62,191	102.39	0.183	17.93
IXYS	141,164	11.00	0.036	32.65	BPI	133,490	11.62	0.027	23.09
LDP	70,450	24.46	0.048	19.73	DFP	64,754	22.87	0.048	20.82
MAIN	202,931	31.39	0.039	12.33	MLI	201,430	30.24	0.039	13.07
NDP	93,945	24.11	0.067	28.08	ABCB	105,401	23.68	0.070	29.89
NNBR	157,009	24.33	0.074	30.40	CVT	193,466	25.67	0.069	26.96
NTWK	78,357	3.40	0.028	84.86	FCSC	68,500	2.82	0.035	122.37
ORBK	134,253	15.36	0.034	22.01	AHP	142,241	16.22	0.034	20.99
OXLC	80,719	15.90	0.045	28.60	CTS	82,703	17.22	0.044	25.67
PATK	65,356	42.36	0.198	46.71	VRTV	64,527	46.69	0.243	52.21
PEO	103,616	27.93	0.050	18.13	LADR	97,465	18.89	0.057	30.07
PGP	131,368	23.08	0.086	37.58	EXLS	133,974	26.59	0.078	29.49
PICO	71,762	20.61	0.069	33.51	VVI	79,994	22.39	0.065	28.97
PLOW	205,124	20.54	0.035	17.05	CSU	217,750	22.23	0.035	15.69
RDI	69,021	9.43	0.045	48.22	CNCO	75,311	8.59	0.050	59.16
RM	193,431	16.19	0.048	29.46	DL	202,788	14.91	0.053	36.12
RNST	67,326	28.53	0.100	35.11	FBRC	65,432	26.48	0.125	47.49
SIGI	144,844	24.23	0.046	19.12	CCU	144,842	21.38	0.044	20.58
SOCL	122,280	19.37	0.029	15.22	PCN	121,440	16.22	0.027	16.49
SPH	166,532	44.68	0.092	20.53	CCMP	152,708	44.34	0.100	22.72

TABLE 2A—RETAIL PROGRAM MATCHED SAMPLE >50,000 AND <500,000—Continued

[Sep–Nov 2014]

Treatment stocks					Control stocks				
Symbol	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)	Symbol	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)
STON	153,931	25.88	0.054	21.03	FTGC	169,252	29.57	0.057	19.47
TCP	344,465	64.50	0.174	26.97	REX	278,567	76.26	0.216	29.37
TSYS	221,965	2.90	0.015	50.11	NWY	195,275	3.00	0.014	47.97
TYG	139,676	46.69	0.068	14.62	RLI	127,939	46.15	0.073	15.77
TZOO	69,120	14.37	0.053	36.99	TRNO	82,554	20.20	0.053	26.35
USAC	112,111	23.46	0.086	36.95	FCB	112,509	22.70	0.068	30.05
VCIT	350,756	86.24	0.050	5.74	IT	378,372	77.79	0.057	7.36
VICR	102,170	10.56	0.047	46.34	MODN	101,103	9.77	0.040	41.39
VNQI	180,925	55.63	0.065	11.80	TTC	172,945	60.46	0.069	11.38
WLDN	180,819	13.99	0.061	43.65	CTRE	156,847	15.28	0.076	49.33
Avg	156,902	26.92	0.062	29.52	Avg	157,105	27.22	0.064	29.67

TABLE 2B—RETAIL PROGRAM MATCHED SAMPLE CADV >50,000 AND <500,000

[2015]

Treatment stocks							Control stocks						
Symbol	RMO % BX	RMO % Ind	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)	Symbol	RMO % BX	RMO % Ind	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)
AB	4.85	0.10	283,950	$27.72	0.057	20.57	TBI	0.99	0.018	327,753	$25.81	0.043	16.70
ACET	3.36	0.10	194,984	24.10	0.070	29.08	DFRG	0.89	0.020	297,903	17.26	0.040	23.26
ADC	4.02	0.12	111,520	31.60	0.069	21.85	ORA	0.36	0.010	155,890	35.60	0.069	19.55
AFOP	4.21	0.12	187,767	17.48	0.047	26.62	LQDT	0.66	0.018	295,434	8.67	0.023	26.90
ALDW	6.34	0.14	211,968	21.16	0.083	39.15	NEWP	0.70	0.020	166,386	17.51	0.043	24.82
APU	9.81	0.22	241,899	45.41	0.088	19.29	WST	0.47	0.011	326,681	56.83	0.078	13.72
ARII	3.00	0.11	237,155	48.93	0.159	32.51	AXE	0.34	0.012	209,412	68.79	0.144	21.14
AVAV	4.46	0.13	168,446	25.36	0.058	22.75	MBFI	0.47	0.010	325,804	32.33	0.042	13.17
BEAT	7.55	0.17	296,257	11.21	0.033	29.78	SPWH	0.44	0.008	267,713	10.37	0.028	27.50
BIP	5.15	0.14	267,495	42.32	0.052	12.31	ALE	0.78	0.017	270,205	50.93	0.061	12.01
BOI	11.17	0.11	67,209	15.57	0.035	22.31	MMD	1.60	0.010	75,235	18.12	0.033	18.56
BSTC	3.99	0.16	62,235	46.54	0.384	84.03	OPB	0.42	0.010	105,939	33.95	0.148	45.12
BTO	11.38	0.13	63,715	25.43	0.067	25.78	EMF	1.71	0.009	64,025	13.71	0.039	29.43
CLFD	4.73	0.12	62,636	14.74	0.073	49.97	ZPIN	0.00	0.000	115,886	14.97	0.092	60.98
CLMS	4.28	0.12	88,411	11.46	0.037	32.81	MHG	0.23	0.007	92,686	12.50	0.030	23.96
CLMT	11.61	0.27	382,050	25.64	0.068	26.69	MRKT	0.48	0.009	489,213	27.57	0.034	12.38
CMP	3.54	0.13	261,808	85.71	0.117	13.76	SPB	0.59	0.018	305,016	95.53	0.125	13.39
CODI	6.63	0.11	136,610	16.50	0.036	21.86	HZO	0.55	0.014	292,698	20.59	0.046	23.22
CSCD	4.29	0.10	55,917	14.67	0.072	49.56	UNTD	0.68	0.020	139,792	13.95	0.051	37.41
CTT	9.67	0.19	146,655	11.28	0.026	23.10	FLY	0.83	0.015	272,441	14.23	0.026	18.44
CUI	11.61	0.14	89,869	5.88	0.033	55.75	CRCM	0.89	0.013	110,412	6.56	0.033	50.20
CVTI	3.22	0.11	228,099	25.99	0.086	33.45	KANG	0.75	0.020	487,020	17.09	0.077	23.08
DBL	14.29	0.16	80,224	24.61	0.054	22.03	KIO	0.09	0.001	50,652	15.54	0.045	24.89
EDF	8.88	0.13	75,205	14.49	0.046	31.99	BCA	0.19	0.003	69,946	15.52	0.053	35.07
EPAM	4.16	0.12	406,072	68.22	0.118	17.42	HIBB	0.60	0.015	436,936	42.95	0.064	14.94
ETB	17.61	0.16	67,536	15.99	0.036	22.28	ZF	3.71	0.013	51,579	14.40	0.022	15.40
EZCH	4.09	0.11	211,056	20.50	0.045	22.80	CMRE	0.44	0.014	155,171	16.42	0.053	32.86
FDUS	22.17	0.58	55,373	15.15	0.081	53.87	OKSB	0.66	0.018	50,424	17.27	0.083	48.02
FGP	6.51	0.11	308,815	21.93	0.056	25.44	IBOC	0.68	0.018	198,814	26.18	0.066	25.39
FNHC	3.85	0.13	112,184	27.04	0.106	39.41	WMS	0.48	0.010	367,087	28.23	0.056	19.77
GLAD	14.23	0.13	123,421	8.40	0.026	30.82	IRR	1.22	0.004	84,619	7.47	0.028	36.62
GLRE	8.05	0.16	161,813	27.53	0.051	18.79	STC	0.49	0.018	99,664	39.07	0.105	27.08
GNCMA	5.95	0.23	209,254	17.12	0.047	27.32	PGI	0.72	0.016	367,369	11.00	0.025	21.53
GOOD	7.01	0.13	111,685	16.47	0.036	22.37	CPF	0.88	0.018	279,459	22.42	0.036	15.91
GSIG	7.36	0.19	66,110	13.76	0.063	45.96	XOXO	0.64	0.018	96,502	16.14	0.052	32.59
GSL	13.49	0.12	77,050	4.97	0.039	78.15	CO	1.17	0.012	214,376	5.90	0.025	44.07
GSVC	5.92	0.13	106,508	9.66	0.037	38.66	ICD	0.79	0.015	59,744	6.65	0.069	105.07
HII	3.59	0.12	320,027	122.86	0.181	14.90	TFX	0.29	0.008	274,659	126.57	0.161	12.63
HIIQ	9.88	0.13	54,023	5.90	0.062	107.65	EDN	0.01	0.000	71,865	14.27	0.138	97.30
HQH	5.60	0.11	131,438	33.75	0.071	21.24	COLB	0.72	0.017	252,185	30.71	0.053	17.17
HQL	7.91	0.11	72,120	26.93	0.063	23.67	CTY	0.07	0.000	104,496	24.76	0.036	14.70
IGOV	9.75	0.15	64,028	91.31	0.228	24.92	KOF	0.27	0.011	77,285	78.17	0.152	19.49
IXYS	4.77	0.12	158,931	12.29	0.037	30.67	BPI	1.00	0.014	104,923	9.01	0.033	37.18
LDP	12.69	0.18	90,233	23.32	0.041	17.84	DFP	0.53	0.005	58,638	22.84	0.057	24.84
MAIN	11.52	0.18	250,344	30.21	0.039	13.05	MLI	0.76	0.020	169,670	32.97	0.060	18.41
NDP	16.50	0.20	80,808	17.27	0.073	42.22	ABCB	0.72	0.019	174,169	27.51	0.062	23.20
NNBR	4.31	0.11	278,757	22.38	0.066	29.71	CVT	0.55	0.015	201,431	29.61	0.074	24.99
NTWK	31.44	0.18	59,023	5.45	0.054	100.56	FCSC	0.55	0.009	225,454	4.86	0.032	69.06
ORBK	4.99	0.12	200,734	17.83	0.036	20.44	AHP	0.55	0.011	187,416	15.38	0.033	21.60
OXLC	7.91	0.14	94,543	13.68	0.062	46.48	CTS	0.69	0.017	91,415	18.20	0.055	29.86
PATK	3.49	0.11	103,595	46.14	0.195	42.49	VRTV	0.03	0.001	74,483	41.62	0.212	50.66
PEO	8.37	0.12	83,844	21.78	0.060	27.53	LADR	0.40	0.008	148,102	16.48	0.040	24.34
PGP	7.64	0.11	59,681	19.06	0.103	54.99	EXLS	0.36	0.012	166,403	37.01	0.100	27.04

TABLE 2B—RETAIL PROGRAM MATCHED SAMPLE CADV >50,000 AND <500,000—Continued

[2015]

Treatment stocks							Control stocks						
Symbol	RMO % BX	RMO % Ind	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)	Symbol	RMO % BX	RMO % Ind	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)
PICO	8.54	0.24	106,325	14.10	0.052	37.85	VVI	0.58	0.019	88,074	28.13	0.073	26.07
PLOW	3.71	0.11	129,709	21.61	0.056	25.71	CSU	0.42	0.011	211,558	23.61	0.047	20.09
RDI	8.49	0.24	56,701	13.43	0.062	45.66	CNCO	0.46	0.003	83,811	6.80	0.041	61.30
RM	4.55	0.12	91,913	16.20	0.067	39.49	DL	0.28	0.009	126,155	15.56	0.073	47.88
RNST	5.29	0.13	148,755	31.50	0.067	21.21	FBRC	0.33	0.009	50,866	22.22	0.130	59.07
SIGI	4.57	0.12	212,634	30.13	0.053	17.68	CCU	0.34	0.007	138,285	21.45	0.048	22.78
SOCL	10.32	0.24	88,315	19.22	0.051	26.48	PCN	3.92	0.018	108,881	14.36	0.022	15.23
SPH	6.54	0.15	208,257	38.56	0.099	25.93	CCMP	0.52	0.018	145,234	45.64	0.111	24.49
STON	4.23	0.13	160,946	28.62	0.092	32.56	FTGC	0.23	0.003	134,541	23.49	0.053	22.65
TCP	4.12	0.14	171,426	58.19	0.292	52.28	REX	0.40	0.014	162,351	57.40	0.192	33.82
TSYS	3.48	0.11	375,242	3.64	0.014	40.50	NWY	1.34	0.009	94,970	2.45	0.017	71.30
TYG	8.09	0.17	279,394	36.74	0.075	21.32	RLI	0.55	0.020	139,447	53.38	0.113	21.01
TZOO	5.83	0.15	124,874	10.07	0.042	42.08	TRNO	0.37	0.010	178,560	21.55	0.048	22.62
USAC	9.30	0.20	130,583	18.40	0.106	57.48	FCB	0.77	0.019	217,494	30.48	0.061	20.50
VCIT	4.89	0.12	451,992	85.91	0.053	6.15	IT	0.61	0.016	406,922	85.95	0.081	9.42
VICR	7.09	0.18	56,688	11.89	0.070	62.03	MODN	1.11	0.019	91,268	11.19	0.041	36.74
VNQI	13.04	0.33	374,913	54.84	0.055	10.17	TTC	0.63	0.019	265,760	69.75	0.082	11.78
WLDN	9.82	0.23	77,911	12.01	0.064	54.70	CTRE	0.12	0.003	227,593	12.27	0.042	34.08
Avg	7.81	0.15	160,108	26.98	0.075	34.20	Avg	0.68	0.01	183,525	27.80	0.066	29.96

III. Active Stocks (CADV > 500,000) and Post-Period = 2017–2018

For this sample, there were 41 matched pairs that emerged from the process. The pairs, along with values of the matching variables (pre-period), are shown as follows:

TABLE 3A—RETAIL PROGRAM MATCHED SAMPLE CADV >500,000

[Sep–Nov 2014]

Treatment stocks					Control stocks				
Symbol	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)	Symbol	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)
AA	19,848,728	$16.29	$0.010	6.17	ITUB	15,391,611	$15.06	$0.010	6.70
AG	1,868,134	7.10	0.010	15.21	CUZ	1,707,347	12.49	0.010	8.27
AINV	1,804,765	8.30	0.010	12.24	BVN	1,783,634	11.21	0.011	10.10
AMBA	2,103,392	42.35	0.062	14.79	PLD	2,692,357	39.81	0.011	2.90
APO	1,356,506	23.15	0.021	9.23	BRX	1,278,575	23.37	0.017	7.12
AXAS	2,961,152	4.58	0.010	22.80	CIG	5,661,208	6.35	0.010	16.10
BCRX	1,244,583	11.27	0.021	18.89	CLI	899,677	19.58	0.016	8.08
BUD	1,367,716	110.28	0.030	2.76	TOT	1,409,344	60.36	0.023	3.83
BX	4,891,093	31.38	0.014	4.46	COG	6,157,960	32.25	0.012	3.76
CLNE	1,664,000	7.39	0.012	16.09	DRH	1,577,838	13.54	0.010	7.59
CMCM	892,660	20.49	0.057	27.49	MDU	1,080,599	27.56	0.019	6.71
CSIQ	3,978,563	32.55	0.034	10.54	CNQ	4,352,711	37.08	0.012	3.35
DO	2,028,802	37.29	0.026	6.93	HCP	2,538,605	42.25	0.012	2.73
DSX	726,289	8.85	0.012	14.11	FNB	879,836	12.44	0.010	8.36
F	34,678,316	15.13	0.010	6.65	FOXA	13,032,567	34.41	0.010	2.95
FEYE	8,234,032	31.44	0.022	7.22	HST	6,716,845	22.14	0.010	4.62
FNSR	2,320,485	16.88	0.012	7.33	TPH	2,159,710	13.94	0.012	8.68
GME	2,808,482	41.86	0.018	4.25	SNY	2,182,012	51.81	0.018	3.45
GNW	9,907,097	12.24	0.010	8.49	SAN	10,583,634	9.09	0.010	11.05
GRPN	16,296,242	6.85	0.010	14.75	SLM	4,532,083	9.17	0.010	11.09
HAIN	566,626	103.28	0.083	8.09	SLG	788,370	109.07	0.057	5.28
HALO	1,250,394	9.12	0.011	12.49	HTA	1,419,408	12.29	0.010	8.48
IRBT	712,902	33.02	0.045	13.54	LHO	859,601	36.72	0.018	5.05
JWN	1,472,964	70.84	0.025	3.49	ETR	1,607,873	79.55	0.025	3.10
LSCC	1,168,221	6.88	0.011	15.53	RPAI	1,047,067	15.36	0.011	6.95
LYG	3,517,062	4.88	0.010	20.51	GGB	7,013,600	4.81	0.010	21.01
MMP	839,403	82.37	0.094	11.51	AVB	926,288	150.78	0.072	4.79
NOK	18,264,234	8.24	0.010	12.15	BBD	11,667,774	15.32	0.010	6.59
O	2,027,017	44.15	0.014	3.16	NI	2,220,002	40.72	0.013	3.30
OHI	1,490,422	36.76	0.013	3.43	AIV	1,214,436	34.32	0.013	3.71
RCII	819,241	30.46	0.024	7.91	RLJ	735,277	30.37	0.016	5.38
SINA	1,550,979	41.43	0.036	8.79	IBN	1,251,526	54.07	0.024	4.51
SNE	3,075,849	18.86	0.010	5.40	DRE	2,595,753	18.25	0.010	5.62
SPWR	2,347,451	32.45	0.025	7.78	FTI	2,360,200	54.47	0.024	4.39
STX	2,989,069	59.38	0.022	3.76	NBL	2,781,689	61.96	0.025	4.08

TABLE 3A—RETAIL PROGRAM MATCHED SAMPLE CADV >500,000—Continued

[Sep–Nov 2014]

Treatment stocks					Control stocks				
Symbol	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)	Symbol	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)
SYNA	1,066,414	71.57	0.092	12.64	CPT	642,738	72.84	0.031	4.31
TERP	626,425	28.72	0.080	27.81	HR	601,104	25.09	0.015	6.18
UA	2,678,432	67.54	0.032	4.80	EQR	2,303,635	66.21	0.018	2.77
ULTA	1,061,441	116.53	0.092	7.86	BXP	890,862	121.67	0.066	5.45
WPC	525,756	66.30	0.034	5.07	KRC	535,203	63.70	0.037	5.78
X	8,326,606	37.65	0.015	4.14	EXC	6,409,198	34.91	0.011	3.02
Avg	4,325,804	35.51	0.029	10.49	Avg	3,329,018	38.94	0.019	6.27

TABLE 3B—RETAIL PROGRAM MATCHED SAMPLE CADV >500,000

[2017—2018]

Treatment stocks							Control stocks						
Symbol	RMO % BX	RMO % Ind	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)	Symbol	RMO % BX	RMO % Ind	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)
AA	1.30	0.04	4,075,295	$41.33	$0.022	5.27	ITUB	0.04	0.001	12,139,536	$12.55	$0.010	8.11
AG	1.71	0.04	3,361,556	7.04	0.010	14.70	CUZ	0.02	0.001	3,842,736	8.86	0.010	11.51
AINV	1.93	0.06	865,116	6.18	0.011	17.22	BVN	0.02	0.001	1,343,091	13.68	0.012	8.61
AMBA	3.68	0.10	1,006,023	48.50	0.062	12.93	PLD	0.09	0.004	2,672,000	61.33	0.018	2.88
APO	1.38	0.04	1,098,761	29.62	0.030	9.93	BRX	0.07	0.003	3,076,634	18.10	0.011	5.96
AXAS	1.33	0.04	1,492,938	2.15	0.010	48.85	CIG	0.11	0.003	4,402,939	2.48	0.010	41.72
BCRX	1.86	0.06	1,176,068	6.02	0.013	21.42	CLI	0.07	0.003	593,039	22.59	0.019	8.24
BUD	1.22	0.04	1,764,121	105.16	0.032	3.12	TOT	0.09	0.002	1,764,192	55.96	0.012	2.08
BX	2.61	0.05	4,550,664	32.76	0.013	3.94	COG	0.10	0.003	6,100,394	24.46	0.011	4.34
CLNE	1.31	0.04	1,346,149	2.36	0.010	45.01	DRH	0.01	0.000	2,300,351	11.21	0.010	9.17
CMCM	1.85	0.05	1,059,402	10.70	0.023	21.69	MDU	0.06	0.003	842,527	27.03	0.014	5.05
CSIQ	4.27	0.13	1,025,349	14.98	0.021	13.76	CNQ	0.11	0.003	2,808,082	32.12	0.010	3.28
DO	1.05	0.04	2,326,499	15.80	0.013	8.14	HCP	0.08	0.003	3,666,607	27.46	0.011	3.94
DSX	2.44	0.06	589,433	4.02	0.012	29.70	FNB	0.09	0.004	2,706,799	13.63	0.010	7.60
F	1.77	0.05	40,375,950	11.11	0.010	9.11	FOXA	0.13	0.003	10,396,614	35.77	0.010	3.02
FEYE	1.96	0.05	4,768,737	15.54	0.010	6.81	HST	0.03	0.001	6,942,056	19.29	0.010	5.28
FNSR	2.49	0.06	3,459,073	21.85	0.015	6.74	TPH	0.08	0.003	1,937,468	14.46	0.011	7.61
GME	1.35	0.04	3,433,058	18.21	0.011	6.34	SNY	0.05	0.001	1,609,403	44.08	0.011	2.51
GNW	1.76	0.04	4,516,565	3.75	0.010	27.39	SAN	0.10	0.002	6,841,859	6.04	0.010	16.83
GRPN	1.16	0.04	8,719,062	4.22	0.010	24.46	SLM	0.08	0.003	3,172,237	11.18	0.010	9.37
HAIN	1.33	0.04	1,583,844	33.81	0.023	6.98	SLG	0.05	0.002	803,572	100.37	0.074	7.37
HALO	1.60	0.05	1,125,888	16.21	0.021	12.87	HTA	0.06	0.003	1,542,950	28.57	0.013	4.41
IRBT	2.76	0.07	906,753	79.44	0.114	14.03	LHO	0.07	0.003	1,633,753	30.43	0.015	5.08
JWN	1.13	0.04	2,630,160	49.12	0.029	5.96	ETR	0.08	0.003	1,375,231	79.52	0.032	3.97
LSCC	1.27	0.04	983,954	6.48	0.011	16.82	RPAI	0.05	0.002	1,794,420	12.83	0.010	8.10
LYG	1.86	0.06	6,256,365	3.44	0.010	29.36	GGB	0.09	0.002	9,702,367	3.88	0.010	26.36
MMP	1.37	0.05	830,180	69.21	0.060	8.74	AVB	0.08	0.003	680,029	178.52	0.138	7.73
NOK	3.01	0.08	14,759,305	5.62	0.010	17.95	BBD	0.03	0.001	11,438,559	9.63	0.010	10.66
O	1.09	0.04	1,910,582	56.53	0.021	3.69	NI	0.08	0.003	3,013,746	25.14	0.011	4.20
OHI	1.17	0.04	2,090,596	30.98	0.012	3.77	AIV	0.04	0.002	1,089,725	43.30	0.021	4.90
RCII	1.90	0.07	1,785,282	11.67	0.012	10.61	RLJ	0.04	0.002	1,419,592	21.45	0.012	5.44
SINA	2.01	0.07	980,389	88.41	0.105	11.94	IBN	0.07	0.002	7,497,988	9.05	0.010	11.20
SNE	1.21	0.04	983,669	44.35	0.016	3.55	DRE	0.02	0.001	2,533,025	27.60	0.011	3.89
SPWR	3.72	0.10	2,639,031	7.70	0.011	13.99	FTI	0.11	0.003	3,833,234	29.62	0.010	3.52
STX	1.33	0.04	4,569,307	45.84	0.017	3.69	NBL	0.10	0.003	5,080,490	30.49	0.011	3.66
SYNA	1.26	0.04	798,985	45.96	0.064	14.12	CPT	0.07	0.003	589,346	87.99	0.068	7.76
TERP	0.92	0.04	582,896	11.83	0.015	12.75	HR	0.05	0.002	835,377	30.63	0.017	5.58
UA	2.66	0.06	4,079,322	17.47	0.011	6.29	EQR	0.05	0.002	1,868,111	64.58	0.023	3.62
ULTA	1.29	0.04	1,064,638	251.09	0.229	9.18	BXP	0.06	0.003	731,983	124.60	0.097	7.86
WPC	1.41	0.05	521,446	65.49	0.049	7.57	KRC	0.04	0.002	552,027	72.00	0.060	8.31
X	2.61	0.04	13,020,309	30.64	0.012	4.06	EXC	0.05	0.002	5,496,241	39.40	0.010	2.66
Avg	1.84	0.05	3,783,237	33.48	0.029	13.52	Avg	0.07	0.00	3,479,764	36.88	0.022	7.64

IV. Less Active Stocks (CADV Between 50,000 and 500,000) and Post-Period = 2017–2018

For this sample, there were 49 matched pairs that emerged from the process. The pairs, along with values of the matching variables (pre-period), are shown as follows:

TABLE 4A—RETAIL PROGRAM MATCHED SAMPLE >50,000 AND <500,000 CADV

[Sep–Nov 2014]

Treatment stocks					Control stocks				
Symbol	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)	Symbol	ADV	Avg price	Avg sprd ($)	Avg sprd (bps)
AI	380,780	$26.88	$0.020	7.45	DSL	361,600	$21.43	$0.022	10.36
ANIK	240,282	39.38	0.089	22.92	WABC	223,670	48.09	0.083	17.22
APU	310,097	45.68	0.046	10.16	WST	306,905	46.65	0.050	10.72
AUDC	153,063	4.91	0.022	45.54	RVT	191,392	14.93	0.020	13.56
BLX	130,799	32.10	0.060	18.85	STC	120,951	32.12	0.061	19.03
COHU	104,702	11.53	0.044	38.27	CSGS	157,547	26.18	0.047	18.17
DBL	78,900	23.75	0.044	18.48	TRNO	82,554	20.20	0.053	26.35
DMB	55,155	11.99	0.023	19.20	CHT	77,541	30.23	0.032	10.48
DSM	126,484	8.06	0.014	16.91	FRA	131,349	13.84	0.013	9.68
FDUS	68,041	17.12	0.061	35.44	LION	76,072	14.50	0.082	57.41
FRSH	132,657	9.45	0.068	71.68	CBU	127,820	35.74	0.063	17.62
GAIN	110,718	7.34	0.015	20.05	EOS	144,318	13.72	0.015	11.22
GASS	155,935	8.44	0.028	33.44	CENTA	144,524	8.25	0.032	39.17
GBDC	188,201	16.89	0.029	16.92	NCI	176,055	14.60	0.028	19.24
GLAD	128,184	9.02	0.026	28.43	TI	159,450	11.04	0.020	17.79
GMLP	163,282	35.15	0.146	41.52	UMBF	157,424	56.89	0.146	25.85
GOOD	112,763	17.57	0.031	17.67	CPF	114,830	18.46	0.031	16.70
GSVC	139,253	10.14	0.034	33.84	NBHC	160,159	19.39	0.035	18.25
HTGC	341,319	15.10	0.019	12.93	NFBK	271,599	13.78	0.019	13.77
IEP	129,299	105.09	0.255	24.34	LANC	127,008	88.16	0.207	23.53
KCAP	302,537	7.93	0.016	19.82	ETJ	306,544	11.54	0.015	13.14
LRAD	234,963	2.87	0.020	71.58	MFG	335,904	3.60	0.010	28.25
MAGS	352,530	4.58	0.052	114.83	RTRX	445,328	10.54	0.043	40.96
MAIN	202,931	31.39	0.039	12.33	MLI	201,430	30.24	0.039	13.07
MUA	52,623	13.29	0.023	17.06	GHY	173,681	16.48	0.020	12.16
MUE	65,631	13.24	0.017	13.04	ISF	67,500	25.39	0.019	7.65
NANO	111,903	14.88	0.051	34.61	MG	120,243	18.37	0.049	26.63
NDP	93,945	24.11	0.067	28.08	THR	115,353	24.59	0.057	23.42
NEP	188,649	34.86	0.185	53.54	PLXS	171,711	38.76	0.084	21.71
OIA	93,055	6.77	0.013	19.36	AWP	257,107	6.89	0.011	15.68
PBT	145,410	12.85	0.030	23.84	DAKT	171,820	12.89	0.031	24.21
PCK	59,924	9.45	0.024	25.50	ETV	207,431	14.89	0.019	12.73
PFLT	67,807	14.02	0.045	31.98	DGRW	66,466	29.59	0.043	14.58
PFMT	311,460	8.16	0.025	30.92	FSS	280,570	14.16	0.024	16.88
PGP	131,368	23.08	0.086	37.58	EXLS	133,974	26.59	0.078	29.49
PMF	58,501	14.07	0.025	17.56	SKYY	66,651	27.35	0.035	12.85
PMX	73,074	10.85	0.020	18.60	CII	136,940	14.78	0.016	11.17
SDLP	456,457	28.00	0.075	26.78	FUL	468,387	42.02	0.049	11.58
SHLO	50,103	16.93	0.107	63.20	UFCS	56,599	29.25	0.125	42.48
SJT	96,558	18.27	0.062	34.17	GRAM	92,291	14.22	0.057	40.66
SLRC	214,437	18.95	0.025	13.39	PFS	201,034	17.16	0.023	13.22
SPH	166,532	44.68	0.092	20.53	CNMD	162,637	40.04	0.086	21.35
TCPC	332,634	16.60	0.028	16.75	NFJ	271,825	17.73	0.027	15.41
TOUR	318,343	17.36	0.073	42.30	SYKE	253,700	21.34	0.040	18.74
TSLX	138,306	16.95	0.043	25.68	FBC	136,538	16.29	0.038	23.25
VOC	132,226	11.27	0.041	38.08	CCU	144,842	21.38	0.044	20.58
WBK	174,452	29.49	0.034	11.61	IFGL	147,189	30.54	0.034	11.29
WLDN	180,819	13.99	0.061	43.65	FTGC	169,252	29.57	0.057	19.47
WSR	98,234	14.57	0.031	21.33	SOCL	122,280	19.37	0.029	15.22
Avg	166,435	19.37	0.051	29.83	Avg	179,551	23.95	0.046	19.88

TABLE 4B—RETAIL PROGRAM MATCHED SAMPLE CADV >50,000 AND <500,000

[2017–2018]

Treatment stocks							Control stocks						
Symbol	RMO % BX	RMO % Ind	ADV	Avg Price	Avg Sprd ($)	Avg Sprd (bps)	Symbol	RMO % BX	RMO % Ind	ADV	Avg Price	Avg Sprd ($)	Avg Sprd (bps)
AI	2.45	0.06	458,637	$11.93	$0.012	9.87	DSL	0.85	0.011	373,997	$20.14	$0.015	7.60
ANIK	2.03	0.06	123,465	46.77	0.191	40.89	WABC	0.33	0.010	100,762	57.73	0.231	40.12
APU	3.36	0.08	237,312	42.89	0.077	17.90	WST	0.29	0.010	367,026	96.31	0.129	13.20
AUDC	1.72	0.06	117,591	7.79	0.032	42.65	RVT	0.55	0.008	288,150	15.18	0.017	11.22
BLX	2.13	0.08	130,009	26.09	0.056	21.57	STC	0.16	0.006	157,476	42.53	0.090	21.17
COHU	2.33	0.09	284,253	20.78	0.049	24.11	CSGS	0.10	0.004	197,396	40.89	0.083	20.47
DBL	4.52	0.07	74,432	22.32	0.049	21.63	TRNO	0.11	0.005	345,017	34.66	0.034	10.00
DMB	9.72	0.07	58,671	12.71	0.021	16.46	CHT	0.15	0.007	148,554	35.08	0.025	7.01
DSM	5.07	0.07	113,155	7.98	0.013	16.39	FRA	0.54	0.010	163,372	14.05	0.013	9.26

TABLE 4B—RETAIL PROGRAM MATCHED SAMPLE CADV >50,000 AND <500,000—Continued
[2017–2018]

Treatment stocks							Control stocks						
Symbol	RMO % BX	RMO % Ind	ADV	Avg Price	Avg Sprd ($)	Avg Sprd (bps)	Symbol	RMO % BX	RMO % Ind	ADV	Avg Price	Avg Sprd ($)	Avg Sprd (bps)
FDUS	3.45	0.09	97,448	15.30	0.044	28.40	LION	0.26	0.011	109,864	23.17	0.074	32.01
FRSH	3.36	0.08	110,611	5.09	0.044	86.28	CBU	0.23	0.007	243,704	57.33	0.103	18.12
GAIN	3.01	0.08	172,450	10.23	0.019	18.48	EOS	0.66	0.009	131,800	15.50	0.022	14.38
GASS	4.18	0.06	57,778	3.70	0.035	94.13	CENTA	0.16	0.007	234,333	34.78	0.075	21.63
GBDC	3.77	0.10	211,753	18.77	0.023	12.44	NCI	0.22	0.009	296,999	21.09	0.027	13.06
GLAD	2.68	0.07	134,680	9.33	0.020	21.33	TI	0.18	0.003	149,165	8.43	0.020	23.55
GMLP	2.77	0.08	357,537	19.24	0.039	20.40	UMBF	0.32	0.009	222,813	73.14	0.177	24.31
GOOD	2.19	0.09	152,848	19.98	0.037	18.77	CPF	0.21	0.008	139,636	29.65	0.060	20.33
GSVC	6.04	0.15	137,911	6.04	0.030	51.88	NBHC	0.13	0.005	139,900	34.36	0.070	20.52
HTGC	3.95	0.10	476,844	13.11	0.012	9.55	NFBK	0.20	0.008	99,333	16.56	0.047	28.86
IEP	8.34	0.13	100,497	59.83	0.232	38.77	LANC	0.33	0.010	105,903	134.53	0.506	37.19
KCAP	11.65	0.18	117,403	3.41	0.017	49.08	ETJ	0.43	0.008	276,325	9.37	0.013	13.59
LRAD	11.15	0.13	60,046	2.17	0.032	152.85	MFG	0.13	0.005	367,028	3.57	0.010	28.38
MAGS	6.89	0.12	59,713	5.48	0.055	103.25	RTRX	0.13	0.005	334,303	23.33	0.066	28.37
MAIN	4.44	0.13	245,561	38.49	0.032	8.32	MLI	0.29	0.010	207,388	31.27	0.053	17.02
MUA	12.42	0.07	55,118	14.03	0.027	19.28	GHY	0.50	0.011	169,952	14.32	0.013	9.08
MUE	5.46	0.06	63,559	12.96	0.020	15.65	ISF	1.87	0.011	60,764	25.70	0.024	9.32
NANO	3.12	0.11	251,457	29.99	0.067	22.73	MG	0.12	0.006	71,628	20.70	0.082	40.44
NDP	4.23	0.07	75,449	13.12	0.051	39.75	THR	0.17	0.008	123,398	21.67	0.057	25.99
NEP	3.02	0.09	255,681	40.17	0.093	23.05	PLXS	0.30	0.010	174,481	57.60	0.125	21.74
OIA	16.93	0.10	73,578	7.67	0.017	22.76	AWP	0.69	0.012	402,327	6.15	0.011	17.48
PBT	4.83	0.10	100,106	8.91	0.033	37.49	DAKT	0.20	0.010	173,399	9.13	0.023	25.10
PCK	18.47	0.07	71,701	9.15	0.021	23.21	ETV	0.49	0.008	205,388	15.31	0.016	10.33
PFLT	3.58	0.11	197,419	13.65	0.020	14.98	DGRW	0.09	0.002	226,271	39.48	0.016	3.99
PFMT	8.21	0.07	68,953	2.11	0.054	265.29	FSS	0.24	0.008	271,757	20.34	0.032	15.75
PGP	6.66	0.07	65,178	15.61	0.071	46.24	EXLS	0.26	0.009	149,278	56.40	0.142	24.91
PMF	8.46	0.07	79,512	13.26	0.024	18.20	SKYY	0.42	0.008	219,272	46.15	0.032	7.24
PMX	14.86	0.06	65,449	11.50	0.019	16.19	CII	0.61	0.010	130,256	15.59	0.018	11.60
SDLP	6.34	0.09	377,760	3.42	0.017	50.24	FUL	0.31	0.012	362,459	51.90	0.062	12.11
SHLO	1.77	0.06	135,927	9.68	0.058	60.99	UFCS	0.36	0.012	76,492	47.53	0.233	48.58
SJT	5.54	0.10	186,679	6.96	0.028	40.45	GRAM	0.41	0.008	236,863	3.44	0.044	134.58
SLRC	2.38	0.09	103,705	21.28	0.040	18.90	PFS	0.18	0.007	184,245	25.94	0.043	16.64
SPH	5.60	0.15	279,196	24.42	0.046	18.83	CNMD	0.36	0.012	154,890	58.57	0.184	31.64
TCPC	4.35	0.11	227,052	15.54	0.019	11.89	NFJ	0.46	0.007	264,566	12.95	0.014	10.78
TOUR	1.30	0.07	200,307	7.59	0.031	43.03	SYKE	0.17	0.007	155,555	29.58	0.075	25.34
TSLX	2.64	0.08	244,727	19.71	0.022	11.23	FBC	0.23	0.008	249,281	32.55	0.052	16.08
VOC	12.82	0.11	56,733	4.58	0.042	92.38	CCU	0.17	0.008	182,729	26.46	0.053	19.89
WBK	1.96	0.07	265,250	23.11	0.017	7.36	IFGL	0.04	0.001	110,807	28.91	0.028	9.67
WLDN	3.13	0.10	91,458	29.62	0.155	52.79	FTGC	0.35	0.007	92,367	20.22	0.031	15.42
WSR	1.66	0.07	363,836	12.96	0.019	15.03	SOCL	0.55	0.011	63,186	31.00	0.075	24.28
Avg	5.53	0.09	164,212	16.33	0.045	39.05	Avg	0.34	0.008	198,201	32.45	0.070	21.82

2. Economic Impact of the BX RPI Program on Execution Quality

To assess the execution quality of the Program, BX focused on symbol-day combinations when during market hours: (i) An RMO execution occurred on BX, (ii) a non-RMO execution occurred on BX, and (iii) a tape-eligible trade occurred on BX. Symbol day combinations are aggregated to overall daily statistics by either a simple average or by volume weighting by RMO executed volume during market hours.[25] This results in the number and identity of symbols captured in each daily average changing from day to day. Using this data, the Exchange examined whether the economic outcomes for RMO trades differs from non-RMO trades and/or all trades.

When comparing average price improvement for RMO and non-RMO executions for a subset of 100 stocks with the largest number of RMO shares executed, the price improvement seen in RMO and non-RMO trades is comparable over the life of the Program. When volume weighting the average price improvement by RMO volume to emphasize those stock/day combinations with the highest volume traded in RMO, average price improvement on BX for both RMO and non-RMO trades appear generally comparable over time, with RMO price improvement generally beating non-RMO. Note that this price improvement measure does not take rebates into account.

In the subset of active RMO symbols, RMO volume-weighted effective and realized spreads for RMO and all executions, which includes RMO executions, are generally comparable throughout the duration of the Program.

Similar to regular, liquidity-taking orders on BX, the Program offers inverted pricing where RMO orders receive a rebate (on top of the price improvement they receive) when executing against RPI liquidity, while there is a fee associated with RPI orders which post non-displayed, price-improving liquidity. RPI orders are charged $0.0025 per share. Retail Orders currently receive a rebate of $0.0021 per share when executing against RPI liquidity, a rebate of $0.0000 per share when executing against other hidden, price-improvising liquidity, and a rebate of $0.0017 per share when executing against other displayed liquidity on the BX book.

3. Are Only Eligible Participants Accessing Program Liquidity

Only RMOs that have been approved by BX can enter RMO orders that access the Program liquidity, and the System does not allow non-RMO orders to access RPI providing orders. The System

[25] Both RMO and non-RMO execution quality values are weighted by RMO volume and a very small number of extreme outlier symbol-day stats have been removed from the analysis.

does not allow non-RMO orders to access RPI providing orders. BX Rule 4780(c) enables BX at its sole discretion to disqualify RMO members that submit orders that fail to meet any of the requirements of the rule.

4. Is the Program Attracting Retail Participation

The Program has attracted some retail orders to the Exchange and participation in the Program has continued to increase over time. The Exchange believes that the Program provided tangible price improvement and transparency to retail investors through a competitive pricing process.

Brokers route retail orders to a wide range of different trading systems. The Program offers a transparent and well-regulated option providing competition and price improvement. BX believes that it has achieved its goal of attracting retail order flow to BX and, as stated above, it has resulted in a significant price improvement to retail investors through a competitive pricing process. The Exchange also has not detected any negative impact to market quality or to retail investors as the Program has continued to grow over time.

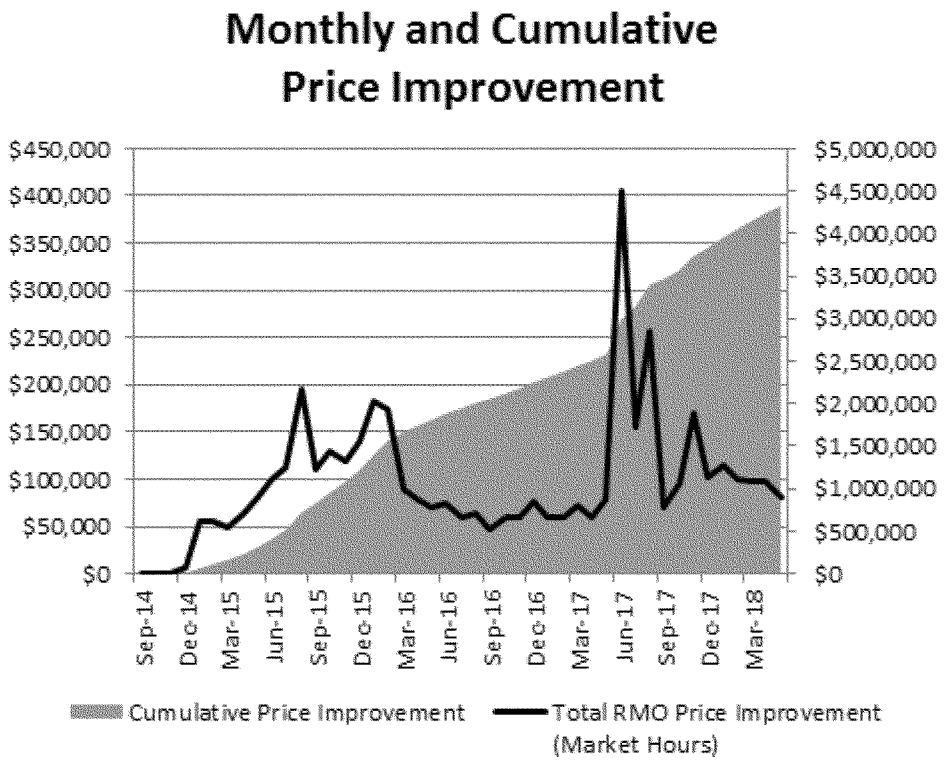
On average, an RMO execution continues to get more price improvement than the minimum $0.001 price improvement required of an RPI liquidity-providing order in the Program, and over time the price improvement seen on BX in non-RMO orders does not appear to be negatively impacted by the introduction of the Program.

5. Net Benefits of the Program on Participants

The Exchange believes that the Program through retail order segmentation does create greater retail order flow competition and thereby increases the amount of this flow to BX. This helps to ensure that retail investors benefit from the price improvement that liquidity providers are willing to provide. The Program promotes competition for retail order flow by allowing Exchange members to submit RPI Orders to interact with Retail Orders. Such competition promotes efficiency by facilitating the price discovery process and generating additional investor interest in trading securities, thereby promoting capital formation.

The Program also promotes competition for retail order flow among execution venues, and this benefits retail investors by creating additional price improvement opportunities for marketable retail order flow, most of which is currently executed in the OTC markets without ever reaching a public exchange. The Exchange believes that it has achieved its goal of attracting retail order flow to BX, and has resulted in price improvement to retail investors through a competitive pricing process. The data also demonstrates that the Program has continued to grow over time and the Exchange has not detected any negative impact to market quality or to retail investors.

The price improvement chart below demonstrates retail firms have received price improvement through their use of the Program that they otherwise may not have received. This is a net benefit to the retail firms as well as the firms who are able to compete to interact with the retail firms.



6. Overall Success in Achieving Intended Benefits

The Program has demonstrated the effectiveness of a transparent, on-exchange retail order price improvement functionality, and while small relative to total consolidated volume, has achieved its goals of attracting retail order flow and providing those orders with price improvement totaling tens of thousands of dollars each month.

The Program provides additional competition to the handling of retail orders. The added opportunity for price improvement provides pressure on other more established venues to increase the price improvement that they provide. By doing this, the

Exchange believes that the Program may have a greater positive effect than the market share would directly indicate.

Can the Program Be Improved

The Program provides a transparent, well-regulated, and competitive venue for retail orders to receive price improvement. The size of the Program is somewhat limited by the rules that prevent BX from matching features offered by non-exchange trading venues. Nonetheless, the Exchange believes the Program is worthwhile and it will continue to look for ways to further innovate and improve the Program. The Exchange believes that making the pilot permanent is appropriate and through this filing seeks to make permanent the current operation of the Program.

Conclusion

In conclusion, the Exchange notes the Program provided opportunities for retail investors to get significant price improvement on an exchange where they otherwise would not have had the opportunity to do so. The Exchange believes the Program did not have a negative impact on the market quality as evidenced by the lack of consistent statistical evidence of an impact and the small size of the Program.

Accordingly, the Exchange believes that the pilot Program's rules, as amended, should be made permanent. Additionally, the Exchange notes that the proposed change is not otherwise intended to address any other issues and the Exchange is not aware of any problems that member organizations would have in complying with the proposed rule change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[26] in general, and with Section 6(b)(5) of the Act,[27] 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 and not to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that making the pilot Program permanent is consistent with these principles because the Program is reasonably designed to attract retail order flow to the exchange environment, while helping to ensure that retail investors benefit from the better price that liquidity providers are willing to give their orders. During the pilot period, BX has provided data and analysis to the Commission, and this data and analysis, as well as the further analysis in this filing, shows that the Program has operated as intended and is consistent with the Act. The data and analysis provided to the Commission staff demonstrates that the Program provided tangible price improvement to retail investors through a competitive pricing process unavailable in non-exchange venues and otherwise had an insignificant impact on the marketplace. Making the Program permanent would encourage the additional utilization of, and interaction with, the Exchange and provide retail customers with an additional venue for price discovery, liquidity, competitive quotes, and price improvement.

Additionally, the Exchange believes the proposed rule change is designed to facilitate transactions in securities and to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system because the competition promoted by the Program facilitates the price discovery process and potentially generate additional investor interest in trading securities. Making the pilot Program permanent will allow the Exchange to continue to provide the Program's benefits to retail investors on a permanent basis and maintain the improvements to public price discovery and the broader market structure. The data provided by BX to the SEC staff demonstrates that the Program provided tangible price improvement and transparency to retail investors through a competitive pricing process.

For the reasons stated above, the Exchange believes that making the Program permanent would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market.

As described below in BX's statement regarding the burden on competition, the Exchange also believes that it is subject to significant competitive forces and it would increase competition among execution venues, encourage additional liquidity, and offer the potential for price improvement to retail investors.

For all of these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. BX believes that making the Program permanent would continue to enhance competition for retail order flow among execution venues and contribute to the public price discovery process.

The Exchange believes that the data supplied to the Commission and experience gained over the life of the pilot have demonstrated that the Program creates price improvement opportunities for retail orders that are equal to what would be provided under OTC internalization arrangements, thereby benefiting retail investors and increasing competition between execution venues. BX also believes that making the Program permanent will promote competition between execution venues operating their own retail liquidity programs. Such competition will lead to innovation within the market, thereby increasing the quality of the national market system.

Additionally, the Exchange notes that it operates in a highly competitive market in which market participants can easily direct their orders to competing venues, including off-exchange venues. In such an environment, the Exchange must continually review, and consider adjusting the services it offers and the requirements, it imposes to remain competitive with other U.S. equity exchanges.

For the reasons described above, BX believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

[26] 15 U.S.C. 78f.

[27] 15 U.S.C. 78f(b)(5).

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–2019–011 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2019–011. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2019–011, and should be submitted on or before June 5, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–09966 Filed 5–14–19; 8:45 am]

BILLING CODE 8011–01–P

[28] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2019–0002]

Privacy Act of 1974; Matching Program

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a new matching program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces new matching program with the Law Enforcement Agency (Source Jurisdiction).

The purpose of this agreement is to establish the terms, conditions, and safeguards under which SSA will conduct a computer matching program with Source Jurisdiction in accordance with the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, and the regulations and guidance promulgated thereunder, to identify individuals in the Source Jurisdiction who are (1) fleeing fugitive felons, parole violators, or probation violators, as defined by the Social Security Act (Act) and in accordance with the Martinez Settlement and the Clark Court Order, as defined below; and who are also (2) Supplemental Security Income (SSI) recipients, Retirement, Survivors and Disability Insurance (RSDI) beneficiaries, Special Veterans Benefit (SVB) beneficiaries, or representative payees for SSI recipients, RSDI beneficiaries, or SVB beneficiaries.

DATES: The deadline to submit comments on the proposed matching program is 30 days from the date of publication of this notice in the **Federal Register**. The matching program will be applicable on October 10, 2019, or once a minimum of 30 days after publication of this notice has elapsed, whichever is later. The matching program will be in effect for a period of 18 months.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 966–0869, writing to Mary Ann Zimmerman, Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, G–401 WHR, 6401 Security Boulevard, Baltimore, MD 21235–6401, or emailing *Mary.Ann.Zimmerman@ssa.gov.* All comments received will be available for public inspection by contacting Ms. Zimmerman at this street address.

FOR FURTHER INFORMATION CONTACT: Interested parties may submit general questions about the matching program to Mary Ann Zimmerman, Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, by any of the means shown above, or call (410) 965–8850.

SUPPLEMENTARY INFORMATION: None.

Mary Zimmerman,

Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

Participating Agencies

SSA and Source Jurisdiction.

Authority for Conducting the Matching Program

The legal authority for the matching program conducted under this agreement is: Sections 1611(e)(4)(A), 202(x)(l)(A)(iv) and (v), and 804(a)(2) and (3) of the Act (42 U.S.C. 1382(e)(4)(A), 402(x)(l)(A)(iv) and (v), and 1004(a)(2) and (3)), which prohibit the payment of SSI, RSDI, or SVB benefits to an SSI recipient, RSDI beneficiary, or SVB beneficiary for any month during which such individual flees to avoid prosecution, or custody or confinement after conviction, under the applicable laws of the jurisdiction from which the person flees, for a crime or attempt to commit a crime considered to be a felony under the laws of said jurisdiction. These sections of the Act also prohibit payment of SSI, RSDI, or SVB benefits to a recipient/beneficiary in jurisdictions that do not define such crimes as felonies, but as crimes punishable by death or imprisonment for a term exceeding 1 year (regardless of the actual sentence imposed), and to an individual who violates a condition of probation or parole imposed under Federal or state law. As a result of a settlement of a nationwide class action in *Martinez* v. *Astrue,* No. 08–4735 (N.D. Cal. September 24, 2009) (Martinez Settlement), SSA's nonpayment of benefits under these sections of the Act is limited to individuals with certain flight- or escape-coded warrants. Further, as a result of a settlement of a nationwide class action in *Clark* v. *Astrue,* 06 Civ. 15521 (S.D. NY, April 13, 2012) (Clark Court Order), SSA's nonpayment of benefits under these sections of the Act cannot be based solely on the existence of parole or probation arrest warrants. Sections 1631(a)(2)(B)(iii)(V), 205(j)(2)(C)(i)(V), and 807(d)(1)(E) of the Act (42 U.S.C. 1383(a)(2)(B)(iii)(V), 405(j)(2)(C)(i)(V), 1007(d)(1)(E)), which prohibit SSA from using a person as a representative payee when such person is a person described in sections 1611(e)(4)(A), 202(x)(1)(A)(iv), or 804(a)(2) of the Act. The legal authority for SSA's disclosure of information to the Source Jurisdiction is: Sections

1106(a), 1611(e)(5), 1631(a)(2)(B)(xiv), 202(x)(3)(C), 205(j)(2)(B)(iii) and 807(b)(3) of the Act; the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988 (5 U.S.C. 552a(b)(3)); and SSA's disclosure regulations promulgated at 20 CFR 401.150. The settlement terms in *Martinez* v. *Astrue* and *Clark* v. *Astrue* do not restrict this disclosure authority in any manner.

Purpose(s)

This matching program establishes the conditions under which SSA will conduct a computer matching program with Source Jurisdiction to identify individuals in the Source Jurisdiction who are (1) fleeing fugitive felons, parole violators, or probation violators, as defined by the Act and in accordance with the Martinez Settlement and the Clark Court Order, as defined below; and who are also (2) SSI recipients, RSDI beneficiaries, SVB beneficiaries, or representative payees for SSI recipients, RSDI beneficiaries, or SVB beneficiaries.

Categories of Individuals

The individuals whose information is involved in this matching program are fleeing fugitive felons, probation violators, or parole violators. SSA will match the incoming Source Jurisdiction records to determine individuals who receive SSI, RSDI, SVB benefits, or individuals serving as representative payees.

Categories of Records

The Source Jurisdiction will provide specific data elements for individuals as specified in Attachment A. SSA data elements matched are individual's SSN, payment status, individual's name, date of birth, gender, and status as a representative payee.

System(s) of Records

The Source Jurisdiction will prepare and disclose its records electronically with clear identification of the record source including the name of the reporter and where the reporter obtained the information. SSA will match the following systems of records with the incoming Source Jurisdiction records: Supplemental Security Income Record and Special Veterans Benefits, 60–0103, originally published at 71 FR 1830 on January 11, 2006 and updated on December 10, 2007, at 72 FR 69723, July 3, 2018 at 83 FR 31250–31251, and November 1, 2018 at 83 FR 54969; Master Beneficiary Record, SSA/ORSIS 60–0090, originally published at 71 FR 1826 on January 11, 2006 and updated on December 10, 2007, at 72 FR 69723, and July 5, 2013 at 78 FR 40542, July 3, 2018 at 83 FR 31250–31251, and November 1, 2018 at 83 FR 54969; Master Representative Payee File, SSA/NCC 60–0222, originally published on April 22, 2013 at 78 FR 23811, and updated on July 3, 2018 at 83 FR 31250–31251 and November 2, 2018 at 83 FR 55228; and, Master Files of Social Security Number Holders and SSN Applications, SSA/OTSO 60–0058, originally published on December 29, 2010 at 75 FR 82121 and updated on July 5, 2013 at 78 FR 40542 and February 13, 2014 at 79 FR 8780, July 3, 2018 at 83 FR 31250–31251, and November 1, 2018 at 83 FR 54969. The Alphident file comes under this system of record.

[FR Doc. 2019–10031 Filed 5–14–19; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2019–0003]

Privacy Act of 1974; Matching Program

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a new matching program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a new matching program with the States, including tribal agencies and United States (U.S.) territories.

DATES: The deadline to submit comments on the proposed matching program is 30 days from the date of publication of this notice in the **Federal Register**. The matching program will be applicable on January 1, 2020, or once a minimum of 30 days after publication of this notice has elapsed, whichever is later. The matching program will be in effect for a period of 18 months.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 966–0869, writing to Mary Ann Zimmerman, Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, G–401 WHR, 6401 Security Boulevard, Baltimore, MD 21235–6401, or emailing *Mary.Ann.Zimmerman@ssa.gov.* All comments received will be available for public inspection by contacting Ms. Zimmerman at this street address.

FOR FURTHER INFORMATION CONTACT: Interested parties may submit general questions about the matching program to Mary Ann Zimmerman, Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, by any of the means shown above, or call (410) 965–8850.

SUPPLEMENTARY INFORMATION: None.

Mary Zimmerman,

Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

Participating Agencies: SSA and the States, State Agencies, tribal agencies, and U.S. territories.

Authority for Conducting the Matching Program: The legal authorities for SSA to disclose data and the States' authority to collect, maintain, and use data protected under SSA's systems of records (SOR) are:

- Sections 453, 1106(b), and 1137 of the Social Security Act (Act) (42 U.S.C. 653, 1306(b), and 1320b–7) (income and eligibility verification data);
- 26 U.S.C. 6103(l)(7) and (8) (Federal tax information);
- Sections 202(x)(3)(B)(iv) and 1611(e)(1)(I)(iii) of the Act (42 U.S.C. 402(x)(3)(B)(iv) and 1382(e)(1)(I)(iii)) (prisoner data);
- Section 205(r)(3) of the Act (42 U.S.C. 405(r)(3)) and the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458, 7213(a)(2) (death data);
- Sections 402, 412, 421, and 435 of Public Law 104–193 (8 U.S.C. 1612, 1622, 1631, and 1645) (quarters of coverage data);
- Section 1902(ee) of the Act (42 U.S.C. 1396a(ee)); Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Public Law 111–3 (citizenship data); and
- Routine use exception to the Privacy Act, 5 U.S.C. 552a(b)(3) (data necessary to administer other programs compatible with SSA programs).

Purpose(s): The purpose of the matching program is to set forth the terms and conditions governing disclosures of records, information, or data (collectively referred to herein as ''data'') made by SSA to various State agencies and departments, tribal agencies, and U.S. territories (collectively referred to as ''State Agencies'') that administer federally funded benefit programs, including those under various provisions of the Act, such as section 1137 of the Act (42 U.S.C. 1320b–7), as well as the state-funded state supplementary payment programs under Title XVI of the Act. The terms and conditions of the matching agreements ensure that SSA's disclosures and the State Agencies' use of such disclosed data is, in accordance with the requirements of the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act, 5 U.S.C. 552a.

Under section 1137 of the Act, States are required to use an income and eligibility verification system to administer specified federally funded benefit programs, including the state-funded state supplementary payment programs under Title XVI of the Act. To assist the State Agencies in determining entitlement to and eligibility for benefits under those programs, as well as other federally funded benefit programs, SSA verifies the Social Security number (SSN) and discloses certain data about applicants (and in limited circumstances, members of an applicant's household) for state-administered benefits from its Privacy Act SORs.

SSA has separate agreements with the State Agencies, which describe the information SSA will disclose for specified federally funded benefit programs.

Categories of Individuals: The individuals whose information is involved in this matching program are those who apply for federally funded, state-administered benefits, as well as current beneficiaries, recipients, and annuitants under the programs covered by the Agreement.

Categories of Records: The maximum number of records involved in this matching activity is the number of records maintained in SSA's SORs. Data elements disclosed in computer matching governed by the Agreement are Personally Identifiable Information from SSA's specified SORs, including names, SSNs, addresses, amounts, and other information related to SSA's benefits and earnings information. Specific listings of data elements are available at: *http://www.ssa.gov/dataexchange/.*

System(s) of Records: Our SORs used for purposes of the subject data exchanges include:

- 60–0058—Master Files of SSN Holders and SSN Applications;
- 60–0059—Earnings Recording and Self-Employment Income System;
- 60–0090—Master Beneficiary Record;
- 60–0103—Supplemental Security Income Record (SSR) and Special Veterans Benefits (SVB);
- 60–0269—Prisoner Update Processing System (PUPS); and
- 60–0321—Medicare Part D and Part D Subsidy File.

States will ensure that the Federal tax information contained in SOR 60–0059 (Earnings Recording and Self-Employment Income System) will only be used in accordance with 26 U.S.C. 6103.

[FR Doc. 2019–10036 Filed 5–14–19; 8:45 am]

BILLING CODE 4191–02–P

SUSQUEHANNA RIVER BASIN COMMISSION

Commission Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: The Susquehanna River Basin Commission will hold its regular business meeting on June 14, 2019, in Harrisburg, Pennsylvania. Details concerning the matters to be addressed at the business meeting are contained in the Supplementary Information section of this notice. Also the Commission published a document in the **Federal Register** on April 11, 2019, concerning its public hearing on May 9, 2019, in Harrisburg, Pennsylvania.

DATES: The meeting will be held on Friday, June 14, 2019, at 9 a.m.

ADDRESSES: The meeting will be held at the Susquehanna River Basin Commission, 4423 N. Front Street, Harrisburg, PA 17110.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: 717–238–0423; fax: 717–238–2436.

SUPPLEMENTARY INFORMATION: The business meeting will include actions or presentations on the following items: (1) Informational presentation of interest to the middle Susquehanna River region; (2) expense budget for FY2021; (3) member allocation for FY2021; (4) ratification/approval of contracts/grants; (5) emergency certificate extensions; (6) a report on delegated settlements; (7) the proposed water resources program for FY2019–2021; and (8) Regulatory Program projects.

This agenda is complete at the time of issuance, but other items may be added, and some stricken without further notice. The list of an item on the agenda does not necessarily mean that the Commission will take final action on it at this meeting. When the Commission does take final action, notice of these actions will be published in the **Federal Register** after the meeting. Any actions specific to projects will also be provided in writing directly to project sponsors.

Regulatory Program projects listed for Commission action were those that were the subject of public hearings conducted by the Commission on May 9, 2019, and identified in the notices for such hearings, which was published in 84 FR 14712, April 11, 2019.

The public is invited to attend the Commission's business meeting. Comments on the Regulatory Program projects are subject to a deadline of May 20, 2019. Written comments pertaining to other items on the agenda at the business meeting may be mailed to the Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pennsylvania 17110–1788, or submitted electronically through *www.srbc.net/about/meetings-events/business-meeting.html.* Such comments are due to the Commission on or before June 10, 2019. Comments will not be accepted at the business meeting noticed herein.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: May 10, 2019.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2019–10034 Filed 5–14–19; 8:45 am]

BILLING CODE 7040–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: April 1–30, 2019.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(e) and § 806.22 (f) for the time period specified above:

Approvals by Rule Issued Under 18 CFR 806.22(e)

1. Sunoco Pipeline, L.P.; ABR–201904002; Shirley Township, Huntingdon County, Pa.; Consumptive Use of Up to 0.200 mgd; Approval Date: April 29, 2019.

2. Sunoco Pipeline, L.P.; ABR–201904003; Woodbury Township, Blair County, Pa.; Consumptive Use of Up to 0.200 mgd; Approval Date: April 29, 2019.

Approvals by Rule Issued Under 18 CFR 806.22(f)

1. Pennsylvania General Energy Company, L.L.C.; Pad ID: SGL 75 Pad F; ABR–201403005.R1; McHenry Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: April 1, 2019.
2. Chesapeake Appalachia, L.L.C.; Pad ID: TA, ABR–201403011.R1; Colley Township, Sullivan County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: April 1, 2019.
3. Chesapeake Appalachia, L.L.C.; Pad ID: Garrison, ABR–201403012.R1; Washington Township, Wyoming County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: April 1, 2019.
4. Chief Oil & Gas, LLC; Pad ID: Herbert Drilling Pad, ABR–201404001.R1; Harford and Lenox Townships, Susquehanna County, Pa.; Consumptive Use of Up to 2.5000 mgd; Approval Date: April 16, 2019.
5. JKLM Energy, LLC; PAD ID: Greisemer 171, ABR–201904001; Hector Township, Potter County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: April 22, 2019.
6. Chief Oil & Gas, LLC; Pad ID: I. Harvey Drilling Pad, ABR–201404006.R1; Elkland Township, Sullivan County, Pa.; Consumptive Use of Up to 2.5000 mgd; Approval Date: April 29, 2019.
7. Pennsylvania General Energy Company, L.L.C.; Pad ID: SGL 75 Pad A; ABR–201404007.R1; McHenry Township, Lycoming County, Pa.; Consumptive Use of Up to 3.0000 mgd; Approval Date: April 29, 2019.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806 and 808.

Dated: May 9, 2019.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2019–10035 Filed 5–14–19; 8:45 am]

BILLING CODE 7040–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Implementing Modification to Section 301 Action: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of implementing modification.

SUMMARY: In a notice published on May 9, 2019 (May 9 Notice), the U.S. Trade Representative (Trade Representative) increased the rate of additional duty from 10 percent to 25 percent for the products of China covered by the September 2018 action that are (i) entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on May 10, 2019, and (ii) exported to the United States on or after May 10, 2019. This notice provides that products of China that are covered by the September 2018 action and that were exported to the United States prior to May 10, 2019, are not subject to the additional duty of 25 percent, as long as such products are entered into the United States prior to June 1, 2019. Such products remain subject to the additional duty of 10 percent for this interim period.

DATES: HTSUS heading 9903.88.09, which is set out in the Annex to this notice, applies to products of China covered by the September 2018 action that were exported before May 10, 2019, and entered into the United States on or after May 10, 2019, and before June 1, 2019.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, contact Associate General Counsel Arthur Tsao or Assistant General Counsel Juli Schwartz, or Director of Industrial Goods Justin Hoffmann at (202) 395–5725. For questions on customs classification or implementation of additional duties on products covered in the supplemental action, contact *traderemedy@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION: In the May 9 Notice, the Trade Representative modified the action being taken in the Section 301 investigation by increasing the rate of additional duty from 10 percent to 25 percent for the products of China covered by the September 2018 action in this investigation. The ''September 2018 action'' refers to the additional duties on products of China with an annual trade value of approximately $200 billion, published at 83 FR 47974 (Sep. 21, 2018), as subsequently modified by the notice published at 83 FR 49153 (September 28, 2018). The increase in the rate of additional duty became effective on May 10, 2019.

Under this implementing modification, and as specified in the Annex to this notice, products of China that are covered by the September 2018 action that were exported prior to May 10, 2019, are not subject to the additional duty of 25 percent as long as such products are entered into the United States prior to June 1, 2019. Such products remain subject to the additional duty of 10 percent for a transitional period of time before June 1, 2019. The covered products of China that are entered into the United States on or after June 1, 2019, are subject to the 25 percent rate of additional duty.

To distinguish between covered products of China subject to the 10 percent rate of additional duty from those subject to the 25 percent rate, the Annex to this notice creates a new heading in Chapter 99 of the HTSUS (9903.88.09) for products of China covered by the September 2018 action that were exported before May 10, 2019, and entered into the United States on or after May 10, 2019 and before June 1, 2019. HTSUS heading 9903.88.09 is limited to covered products of China entered into the United States during this period of time to account for customs enforcement factors and the average transit time between China and the United States by sea.

The products of China covered by the September 2018 action that are admitted into a foreign-trade zone (FTZ) in ''Privileged Foreign'' status shall retain that status consistent with 19 CFR 146.41(e) and will be subject, at the time of entry for consumption, to the additional duty rate that was in effect at the time of FTZ admission of said product.

U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

Joseph Barloon,

General Counsel, Office of the U.S. Trade Representative.

Annex

Effective with respect to goods: (1) Exported to the United States before May 10, 2019; and (2) entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on May 10, 2019, and entered for consumption, or withdrawn from warehouse for consumption, before 12:01 a.m. eastern daylight time on June 1, 2019, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:

1. By inserting the following new heading 9903.88.09 in numerical sequence, with the material in the new heading inserted in the columns of the HTSUS labeled ''Heading/Subheading'', ''Article Description'', and ''Rates of Duty 1-General'', respectively:

Heading/ subheading	Article description	Rates of duty		
		1		2
		General	Special	
"9903.88.09	Articles the product of China, as provided for in U.S. note 20(l) to this subchapter and as provided for in the subheadings enumerated in U.S. notes 20(f) or 20(g) to this subchapter, if exported to the United States before May 10, 2019 and entered for consumption, or withdrawn from warehouse for consumption, on or after May 10, 2019, and before June 1, 2019.	The duty provided in the applicable subheading + 10%".		

2. by inserting the following new U.S. note 20(l) to subchapter III of chapter 99 in numerical sequence:

''(l) For the purposes of heading 9903.88.09, products of China, as provided for in this note, shall be subject to an additional 10 percent *ad valorem* rate of duty. The products of China that are subject to an additional 10 percent *ad valorem* rate of duty under heading 9903.88.09 are products of China that are classified in the subheadings enumerated in U.S. notes 20(f) or 20(g) to subchapter III. All products of China that are classified in the subheadings enumerated in U.S. notes 20(f) or 20(g) to subchapter III are subject to the additional 10 percent *ad valorem* rate of duty imposed by heading 9903.88.09.

For the purposes of heading 9903.88.09, the products of China that are subject to an additional 10 percent *ad valorem* rate of duty are products that are: (1) Exported to the United States before May 10, 2019; and (2) entered for consumption, or withdrawn from warehouse for consumption on or after May 10, 2019, and before June 1, 2019.

Notwithstanding U.S. note 1 to this subchapter, all products of China that are subject to the additional 10 percent *ad valorem* rate of duty imposed by heading 9903.88.09 shall also be subject to the general rates of duty imposed on products of China classified in the subheadings enumerated in U.S. notes 20(f) or 20(g) to subchapter III.

Products of China that are classified in the subheadings enumerated in U.S. note 20(f) or 20(g) to subchapter III and that are eligible for special tariff treatment under general note 3(c)(i) to the tariff schedule, or that are eligible for temporary duty exemptions or reductions under subchapter II to chapter 99, shall be subject to the additional 10 percent *ad valorem* rate of duty imposed by heading 9903.88.09.

The additional duties imposed by heading 9903.88.09 do not apply to goods for which entry is properly claimed under a provision of chapter 98 of the HTSUS, except for goods entered under subheadings 9802.00.40, 9802.00.50, and 9802.00.60, and heading 9802.00.80. For subheadings 9802.00.40, 9802.00.50, and 9802.00.60, the additional duties apply to the value of repairs, alterations, or processing performed abroad, as described in the applicable subheading. For heading 9802.00.80, the additional duties apply to the value of the article less the cost or value of such products of the United States, as described in heading 9802.00.80.

Products of China that are provided for in heading 9903.88.09 and classified in one of the subheadings enumerated in U.S. notes 20(f) or 20(g) to subchapter III shall continue to be subject to antidumping, countervailing, or other duties, fees, exactions and charges that apply to such products, as well as to the additional 10 percent *ad valorem* rate of duty imposed by heading 9903.88.09.''

[FR Doc. 2019–09990 Filed 5–14–19; 8:45 am]

BILLING CODE 3290–F9–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice for San Carlos Airport, San Carlos, California

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the County of San Mateo for San Carlos Airport are in compliance with applicable requirements.

DATES: The effective date of the FAA's determination on the noise exposure maps is April 23, 2019.

FOR FURTHER INFORMATION CONTACT: Camille Garibaldi, Environmental Protection Specialist, SFO–613, Federal Aviation Administration, San Francisco Airports District Office, 1000 Marina Boulevard, Suite 220, Brisbane, California 94005–1835; or by telephone at (650) 827–7613.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for San Carlos Airport are in compliance with applicable requirements of 14 Code of Federal Regulations (CFR) Part 150 (hereinafter referred to as ''Part 150''), effective April 23, 2019. Under 49 U.S.C. 47503 of the Aviation Safety and Noise Abatement Act (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has completed its review of the noise exposure maps and accompanying documentation submitted by County of San Mateo. The documentation that constitutes the ''Noise Exposure Maps'' as defined in section 150.7 of Part 150 includes: Exhibit 1 the existing condition—2017 Noise Exposure Map and Exhibit 2 the future 5-year forecast—2022 Noise Exposure Map. The Noise Exposure Maps contain current and forecast information including the depiction of the airport and its boundary; the runway configuration, land uses such as residential, commercial, industrial, and open space/recreational land use; locations of noise sensitive public buildings (such as schools, hospitals, and historic properties on or eligible for the National Register of Historic Places); and the Community Noise Equivalent Level (CNEL) 65, 70, and 75 decibel airport noise contours resulting from existing and forecast airport operations. The frequency of airport operations is described in Chapter 2 of the Noise Exposure Map report. Flight tracks associated with San Carlos Airport are depicted in Exhibits 2C through 2F. The San Carlos Airport noise measurement program is described in Chapter 2 and monitor locations are shown on Exhibit 2K of the report. Estimates of the number of people residing within the CNEL contours is located in Chapter 3, Table 3A of the Noise Exposure Map report. The FAA has determined that

these noise exposure maps and accompanying documentation are in compliance with applicable requirements. This determination is effective on April 23, 2019.

FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 47503 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of Part 150, that the statutorily required consultation has been accomplished.

Copies of the full noise exposure map documentation and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, Western-Pacific Region, Office of Airports, 777 S Aviation Blvd., Suite 150, El Segundo, CA 90245

Federal Aviation Administration, San Francisco Airports District Office, 1000 Marina Boulevard, Suite 220, Brisbane, CA 94005–1835

San Mateo County Airports Division, San Carlos Airport, 620 Airport Drive, Suite 10, San Carlos, CA 94070–2714

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in El Segundo, California on May 6, 2019.

Arlene B. Draper,

Acting Director, Office of Airports, Western-Pacific Region, AWP–600.

[FR Doc. 2019–09957 Filed 5–14–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Intent To Release Airport Property

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on request to release airport property for non-aeronautical use; Lake Louise Airport (Z55), Lake Louise, Alaska.

SUMMARY: The FAA proposes to rule and invites public comment on the interim release of the aeronautical use only provision for land at the Lake Louise Airport, Lake Louise, Alaska.

DATES: Comments must be received on or before June 14, 2019.

ADDRESSES: Documents are available for review by appointment at the FAA Alaskan Region Airports Division, Molly Lamrouex, Compliance Manager, 222 W 7th Avenue, Anchorage, AK. Telephone: (907) 271–5439 and the Alaska Department of Transportation & Public Facilities, 2301 Peger Road, Fairbanks, Alaska. Telephone: (907) 451–5226.

Written comments on the Sponsor's request must be delivered or mailed to: Molly Lamrouex, Compliance Manager, Federal Aviation Administration, Alaskan Region Airports Division, 222 W 7th Avenue, Anchorage, AK 99513, Telephone Number: (907) 271–5439.

FOR FURTHER INFORMATION CONTACT: Molly Lamrouex, Compliance Manager, Federal Aviation Administration, Alaskan Region Airports Division, 222 W 7th Avenue, Anchorage, AK 99513. Telephone Number: (907) 271–5439/ FAX Number: (907) 271–2851.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release the aeronautical use only grant provision for improvements to an existing public boat ramp west of runway 13 operated by the Matanuska-Susitna Borough, under the provisions of 49 U.S.C. 47107(h)(2). The Alaska Department of Transportation and Public Facilities has requested from the FAA that a portion of airport property already in use as a public boat ramp be retroactively released for non-aeronautical use. This release will also accommodate a proposed expansion of the boat ramp public parking area. The Matanuska-Susitna Borough operates the boat ramp as a public service and no payment to the airport is proposed. The FAA has determined that the release of the property will not likely adversely impact future aviation needs at the airport, though the expanded parking area will affect the sponsors ability to seek lower approach minimums. The FAA may approve the request, in whole or in part, no sooner than 30 days after the publication of this notice.

This release is considered to be for the benefit of the community and will not generate revenue.

Issued in Anchorage, Alaska, on May 9, 2019.

Kristi A. Warden,

Director, Alaskan Region Airports Division FAA.

[FR Doc. 2019–09982 Filed 5–14–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Little Cottonwood Canyon, Salt Lake County, Utah

AGENCY: Federal Highway Administration (FHWA), DOT,

ACTION: Revised Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: FHWA on behalf of the Utah Department of Transportation (UDOT) published a Revised Notice of Intent (NOI) in the **Federal Register** on March 5, 2019. FHWA on behalf of UDOT is issuing this notice to advise the public that UDOT intends to revise the scope of the analysis of the Little Cottonwood Canyon project based on the anticipated 2019–2050 Regional Transportation Plan (RTP) prepared by the Wasatch Front Regional Council (WFRC) and information collected from the public and agencies during the scoping process and development of the project need.

FOR FURTHER INFORMATION CONTACT: Brandon Weston, Environmental Services Director, Environmental Services Division, UDOT 4501 South 2700 West, P.O. Box 141265, Salt Lake City, Utah 84114–1265 Telephone: (801) 965–4603, email: *brandonweston@utah.gov.* John Thomas, PE, Little Cottonwood Canyon Project Manager, UDOT Region 2, 2010 South 2760 West, Salt Lake City, UT 84104–4592;

Telephone: (801) 550–2248, Email: *johnthomas@utah.gov.*

SUPPLEMENTARY INFORMATION: The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being or have been carried out by UDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated January 17, 2017, and executed by FHWA and UDOT.

On March 5, 2019, at FR Vol. 84, No. 43, page 7967–8, FHWA on behalf of UDOT issued a Revised NOI for UDOT, as the lead agency under the National Environmental Policy Act (NEPA), to prepare an Environmental Impact Statement (EIS) for proposed improvements to SR–210, a two-lane roadway, in Little Cottonwood Canyon in Salt Lake County, Utah. The proposed project study area in the NOI extended from the intersection of SR–210 and SR–190/Fort Union Boulevard in Cottonwood Heights, Utah to the terminus of SR–210 in the town of Alta, Utah. The extent of the project study area has not changed with this revised NOI.

As part of the release of the March 5, 2019 Revised NOI and the EIS process, UDOT invited public and agency comments during a scoping period from March 5 to May 3, 2019, which included a public scoping meeting on April 9, 2019. Just prior to the initiation of this scoping period the WFRC released a Draft 2019—2050 RTP which included project R–S–53, widen Little Cottonwood Canyon Road (SR–210) from 2 to 3 lanes from Wasatch Boulevard to End of Canyon. This project was not included in the 2015 to 2040 RTP. The Draft 2019–2050 RTP also included Special Bus Service in Little Cottonwood Canyon. After reviewing the Draft 2019–2050 RTP, UDOT has revised the scope of the Little Cottonwood Canyon EIS. The revised scope includes the same elements from the March 5, 2019 Revised NOI plus the addition of the Little Cottonwood Canyon SR-210 RTP projects. The EIS scope will include the following: (1) Taking no action; (2) one or more alternatives involving multiple, combined actions, including:

- Transportation System Management (TSM);
- Enhancing safety and improving winter time mobility through avalanche mitigation;
- Enhancing safety, access, and mobility in the area through improved designated parking areas at existing U.S. Department of Agriculture (USDA) Forest Service trailheads;
- Roadway improvements to SR–210 on Wasatch Boulevard from SR–190/Fort Union Boulevard to North Little Cottonwood Canyon Road; and
- Additional roadway capacity and mobility improvements, including the option of adding a third lane on SR–210 in Little Cottonwood Canyon, with the evaluation of managed lane concepts.

and (3) other alternatives if identified during the EIS process. Alternatives that do not meet the project purpose and need or that are otherwise not reasonable will not be carried forward for detailed consideration.

To ensure the public was informed of the inclusion of the additional lane into EIS, UDOT sent out an email to interested stakeholders and agencies and held an agency scoping meeting on April 3, 2019 notifying them of the change in EIS scope. In addition, the inclusion of the additional lane into the EIS was included in project information provided at the April 9, 2019 public scoping meeting for comment. An initial scoping period was held from March 9–May 4, 2018 that included mobility improvements on SR–210 in Little Cottonwood Canyon. Comments received during the initial scoping period will be carried forward during this process.

The project may require FHWA to appropriate National Forest System lands and transfer such lands to UDOT for highway use, pursuant to authority under 23 U.S.C. 317. The project may also require approvals by the USDA Forest Service, the U.S. Army Corps of Engineers, and/or other agencies. The USDA Forest Service, the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, Utah Transit Authority, and Salt Lake City Department of Public Utilities have accepted UDOT's invitation to be cooperating agencies and are expected to continue in this role with the revised scope.

Information describing the revised scope and soliciting comments have been sent to appropriate Federal, state, and local agencies as well as to Native American tribes and to private organizations and citizens who have previously expressed, or who are known to have, an interest in this proposal. Information may also be obtained through a public website maintained by UDOT at *www.udot.utah.gov/littlecottonwoodeis.*

During the NEPA process, other public meetings will be held as appropriate to allow the public, as well as Federal, state, and local agencies, and tribes, to provide comments on the purpose of and need for the project, potential alternatives, and social, economic, and environmental issues of concern.

In addition, a public hearing will be held following the release of the Draft EIS. Public notice advertisements and direct mailings will notify interested parties of the time and place of the public meetings and the public hearing. The Draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action is addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Written comments or questions concerning this proposed action and the EIS should be directed to UDOT representatives at the mail or email addresses provided above by June 14, 2019. For additional information please visit the project website at *www.udot.utah.gov/littlecottonwoodeis.* Information requests or comments can also be provided by email to *littlecottonwoodeis@utah.gov.* (Catalog of Federal and Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Dated: May 7, 2019.

Ivan Marrero,

Division Administrator, Federal Highway Administration, Salt Lake City, Utah.

[FR Doc. 2019–10009 Filed 5–14–19; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0346]

Commercial Driver's Licenses; Pilot Program To Allow Drivers Under 21 To Operate Commercial Motor Vehicles in Interstate Commerce

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: Drivers 18, 19 and 20 years old may currently operate commercial motor vehicles (CMVs) in intrastate commerce. On July 6, 2018, FMCSA published a **Federal Register** notice announcing the details of the Commercial Driver Pilot Program, that allows certain 18- to 20-year-olds with military training to operate CMVs in interstate commerce. This document requests comments on a possible second pilot program to allow non-military

drivers aged 18, 19, and 20 to operate CMVs in interstate commerce. FMCSA requests comments on the training, qualifications, driving limitations, and vehicle safety systems that FMCSA should consider in developing options or approaches for a second pilot program for younger drivers.

DATES: Comments must be received on or before July 15, 2019.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2018–0346 using any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. 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.*

FOR FURTHER INFORMATION CONTACT: Mr. Selden Fritschner, Commercial Drivers License Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, by email at *selden.fritschner@dot.gov,* or by telephone at 202–366–0677. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials. In this notice, FMCSA requests certain information, but comments are not limited to responses to those requests.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2018–0346), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online, by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *www.regulations.gov,* put the docket number, ''FMCSA–2018–0346'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this notice as being available in the docket, go to *www.regulations.gov* and insert the docket number, ''FMCSA–2018–0346'' in the ''Keyword'' box and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document listed to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET., Monday through Friday, except Federal holidays.

II. Legal Basis

Applicable Regulations

Subject to limited exceptions for farm vehicle drivers of articulated CMVs (49 CFR 391.67) and private (non-business) motor carriers of passengers (49 CFR 391.68), drivers of CMVs engaged in interstate commerce must be at least 21 years of age, whether or not operation of the CMV requires a commercial driver's license (CDL) (49 CFR 391.11(b)(1)).

Under 49 U.S.C. 31315 and 31136(e), the Secretary of Transportation (the Secretary) has authority to grant waivers and exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs) and to conduct pilot programs in which one or more exemptions are granted to allow for the testing of innovative alternatives to certain FMCSRs. FMCSA must publish in the **Federal Register** a detailed description of each pilot program, including the exemptions being considered, and provide notice and an opportunity for public comment before the effective date of the program. The Agency is required to ensure that the safety measures in the pilot programs are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be achieved through compliance with the safety regulations. The maximum duration of a pilot program is 3 years.

Therefore, a pilot program requires that participating drivers be provided relief from the effect of the intrastate only (or ''K'') restriction that would appear on a CDL under 49 CFR 383.153(a)(10)(vii) and an exemption from the requirement that a CMV driver operating in interstate commerce be at least 21 years of age under 49 CFR 391.11(b)(1).

At the conclusion of each pilot program, FMCSA must report to Congress its findings, conclusions, and recommendations, including suggested amendments to laws and regulations that would enhance motor carrier, CMV, and driver safety, and improve compliance with the FMCSRs.

Additionally, Section 5404 of the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114–94, 129 Stat. 1312, 1549, Dec. 4, 2015) directed FMCSA to establish a pilot program to allow certain drivers with military training and experience, ages 18, 19 or 20, to operate CMVs in interstate commerce.

III. Background

Recent Considerations To Change the CDL Driving Age

On October 2, 2000, the Truckload Carriers Association (TCA) petitioned FMCSA to conduct a younger driver pilot program. Motor carriers, truck driver training schools, a trade association, and an insurance company joined in the petition asking FMCSA to authorize a pilot program to determine if CMV drivers under age 21 could operate CMVs safely in interstate

commerce. Petitioners stated that this pilot would address the shortage of CMV drivers in the trucking industry. Petitioners also asserted that recruiting young persons as truck drivers would be easier if they could be approached immediately after graduation from high school.

The pilot program proposed by TCA would have involved a minimum of 48 weeks of intensive classroom and driving instruction and supervision that was designed to lead to full-time employment as an interstate CMV driver. Each younger driver (18 to 21 years of age) would attend a truck driver training school approved by the Professional Truck Driver Institute for a minimum of 22 weeks and receive 8 weeks of training in a motor carrier's ''driver finishing'' program. This would be followed by 18 weeks of team driving with an older, more experienced driver. Younger drivers would be required to pass the performance standards of the entire 48-week program and reach the age of 19 to begin solo driving.

On February 20, 2001, FMCSA published a notice asking six questions about the proposed pilot program and requesting public comment on the TCA petition (66 FR 10935). FMCSA received more than 1,600 comments. Very few commenters presented data either for or against the program. More than 90 percent of the commenters were opposed, most on the basis that individuals under the age of 21 lacked the maturity and judgment to operate a CMV. None explained how interstate drivers under 21 would diminish safety when most States have concluded that intrastate drivers under 21 do not do so. Very few truck drivers and motor carriers commented, but most of them also opposed the pilot program.

On June 9, 2003, FMCSA denied the TCA petition stating that ''the Agency does not have sufficient information at this time to make a determination that the safety measures in the pilot program are designed to achieve a level of safety equivalent to, or greater than, the level of safety provided by complying with the minimum 21-year age requirement to operate a CMV.'' (68 FR 34467, 34468)

Military Under 21 Pilot Program

On August 22, 2016, FMCSA published a notice of proposed pilot program titled ''Commercial Driver's Licenses; Proposed Pilot Program to Allow Persons Between the Ages of 18 and 21 with Military Driving Experience to Operate Commercial Motor Vehicles in Interstate Commerce'' (81 FR 56745). The notice proposed allowing members of the military, veterans, Reservists and National Guard members who are 18, 19 or 20 years old and certified in one of seven Military Occupational Specialties (MOS) to operate CMVs in interstate commerce. The 2016 notice provided details of current military training. At a minimum, the seven MOS require at least 22 hours of classroom training and 62 hours of behind-the-wheel taining in a heavy duty military vehicle. In some instances, additional instruction is required for specialized training, depending on the vehicle or trailer type.

The Agency received 67 comments to the docket; 40 favored the pilot program and 9 opposed it. The remaining 18 comments were a form letter asking the Agency to expand the current pilot program or initiate a new one for drivers aged 18, 19, or 20 years old and who are engaged in agricultural operations.

On July 6, 2018, the FMCSA published a notice detailing the requirements of the pilot program and responded to comments. The notice is titled ''Proposed Pilot Program To Allow Persons Between the Ages of 18 and 21 With Military Driving Experience to Operate Commercial Motor Vehicles in Interstate Commerce'' (83 FR 31633). The notice discussed comments and responses received from the August 2016 notice, and detailed the pilot program requirements and procedures.

In addition, on July 6, 2018, the FMCSA published a 60-day notice for the information collection request (ICR) associated with the Under 21 Military CDL Pilot Program (83 FR 31631). The ICR included the application and consent forms for motor carriers, covered drivers, control group drivers, and intrastate drivers providing information for the pilot program. It also explained the Agency's hypotheses for the Under 21 Military CDL Pilot Program, the monthly reporting requirements, and the ICR burdens. The Agency anticipates that some of the forms and processes developed for this information collection may also be applicable if the Agency decides to conduct a pilot program involving younger drivers without military training and experience.

Entry Level Driver Training

On December 8, 2016, the FMCSA published a final rule titled ''Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators'' (81 FR 88732). The rule on entry-level driver training (ELDT) established minimum training standards for certain individuals applying for their CDL. Specifically, according to FMCSA's current rulemaking implementation schedule, beginning on February 6, 2020, CDL applicants subject to the rule must complete a prescribed program of instruction presented by an entity listed on FMCSA's Training Provider Registry, prior to taking the State-administered CDL skills test, or for the Hazardous Materials endorsement, prior to taking the knowledge test. The final rule outlined the topics that must be covered during classroom and behind the wheel training curriculums; however, it did not require a minimum number of hours for either classroom or behind the wheel.

Recent Legislative Proposals

On February 27, 2019, companion bills were introduced in the U.S. House of representatives and the U.S. Senate called the ''Developing Responsible Individuals for a Vibrant Economy Act'' (DRIVE-Safe Act) (H.R. 5358). The DRIVE-Safe Act proposes to lower the age requirement for interstate drivers to 18 as long as drivers under the age of 21 are participating in an apprenticeship program that includes separate 120-hour and 280-hour probationary periods, during which younger drivers would operate CMVs under the supervision of an experienced driver and must achieve specific performance benchmarks before advancing. Younger drivers would also drive vehicles equipped with active braking collision mitigation systems, forward-facing video event capture, and speed limiters set to 65 miles per hour.

IV. Request for Public Comments

FMCSA requests responses to the following questions to help the Agency determine whether it should propose a younger driver pilot program and the parameters of such a program. Instructions for filing comments to the public docket are included earlier in this notice.

The public is encouraged to respond to the questions listed below; however, additional comments are also welcome.

General

1. What data are currently available on the safety performance (*e.g.,* crash involvement, etc.) of 18–20-year-old drivers operating CMVs in intrastate commerce?

2. Are there concerns about obtaining insurance coverage for drivers under 21 who operate CMVs in intrastate commerce, and would these challenges be greater for interstate operations?

Training and Experience

As noted above, according to the current rulemaking implementation schedule, starting in 2020, FMCSA will require completion of an ELDT course

before a driver may take the CDL skills test. In addition, the 2000 TCA proposal included extensive training requirements. The DRIVE-Safe Act contemplates an extensive apprenticeship program under the supervision of an experienced co-driver.

1. What is the minimum driving experience that should be required for a driver to be admitted to a pilot?

a. Should there be a requirement for experience driving non-commercial vehicles (*e.g.,* to hold a regular driver's license for some minimum period of time)?

b. Should there be a requirement for experience driving a CMV in intrastate commerce for some minimum period of time? If so, what should that period be and how should it be measured (*e.g.,* time with a CDL, hours driven, vehicle miles traveled) and why?

c. Is there a minimum amount of time a younger driver should be required to hold a CLP or CDL? If so, how long and why? Are there driver training topics that should be required for younger drivers beyond those covered in the ELDT final rule? If so, what are they and why?

2. What kind of supervision, and how much, should be required for drivers under 21 in a pilot?

3. Should there be any specific training/qualification requirements for mentors, supervisors or co-drivers? If so, what type of training or qualifications?

4. Should FMCSA require that participating motor carriers establish a formal apprenticeship program according to Department of Labor Standards? If so, why?

Operational Requirements

The TCA proposal and the DRIVE-Safe Act both proposed operational limitations for 18–20-year-old drivers beyond what is currently required under Federal regulations. In addition, graduated driver license programs that begin with operational restrictions (*e.g.,* may not drive between midnight and 5:00 a.m.) have been shown to be effective for new drivers. With this in mind:

1. Should there be time or distance restrictions on younger drivers? If so, what should these be and why?

2. Should younger drivers have more limited hours of service, such as a maximum of 8 hours of driving each day? If so, what limits should be applied and why?

3. Should younger drivers be prohibited from transporting hazardous materials, passengers, and/or operating tank vehicles or oversize/overweight vehicles? Should there be other restrictions?

Requirements for participation?

In the Under 21 Military Pilot Program, FMCSA laid out specific requirements that participating motor carriers and drivers must continue to satisfy.

1. What safety standards should participating motor carriers have to meet? Are the requirements from the Under 21 Military Pilot Program appropriate?

2. What safety standards should participating drivers have to meet? Are the requirements from the Under 21 Military Pilot program appropriate?

3. What action(s) should the Agency consider taking if drivers in this pilot program are convicted of violations while operating in interstate commerce?

4. At what point should FMCSA remove a driver or motor carrier from a pilot program?

Technology Requirements

The DRIVE-Safe Act would require younger drivers to operate vehicles that are equipped with collision avoidance systems, front-facing video recorders, and speed limiters set to 65 mph.

1. Should FMCSA include requirements for safety equipment or on-board recording systems in a pilot program for younger CMV drivers? If so, what equipment and why?

2. Are the technologies proposed in the DRIVE-Safe Act appropriate?

3. Should FMCSA include other technologies? If so, what technologies are appropriate?

Insurance

1. Will insurance companies be willing to cover younger drivers operating CMVs in interstate commerce?

2. What is the surcharge for insuring a younger driver?

3. Will motor carriers be able to afford the insurance coverage for these younger drivers?

Research and Data

1. What type of data could be provided to the Agency to evaluate the safety performance of drivers under 21 who operate in intrastate commerce, *e.g.,* State-managed safety performance data?

2. Are traffic violations, crashes, and inspection violations adequate to allow a comparison of safety records? If not, what other safety performance measures should be used?

3. What research should the Agency consider to assess the safety impacts of younger interstate CMV drivers?

Issued on: May 9, 2019.

Raymond P. Martinez,

Administrator.

[FR Doc. 2019–09944 Filed 5–14–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2019–0039]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

Under part 235 of Title 49 of the Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that by a document dated May 1, 2019, the Belt Railway Company of Chicago (BRC) petitioned the Federal Railroad Administration (FRA) seeking approval to discontinue or modify a signal system. FRA assigned the petition Docket Number FRA–2019–0039.

Applicant: The Belt Railway Company of Chicago, Mr. Harold T. Kirman, Director Strategic Planning & Compliance, 6900 South Central Avenue, Bedford Park, IL 60638–6397.

Specifically, BRC requests permission to permanently remove signal components within the interlocking at Rock Island Junction, Chicago, IL, located on BRC's Kenton Line at milepost 21.4. This location is a direct connection between BRC and the Canadian National Railway's (CN) Lakefront Subdivision, as referenced in CN's February 5, 2019, petition in Docket Number FRA–2019–0010. BRC notes that if FRA approves CN's petition, rail access to this location will no longer be possible, rendering these BRC signal components no longer usable at this location. The proposed change is to discontinue switch 9 and signal 2LD governing movement to the no longer used connection with CN.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *http://www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since

the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

• *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.

• *Fax:* 202–493–2251.

• *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.

• *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by July 1, 2019 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. 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 *http://www.dot.gov/privacy.* See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

John Karl Alexy,

Acting Associate Administrator for Railroad Safety.

[FR Doc. 2019–09959 Filed 5–14–19; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2019–0038]

Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated April 9, 2019, the Port Authority Trans Hudson Corporation (PATH) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 240, subpart B, *Component Elements of the Certification Process,* and subpart D, *Administration of the Certification Programs.* FRA assigned the petition Docket Number FRA–2019–0038.

Specifically, PATH requests relief from the requirement of performing one unannounced test each calendar year for each locomotive engineer as required by 49 CFR 240.129(e)(1) and 49 CFR 240.303(a), (c). PATH explains that with the implementation of Positive Train Control (PTC) on its system, it is impossible for an engineer to fail any of the allowable unannounced tests because PTC will automatically perform the desired function with or without intervention from the engineer.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

• *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.

• *Fax:* 202–493–2251.

• *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.

• *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by July 1, 2019 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. 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 *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Deputy Associate Administrator for Railroad Safety.

[FR Doc. 2019–09958 Filed 5–14–19; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Fiscal Year 2019 Competitive Funding Opportunity; Grants for Buses and Bus Facilities Program

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Funding Opportunity (NOFO).

SUMMARY: The Federal Transit Administration (FTA) announces the opportunity to apply for approximately $423.35 million in fiscal year (FY) 2019 funds under the Grants for Buses and Bus Facilities Program (CFDA#20.526). As required by federal public transportation law and subject to funding availability, funds will be awarded competitively to assist in the financing of capital projects to replace, rehabilitate, purchase or lease buses and related equipment, and to rehabilitate, purchase, construct or lease bus-related facilities. Projects may include costs incidental to the acquisition of buses or to the construction of facilities, such as the costs of related workforce development and training activities, and project administration expenses. FTA may award additional funds if they are made available to the program prior to the announcement of project selections.

DATES: Complete proposals must be submitted electronically through the

GRANTS.GOV ''APPLY'' function by 11:59 p.m. Eastern Time on June 21, 2019. Prospective applicants should initiate the process by promptly registering on the *GRANTS.GOV* website to ensure completion of the application process before the submission deadline. Instructions for applying can be found on FTA's website at *http://transit.dot.gov/howtoapply* and in the ''FIND'' module of *GRANTS.GOV*.

The *GRANTS.GOV* funding opportunity ID is FTA–2019–003–TPM. Mail and fax submissions will not be accepted.

FOR FURTHER INFORMATION CONTACT: Mark Bathrick, FTA Office of Program Management, 202–366–9955, or *mark.bathrick@dot.gov.*

SUPPLEMENTARY INFORMATION:

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A. Program Description

Section 5339(b) of Title 49, United States Code, as amended by the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114–94, Dec. 4, 2015), authorizes FTA to award funds for the Grants for Buses and Bus Facilities Program through a competitive process, as described in this notice, for capital projects to replace, rehabilitate, purchase or lease buses and related equipment and to rehabilitate, purchase, construct or lease bus-related facilities.

The purpose of the Grants for Buses and Bus Facilities Program is to assist in the financing of capital projects for buses and bus facilities, including replacing, rehabilitating, purchasing, or leasing buses or related equipment, and rehabilitating, purchasing, constructing, or leasing bus-related facilities.

The Grants for Buses and Bus Facilities Program provides funds under 49 U.S.C. 5339(b)(1), to eligible applicants including designated recipients that allocate funds to fixed route bus operators, states or local governmental entities that operate fixed route bus service, and Indian tribes. FTA also may award grants to eligible recipients for projects to be undertaken by subrecipients. Eligible subrecipients include all otherwise eligible applicants and also private nonprofit organizations engaged in public transportation. In accordance with 49 U.S.C. 5339(b)(2), FTA will ''consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities'' in selecting projects for funding. FTA may prioritize projects that demonstrate how they will address significant repair and maintenance needs, improve the safety of transit systems and deploy connective projects that include advanced technologies to connect bus systems with other networks.

B. Federal Award Information

Federal public transportation law at 49 U.S.C. 5338(a)(2)(M) authorizes $267,059,980 in FY 2019 funds for the Section 5339(b) Grants for Buses and Bus Facilities Program. The Consolidated Appropriations Act, 2019 appropriated an additional $160,000,000 for the Grants for Buses and Bus Facilities Program. After the mandatory oversight takedown of $3,840,450 and the addition of $130,710 in unallocated FY 2018 program funding, FTA is announcing the availability of $423,350,240 for the Grants for Buses and Bus Facilities Program through this notice.

As required under 49 U.S.C. 5339(b)(5), a minimum of 10 percent of the amount awarded under the Grants for Buses and Bus Facilities Program will be awarded to projects located in rural areas. As required by 49 U.S.C. 5339(b)(8), no single grantee will be awarded more than 10 percent of the amounts made available. FTA may further cap the amount a single recipient or State may receive as part of the selection process. In FY 2018, for example, the largest amount awarded to a single applicant was $11,000,000 and no State received more than 8 percent of the total funding available.

FTA will grant pre-award authority to incur costs for selected projects beginning on the date that project selections are announced. Funds are only available for projects that have not incurred costs prior to the selection of projects, and will remain available for obligation for three Federal fiscal years, not including the year in which the funds are allocated to projects.

C. Eligibility Information

1. Eligible Applicants

Under 49 U.S.C. 5339(b)(1), eligible applicants include designated recipients that allocate funds to fixed route bus operators, states or local governmental entities that operate fixed route bus service, and Indian tribes. Eligible subrecipients include all otherwise eligible applicants and also private nonprofit organizations engaged in public transportation.

Under 49 U.S.C. 5339(b)(3), States may submit a statewide application on behalf of public agencies or private nonprofit organizations engaged in public transportation in rural areas or for other areas for which a State allocates funds. Except for projects proposed by Indian tribes, all proposals for projects in rural (non-urbanized) areas must be submitted by a State, either individually or as a part of a statewide application. States and other eligible applicants may also submit consolidated proposals for projects in urbanized areas. The submission of a statewide or consolidated urbanized area application shall not preclude the submission and consideration of any application from other eligible recipients in an urbanized area in a State. Proposals may contain projects to be implemented by the recipient or its subrecipients.

To be considered eligible, applicants must be able to demonstrate the requisite legal, financial and technical capabilities to receive and administer Federal funds under this program.

2. Cost Sharing or Matching

The maximum federal share for projects selected under the Grants for Buses and Bus Facilities Program is 80 percent of the net project cost (*i.e.,* the local amount should be at least 20 percent of the net project cost, not 20 percent of the requested grant amount), unless noted below by one of the exceptions.

a. The maximum Federal share is 85 percent of the net project cost of acquiring vehicles (including clean-fuel or alternative fuel vehicles) that are compliant with the Clean Air Act (CAA) and/or the Americans with Disabilities Act (ADA) of 1990.

b. The maximum Federal share is 90 percent of the net project cost of acquiring, installing or constructing vehicle-related equipment or facilities (including clean fuel or alternative-fuel vehicle-related equipment or facilities) that are required by the ADA of 1990, or that are necessary to comply with or maintaining compliance with the Clean Air Act. The award recipient must itemize the cost of specific, discrete, vehicle-related equipment associated with compliance with ADA or CAA to be eligible for the maximum 90 percent Federal share for these costs.

Eligible sources of local match include the following: Cash from non-Government sources other than revenues from providing public transportation services; revenues derived from the sale of advertising and

concessions; amounts received under a service agreement with a State or local social service agency or private social service organization; revenues generated from value capture financing mechanisms; or funds from an undistributed cash surplus; replacement or depreciation cash fund or reserve; or new capital. In addition, transportation development credits or documentation of in-kind match may substitute for local match if identified in the application.

If an applicant proposes a Federal share greater than 80 percent, the application must clearly explain why the project is eligible for the proposed Federal share.

3. Eligible Projects

Under 49 U.S.C. 5339(b)(1), eligible projects are capital projects to replace, rehabilitate purchase, or lease buses, vans, and related equipment, and capital projects to rehabilitate, purchase, construct, or lease bus-related facilities.

Recipients are permitted to use up to 0.5 percent of their requested grant award for workforce development activities eligible under 49 U.S.C. 5314(b) and an additional 0.5 percent for costs associated with training at the National Transit Institute, to pay not more than 80 percent of the cost of eligible activities (see 49 U.S.C. 5314(b)(4) and 49 U.S.C. 5314(c)(4)(A)). Applicants must identify the proposed use of funds for these activities in the project proposal and identify them separately in the project budget.

D. Application and Submission Information

1. Address

Applications must be submitted electronically through *GRANTS.GOV*. General information for submitting applications through *GRANTS.GOV* can be found at *https://www.transit.dot.gov/funding/grants/applying/applying-fta-funding* along with specific instructions for the forms and attachments required for submission. Mail and fax submissions will not be accepted. A complete proposal submission consists of two forms: The SF424 Application for Federal Assistance (downloaded from *GRANTS.GOV*) and the supplemental form for the FY 2019 Grants for Buses and Bus Facilities Program (downloaded from *GRANTS.GOV* or the FTA website at *www.transit.dot.gov/busprogram*). Applicants may also attach additional supporting information. Failure to submit the information as required can delay or prevent review of the application.

2. Content and Form of Application Submission

A complete proposal submission consists of two forms: The SF424 Application for Federal Assistance and the FY 2019 Grants for Buses and Bus Facilities Program supplemental form. The supplemental form and any supporting documents must be attached to the ''Attachments'' section of the SF424. A complete application must include responses to all sections of the SF424 Application for Federal Assistance and the supplemental form, unless indicated as optional. The information on the supplemental form will be used to determine applicant and project eligibility for the program, and to evaluate the proposal against the selection criteria described in part E of this notice.

FTA will accept only one supplemental form per SF424 submission. FTA encourages States and other applicants to consider submitting a single supplemental form that includes multiple activities to be evaluated as a consolidated proposal. If a State or other applicant chooses to submit separate proposals for individual consideration by FTA, each proposal must be submitted using a separate SF424 and supplemental form.

Applicants may attach additional supporting information to the SF424 submission, including but not limited to letters of support, project budgets, fleet status reports or excerpts from relevant planning documents. Supporting documentation must be described and referenced by file name in the appropriate response section of the supplemental form, or it may not be reviewed.

Information such as applicant name, Federal amount requested, local match amount, description of areas served, etc. may be requested in varying degrees of detail on both the SF424 and Supplemental Form. Applicants must fill in all fields unless stated otherwise on the forms. Applicants should not place N/A or ''refer to attachment'' in lieu of typing in responses in the field sections. If information is copied into the supplemental form from another source, applicants should verify that pasted text is fully captured on the supplemental form and has not been truncated by the character limits built into the form. Applicants should use both the ''Check Package for Errors'' and the ''Validate Form'' validation buttons on both forms to check all required fields on the forms, and ensure that the federal and local amounts specified are consistent.

The SF424 Mandatory Form and the Supplemental Form will prompt applicants for the required information, including:

a. Applicant Name
b. Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number
c. Key contact information (including contact name, address, email address, and phone)
d. Congressional district(s) where project will take place
e. Project Information (including title, an executive summary, and type)
f. A detailed description of the need for the project
g. A detailed description on how the project will support the Bus Infrastructure Program's objectives
h. Evidence that the project is consistent with local and regional planning objectives
i. Evidence that the applicant can provide the local cost share
j. A description of the technical, legal and financial capacity of the applicant
k. A detailed project budget
l. An explanation of the scalability of the project
m. Details on the local matching funds
n. A detailed project timeline

3. Unique Entity Identifier and System for Award Management (SAM)

Each applicant is required to: (1) Be registered in SAM before submitting an application; (2) provide a valid unique entity identifier in its application; and (3) continue to maintain an active SAM registration with current information at all times during which the applicant has an active Federal award or an application or plan under consideration by FTA. These requirements do not apply if the applicant: (1) Is an individual; (2) is excepted from the requirements under 2 CFR 25.110(b) or (c); or (3) has an exception approved by FTA under 2 CFR 25.110(d). FTA may not make an award until the applicant has complied with all applicable unique entity identifier and SAM requirements. If an applicant has not fully complied with the requirements by the time FTA is ready to make an award, FTA may determine that the applicant is not qualified to receive an award and use that determination as a basis for making a Federal award to another applicant. All applicants must provide a unique entity identifier provided by SAM. SAM registration takes approximately 3–5 business days, but FTA recommends allowing ample time, up to several weeks, for completion of all steps. For additional information on obtaining a unique entity identifier, please visit *www.sam.gov.*

4. Submission Dates and Times

Project proposals must be submitted electronically through *GRANTS.GOV* by 11:59 p.m. Eastern on June 21, 2019. Mail and fax submissions will not be accepted.

FTA urges applicants to submit applications at least 72 hours prior to the due date to allow time to correct any problems that may have caused either *Grants.gov* or FTA systems to reject the submission. Proposals submitted after the deadline will only be considered under extraordinary circumstances not under the applicant's control. Deadlines will not be extended due to scheduled website maintenance. *GRANTS.GOV* scheduled maintenance and outage times are announced on the *GRANTS.GOV* website.

Within 48 hours after submitting an electronic application, the applicant should receive two email messages from *GRANTS.GOV*: (1) Confirmation of successful transmission to *GRANTS.GOV* and (2) confirmation of successful validation by *GRANTS.GOV.* If confirmations of successful validation are not received or a notice of failed validation or incomplete materials is received, the applicant must address the reason for the failed validation, as described in the email notice, and resubmit before the submission deadline. If making a resubmission for any reason, applicants must include all original attachments regardless of which attachments were updated and check the box on the supplemental form indicating this is a resubmission.

Applicants are encouraged to begin the process of registration on the *GRANTS.GOV* site well in advance of the submission deadline. Registration is a multi-step process, which may take several weeks to complete before an application can be submitted. Registered applicants may still be required to take steps to keep their registration up to date before submissions can be made successfully: (1) Registration in the System for Award Management (SAM) is renewed annually; and, (2) persons making submissions on behalf of the Authorized Organization Representative (AOR) must be authorized in *GRANTS.GOV* by the AOR to make submissions.

5. Funding Restrictions

Funds under this NOFO cannot be used to reimburse applicants for otherwise eligible expenses incurred prior to FTA award of a Grant Agreement until FTA has issued pre-award authority for selected projects.

6. Other Submission Requirements

Applicants are encouraged to identify scaled funding options in case insufficient funding is available to fund a project at the full requested amount. If an applicant indicates that a project is scalable, the applicant must provide an appropriate minimum funding amount that will fund an eligible project that achieves the objectives of the program and meets all relevant program requirements. The applicant must provide a clear explanation of how the project budget would be affected by a reduced award. FTA may award a lesser amount whether or not a scalable option is provided.

E. Application Review

FTA will evaluate project proposals for the Grants for Buses and Bus Facilities Program based on the criteria described in this notice. Projects will be evaluated primarily on the responses provided in the supplemental form. Additional information may be provided to support the responses; however, any additional documentation must be directly referenced on the supplemental form, including the file name where the additional information can be found.

1. Demonstration of Need

Applications will be evaluated based on the quality and extent to which they demonstrate how the proposed project will address an unmet need for capital investment in bus vehicles and/or supporting facilities. For example, an applicant may demonstrate an excessive reliance on vehicles that are beyond their intended service life, insufficient maintenance facilities due to size or condition, a vehicle fleet that is insufficient to meet current ridership demands or passenger facilities that are insufficient for their current use. Applicants should address whether the project represents a one-time or periodic need that cannot reasonably be funded from FTA formula program allocations and State or local resources. As a part of the response for demonstration of need, applicants should provide the following information:

a. For bus projects (replacement, rehabilitation or expansion): Applicants must provide information on the age, condition and performance of the asset(s) to be replaced or rehabilitated by the proposed project. For service expansion requests, applicants must provide information on the proposed service expansion and the benefits for transit riders and the community from the new service. For all vehicle projects, the proposal must address how the project conforms to FTA's spare ratio guidelines.

b. For bus facility and equipment projects (replacement, rehabilitation and/or expansion): Applicants must provide information on the age and condition of the asset to be rehabilitated or replaced relative to its minimum useful life.

2. Demonstration of Benefits

Applications will be evaluated based on how well they describe how the proposed project will improve the condition of the transit system, improve the reliability of transit service for its riders and enhance access and mobility within the service area.

System Condition: FTA will evaluate the potential for the project to improve the condition of the transit system by repairing and/or replacing assets that are in poor condition or have surpassed their minimum or intended useful life benchmarks, lowering the average age of vehicles in the fleet and/or reducing the cost of maintaining outdated vehicles, facilities and equipment.

Service Reliability: FTA will evaluate the potential for the project to reduce the frequency of breakdowns or other service interruptions caused by the age and condition of the agency's bus fleet. Applicants should document their current service reliability metrics and benchmark goals, including their strategy for improving reliability with or without the award of Bus and Bus Facilities Program funds.

Enhanced Access and Mobility: FTA will evaluate the potential for the project to improve access and mobility for the transit riding public, such as through increased reliability, improved headways, creation of new transportation choices or eliminating gaps in the current route network. Proposed benefits should be based on documented ridership demand and be well-described or documented through a study or route planning proposal.

3. Planning and Local/Regional Prioritization

Applicants must demonstrate how the proposed project will be consistent with local and regional long-range planning documents and local government priorities. This will involve assessing whether the project is consistent with the transit priorities identified in the long range plan; and/or contingency/illustrative projects included in that plan; or the locally developed human services public transportation coordinated plan. Applicants are not required to submit copies of such plans, but should describe how the project will support regional goals. Additional

consideration will be given to applications including support letters from local and regional planning organizations, local government officials, public agencies and/or non-profit or private sector partners attesting to the consistency of the proposed project with these plans. Applicants may also address how the proposed project will impact overall system performance, asset management performance or specific performance measures tracked and monitored by the applying entity to demonstrate how the proposed project will address local and regional planning priorities.

Evidence of additional local or regional prioritization (*i.e.,* Statewide Transportation Improvement Plan and Long Range Transportation Plan) should include letters of support for the project from local government officials, public agencies (*i.e.,* Metropolitan Planning Organizations) and non-profit or private sector partners.

4. Local Financial Commitment

Applicants must identify the source of the local cost share and describe whether such funds are currently available for the project or will need to be secured if the project is selected for funding. FTA will consider the availability of the local cost share as evidence of local financial commitment to the project. Additional consideration will be given to those projects for which local funds have already been made available or reserved. Applicants should submit evidence of the availability of funds for the project, for example by including a board resolution, letter of support from the State or other documentation of the source of local funds such as a budget document highlighting the line item or section committing funds to the proposed project. In addition, as evidence of local financial commitment, an applicant may propose a local cost share that is greater than the minimum requirement. Additional consideration will be given to those projects that propose a larger percentage of local cost share.

5. Project Implementation Strategy

Projects will be evaluated based on the extent to which the project is ready to implement within a reasonable period of time and whether the applicant's proposed implementation plans are reasonable and complete.

In assessing whether the project is ready to implement within a reasonable period of time, FTA will consider whether the project qualifies for a Categorical Exclusion, or whether the required environmental work has been initiated or completed for projects that require an Environmental Assessment or Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA), as amended. The proposal must also state whether grant funds can be obligated within 12 months from time of award, if selected, and indicate the timeframe under which the Metropolitan Transportation Improvement Program and/or Statewide Transportation Improvement Program can be amended to include the proposed project. Additional consideration will be given to projects for which grant funds can be obligated within 12 months from time of award.

In assessing whether the proposed implementation plans are reasonable and complete, FTA will review the proposed project implementation plan, including all necessary project milestones and the overall project timeline. For projects that will require formal coordination, approvals or permits from other agencies or project partners, the applicant must demonstrate coordination with these organizations and their support for the project, such as through letters of support.

6. Technical, Legal and Financial Capacity

Applicants must demonstrate that they have the technical, legal and financial capacity to undertake the project. FTA will review relevant oversight assessments and records to determine whether there are any outstanding legal, technical or financial issues with the applicant that would affect the outcome of the proposed project. Applicants with outstanding legal, technical or financial compliance issues from an FTA compliance review or Federal Transit grant-related Single Audit finding must explain how corrective actions taken will mitigate negative impacts on the proposed project.

F. Review and Selection Process

In addition to other FTA staff that may review the proposals, a technical evaluation committee will evaluate proposals based on the published evaluation criteria. After applying the above criteria, the FTA Administrator will consider the following key Departmental objectives:

(A) Supporting economic vitality at the national and regional level;

(B) Utilizing alternative funding sources and innovative financing models to attract non-Federal sources of infrastructure investment;

(C) Accounting for the life-cycle costs of the project to promote the state of good repair;

(D) Using innovative approaches to improve safety and expedite project delivery; and

(E) Holding grant recipients accountable for their performance and achieving specific, measurable outcomes identified by grant applicants.

Prior to making an award, FTA is required to review and consider any information about the applicant that is in the Federal Awardee Performance and Integrity Information Systems (FAPIIS) accessible through SAM. An applicant, may review and comment on information about itself that a Federal awarding agency previously entered.

The FTA Administrator will determine the final selection of projects for program funding. In determining the allocation of program funds, FTA may consider geographic diversity, diversity in the size of the transit systems receiving funding, the applicant's receipt of other competitive awards, projects located in or that support public transportation service in a qualified opportunity zone designated pursuant to 26 U.S.C. 1400Z–1, and the percentage of local share provided. Not less than 10 percent of the Buses and Bus Facilities Program funds will be distributed to projects in rural areas. In addition, FTA will not award more than 10 percent of the funds to a single grantee.

G. Federal Award Administration

1. Federal Award Notice

Final project selections will be posted on the FTA website. FTA will also publish a list of the selected projects, a summary of final scores for selected projects, Federal award amounts and recipients in the **Federal Register**. Selected recipients should contact their FTA regional offices for additional information regarding allocations for projects under the Grants for Buses and Bus Facilities Program.

At the time the project selections are announced, FTA will extend pre-award authority for the selected projects. There is no blanket pre-award authority for these projects before announcement.

2. Award Administration

Funds under the Grants for Buses and Bus Facilities Program are available to designated recipients that allocate funds to fixed route bus operators, state or local governmental entities that operate fixed route bus service, and Indian tribes. There is no minimum or maximum grant award amount apart from the restriction that FTA will not award more than ten percent of the funds to a single grantee; however, FTA intends to fund as many meritorious

projects as possible. Only proposals from eligible recipients for eligible activities will be considered for funding. Due to funding limitations, proposals that are selected for funding may receive less than the amount originally requested. In those cases, applicants must be able to demonstrate that the proposed projects are still viable stand-alone projects that can be completed with the amount awarded.

3. Administrative and National Policy Requirements

a. Pre-Award Authority

The FTA will issue specific guidance to recipients regarding pre-award authority at the time of selection. The FTA does not provide pre-award authority for competitive funds until projects are selected and even then there are Federal requirements that must be met before costs are incurred. For more information about FTA's policy on pre-award authority, please see the FY 2018 Apportionment Notice published on July 16, 2018 which can be accessed at *http://www.gpo.gov/fdsys/pkg/FR-2018-07-16/pdf/2018-14989.pdf.*

b. Grant Requirements

If selected, awardees will apply for a grant through FTA's Transit Award Management System (TrAMS). Recipients of Grants for Buses and Bus Facilities Program funding in urban areas are subject to the grant requirements of the Section 5307 Urbanized Area Formula Grant program, including those of FTA Circular 9030.1E. Recipients of funding in rural areas are subject to the grant requirements of the Section 5311 Formula Grants for Rural Areas Program, including those of FTA Circular 9040.1G. All recipients must follow the Grants Management Requirements of FTA Circular 5010.1E, and the labor protections of 49 U.S.C. 5333(b). Technical assistance regarding these requirements is available from each FTA regional office.

c. Buy America

The FTA requires that all capital procurements meet FTA's Buy America requirements per 49 U.S.C. 5323(j), which require that all iron, steel, or manufactured products be produced in the United States, to help create and protect manufacturing jobs in the United States. The Grants for Buses and Bus Facilities Program will have a significant economic impact toward meeting the objectives of the Buy America law. The FAST Act amended the Buy America requirements to provide for a phased increase in the domestic content for rolling stock. For FY 2019, the cost of components and subcomponents produced in the United States must be more than 65 percent of the cost of all components. For FY 2020 and beyond, the cost of components and subcomponents produced in the United States must be more than 70 percent of the cost of all components. There is no change to the requirement that final assembly of rolling stock must occur in the United States. The Buy America requirements can be found in 49 CFR part 661 and additional guidance on the implementation of the phases increase in domestic content can be found at 81 FR 60278 (Sept. 1, 2016). Any proposal that will require a waiver must identify in the application the items for which a waiver will be sought. Applicants should not proceed with the expectation that waivers will be granted, nor should applicants assume that selection of a project under the Grants for Buses and Bus Facilities Program that includes a partnership with a manufacturer, vendor, consultant, or other third party constitutes a waiver of the Buy America requirements applicable at the time the project is undertaken. Consistent with Executive Order 13858 *Strengthening Buy-American Preferences for Infrastructure Projects,* signed by President Trump on January 31, 2019, applicants should maximize the use of goods, products, and materials produced in the United States, in Federal procurements and through the terms and conditions of Federal financial assistance awards.

d. Disadvantaged Business Enterprise

FTA requires that its recipients receiving planning, capital and/or operating assistance that will award prime contracts exceeding $250,000 in FTA funds comply with the Disadvantaged Business Enterprise (DBE) program regulations at 49 CFR part 26. The rule requires that, prior to bidding on any FTA-assisted vehicle procurement, entities that manufacture vehicles or perform post-production alterations or retrofitting must submit a DBE Program plan and annual goal methodology to FTA. Further, to the extent that a vehicle remanufacturer is responding to a solicitation for new or remanufactured vehicles with a vehicle to which the remanufacturer has provided post-production alterations or retro-fitting (*e.g.,* replacing major components such as engine to provide a ''like new'' vehicle), the vehicle remanufacturer is considered a transit vehicle manufacturer and must also comply with the DBE regulations.

FTA will then issue a transit vehicle manufacturer (TVM) concurrence/certification letter. Grant recipients must verify each entity's compliance with these requirements before accepting its bid. A list of compliant, certified TVMs is posted on FTA's web page at *https://www.fta.dot.gov/regulations-and-guidance/civil-rights-ada/eligible-tvms-list.* Please note that this list is nonexclusive and recipients must contact FTA before accepting bids from entities not listed on this Web posting. Recipients may also establish project-specific DBE goals for vehicle procurements. FTA will provide additional guidance as grants are awarded. For more information on DBE requirements, please contact Janelle Hinton, Office of Civil Rights, 202–366–9259, email: *janelle.hinton@dot.gov.*

e. Planning

FTA encourages applicants to notify the appropriate State Departments of Transportation and MPOs in areas likely to be served by the project funds made available under this program. Selected projects must be incorporated into the long-range plans and transportation improvement programs of States and metropolitan areas before they are eligible for FTA funding.

f. Standard Assurances

By submitting a grant application, the applicant assures that it will comply with all applicable federal statutes, regulations, executive orders, directives, FTA circulars and other federal administrative requirements in carrying out any project supported by the FTA grant. Further, the applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the grant agreement issued for its project with FTA. The applicant understands that Federal laws, regulations, policies and administrative practices might be modified from time to time and may affect the implementation of the project. The applicant agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise. The applicant must submit the Certifications and Assurances before receiving a grant, if it does not have current certifications on file.

g. Reporting

Post-award reporting requirements include the electronic submission of Federal Financial Reports and Milestone Progress Reports in FTA's electronic grants management system.

H. Technical Assistance and Other Program Information

This program is not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' FTA will consider applications for funding only from eligible recipients for eligible projects listed in Section C. Complete applications must be submitted through *GRANTS.GOV* by 11:59 p.m. eastern time on June 21, 2019. For assistance with *GRANTS.GOV* please contact *GRANTS.GOV* by phone at 1–800–518–4726 or by email at *support@grants.gov.* Contact information for FTA's regional offices can be found on FTA's website at *https://www.transit.dot.gov/about/regional-offices/regional-offices.*

I. Federal Awarding Agency Contacts

For further information concerning this notice, please contact the Grants for Buses and Bus Facilities Program manager, Mark Bathrick, via email at *mark.bathrick@dot.gov* or by phone at 202–366–9955. A TDD is available for individuals who are deaf or hard of hearing at 800–877–8339. In addition, FTA will post answers to questions and requests for clarifications on FTA's website at *http://transit.dot.gov/busprogram.* FTA staff will also conduct a webinar for potential applicants to learn more about the program and submittal process.

To ensure the receipt of accurate information about eligibility or the program, applicants with questions are encouraged to contact FTA directly, rather than through intermediaries or third parties.

K. Jane Williams,

Acting Administrator.

[FR Doc. 2019–09439 Filed 5–14–19; 8:45 am]

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U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission.

The Commission is mandated by Congress to investigate, assess, and report to Congress annually on ''the national security implications of the economic relationship between the United States and the People's Republic of China.'' Pursuant to this mandate, the Commission will hold a public hearing in Washington, DC on June 7, 2019 on ''Technology, Trade, and Military-Civil Fusion: China's Pursuit of Artificial Intelligence, New Materials, and New Energy.''

DATES: The hearing is scheduled for Thursday, June 7, 2019 at 9:30 a.m.

ADDRESSES: TBD, Washington, DC. A detailed agenda for the hearing will be posted on the Commission's website at *www.uscc.gov.* Also, please check the Commission's website for possible changes to the hearing schedule. *Reservations are not required to attend the hearing.*

FOR FURTHER INFORMATION CONTACT: Any member of the public seeking further information concerning the hearing should contact Leslie Tisdale Reagan, 444 North Capitol Street NW, Suite 602, Washington, DC 20001; telephone: 202–624–1496, or via email at *lreagan@uscc.gov. Reservations are not required to attend the hearing.*

SUPPLEMENTARY INFORMATION:

Background: This is the fifth public hearing the Commission will hold during its 2019 report cycle. This hearing will examine China's development of artificial intelligence, new materials, and energy storage, renewable energy, and nuclear power. It will assess China's capabilities in producing and commercializing these technologies vis-à-vis the United States and its ambitions to export these technologies and shape their global governance in ways that disadvantage the United States. The hearing will also consider China's potential military application of these technologies and strategic implications for the United States. The hearing will be co-chaired by Vice Chairman Robin Cleveland and Commissioner Thea Lee. Any interested party may file a written statement by June 7, 2019 by mailing to the contact above. A portion of each panel will include a question and answer period between the Commissioners and the witnesses.

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005), as amended by Public Law 113–291 (December 19, 2014).

Dated: May 10, 2019.

Daniel W. Peck,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2019–10011 Filed 5–14–19; 8:45 am]

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FEDERAL REGISTER

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Part II

Department of the Interior

Bureau of Safety and Environmental Enforcement

30 CFR Part 250

Oil and Gas and Sulfur Operations in the Outer Continental Shelf—Blowout Preventer Systems and Well Control Revisions; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

30 CFR Part 250

[Docket ID: BSEE–2018–0002; 190E1700D2 ET1SF0000.EAQ000 EEEE500000]

RIN 1014–AA39

Oil and Gas and Sulfur Operations in the Outer Continental Shelf—Blowout Preventer Systems and Well Control Revisions

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Safety and Environmental Enforcement (BSEE) is revising existing regulations for well control and blowout preventer systems. This final rule revises requirements for well design, well control, casing, cementing, real-time monitoring (RTM), and subsea containment. These revisions modify regulations pertaining to offshore oil and gas drilling, completions, workovers, and decommissioning in accordance with Executive and Secretary of the Interior's Orders to ensure safety and environmental protection, while correcting errors and reducing certain unnecessary regulatory burdens imposed under the existing regulations. Accordingly, after thoroughly reexamining the 2016 Blowout Preventer Systems and Well Control final rule (WCR), experiences from the implementation process, and various BSEE policies (notices to lessees, answers to frequently asked questions, and conditions of approval), BSEE will amend, revise, or remove certain current regulatory provisions that create unnecessary burdens on stakeholders, while still maintaining safety and environmental protection. The final regulations also address various issues and errors that BSEE identified during the implementation of the 2016 WCR.

DATES: This final rule becomes effective on July 15, 2019. BSEE will defer compliance with certain provisions of the final rule, however, until the times specified in those provisions and as described in Section II of this preamble.

The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of July 15, 2019.

FOR FURTHER INFORMATION CONTACT: For technical questions contact Fred Brink, Gulf of Mexico Region (GOMR) District Operations Support, (504) 736–2400, or by email: *OMM_DFO_DOS@bsee.gov;* for procedural questions contact Kirk Malstrom, Regulations and Standards Branch, (202) 258–1518, or by email: *regs@bsee.gov.*

SUPPLEMENTARY INFORMATION:

Executive Summary

In the immediate aftermath of the *Deepwater Horizon* incident in 2010, BSEE adopted several recommendations from multiple investigation teams, and promulgated multiple rulemakings including the Drilling Safety Rule (Oct. 2010), Safety and Environmental Management Systems (SEMS) I (Oct. 2010), and SEMS II (April 2013), in order to improve the safety of offshore operations. Subsequently, BSEE published the Blowout Preventer Systems and Well Control final rule (the WCR) on April 29, 2016. The 2016 WCR consolidated the equipment and operational requirements for well control into one part of BSEE's regulations; enhanced blowout preventer (BOP), well design, and well-control requirements; and incorporated certain industry consensus standards. Most of the 2016 WCR provisions became effective on July 28, 2016. Although the 2016 WCR addressed a significant number of issues that were identified during the analysis of the *Deepwater Horizon* incident, BSEE recognized that BOP equipment and systems continue to improve technologically and well control processes also evolve. In 2017, Congress also encouraged BSEE to:

> evaluate information learned from additional stakeholder input and ongoing technical conversations to inform implementation of this rule. To the extent additional information warrants revisions to the rule that require public notice and comment, the Bureau is encouraged to follow that process to ensure that offshore operations promote safety and protect the environment in a technically feasible manner.[1]

Additionally, since the WCR became effective in 2016, BSEE has continued to engage with the offshore oil and gas industry, Standards Development Organizations (SDOs), and other stakeholders. During the course of these engagements, BSEE identified areas for regulatory improvement and stakeholders expressed a variety of concerns regarding the implementation of the 2016 WCR. For instance, oil and natural gas operators raised concerns about certain regulatory provisions that they assert impose undue burdens on their industry, but do not significantly enhance worker safety or environmental protection (*e.g.,* how real time monitoring is monitored and utilized onshore; a strictly enforced 0.5 pounds per gallon (ppg) drilling margin; requirements that may be inconsistent with American Petroleum Institute (API) Standard 53; and requirements for certain BSEE approvals during cementing operations that result in unnecessary delay). Other stakeholders suggested that certain regulatory requirements do not properly account for advances or limitations in technology and processes. Further, BSEE received numerous questions regarding the proper interpretation and application of provisions viewed to be unclear or ambiguous, requiring BSEE to provide substantial informal guidance regarding the terms of the 2016 WCR. BSEE posted approximately 100 responses to questions regarding the 2016 WCR provisions on the BSEE web page at *https://www.bsee.gov/guidance-and-regulations/regulations/well-control-rule.*

Accordingly, after thoroughly reexamining the 2016 WCR, experiences from the implementation process, and BSEE policy, BSEE is amending, revising, or removing current regulatory provisions that create unnecessary burdens on stakeholders while still maintaining safety and environmental protection. On May 11, 2018, BSEE published in the **Federal Register** a proposed rule to revise certain provisions of the 2016 WCR (83 FR 22128) (the ''proposed rule'') and to solicit comments on several additional issues. In response to the proposed rule, BSEE received over 265 sets of comments containing individually submitted comments and multiple similar group form letters, totaling over 118,000 submittals. Comments included submittals from individual entities (*e.g.,* companies, industry organizations, non-governmental organizations, State governments, and private citizens). All relevant comments are posted at the *Federal eRulemaking* portal: *http://www.regulations.gov.* To access the comments at that website, enter BSEE–2018–0002 in the Search box. The final regulatory changes reflect BSEE's consideration of the public comments received on both the 2016 WCR and the proposed rule, and stakeholders' recommendations pertaining to the requirements applicable to offshore oil and gas drilling, completions, workovers, and decommissioning. This rule revises regulatory provisions in 30 CFR part 250, subparts A, B, D, E, F, G, and Q on topics such as, but not limited to:

Notifications and submittals to BSEE;
Drilling margins;
Lift boats;
Real-time monitoring;

[1] See n. 10, supra.

BSEE Approved Verification Organizations (BAVOs);
Accumulator systems;
BOP and control station testing;
Coiled tubing; and
Mechanical barriers (packers and bridge plugs).

BSEE utilized the best available data to analyze the economic impacts of the final changes. That analysis indicates that the estimated overall economic impact will benefit the industry over the next 10 years because of the reduction in compliance costs, in addition to increased regulatory certainty. As this rule maintains safety and environmental protection, the entities realizing savings from these changes can deploy them for other, more productive purposes, *e.g.,* additional capital investment. Increased productivity and competiveness of domestic energy projects benefit consumers and the broader U.S. economy.

In keeping with recent Executive and Secretary's Orders, BSEE undertook a review of the 2016 WCR with a view toward the policy direction of encouraging energy exploration and production on the Outer Continental Shelf (OCS) and reducing unnecessary regulatory burdens, while ensuring that any such activity is safe and environmentally responsible. BSEE carefully reviewed all 342 provisions of the 2016 WCR, and determined that this final rule revises or adds to 71 provisions of the 2016 WCR—or approximately 20% of the 2016 WCR provisions. The regulations will still contain the core safety and environmental protective provisions of the 2016 WCR. In the process, BSEE compared each of the changes to the 424 recommendations arising from 26 separate reports from 14 different organizations developed in the wake of and in response to the *Deepwater Horizon* disaster, and determined that none of the final changes ignores or contradicts any of those recommendations, or alters any provision of the 2016 WCR in a way that would make the result inconsistent with those recommendations. Further, nothing in this final rule alters any elements of other rules promulgated since *Deepwater Horizon,* including the Increased Safety Measures for Energy Development on the OCS (Drilling Safety Rule) (75 FR 63346, October 14, 2010), SEMS I and II (75 FR 63610, October 15, 2010, 78 FR 20423, April 5, 2013). BSEE's review has been thorough, careful, and tailored to the task of reducing unnecessary regulatory burdens, while ensuring that operators conduct OCS activities in a safe and environmentally responsible manner.

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List of Acronyms and References

ANL Argonne National Laboratory
ANPR Advance Notice of Proposed Rulemaking
ANSI American National Standards Institute
APA Administrative Procedure Act
APD Application for Permit To Drill
API American Petroleum Institute
APM Application for Permit to Modify
ASME American Society of Mechanical Engineers
BAST Best Available and Safest Technology
BAVO BSEE Approved Verification Organization
BOEM Bureau of Ocean Energy Management
BOP Blowout Preventer
BSEE Bureau of Safety and Environmental Enforcement
BSR Blind Shear Ram
BTS Bureau of Transportation Statistics
CDWOP Conceptual Deepwater Operations Plan
Department Department of the Interior
DWOP Deepwater Operations Plan
EA Environmental Assessment
ECD Equivalent Circulating Density
EIS Environmental Impact Statement
E.O. Executive Order
EOR End of Operations Report
ESA Endangered Species Act
FOIA Freedom of Information Act
FONSI Finding of No Significant Impact
FRIA Final Regulatory Impact Analysis
FSHR Free Standing Hybrid Riser
GDP Gross Domestic Product
HPHT High Pressure High Temperature
IADC International Association of Drilling Contractors
IBR Incorporated By Reference
IC Information Collection
IEC International Electrotechnical Commission
IOGP International Association of Oil And Gas Producers
IRIA Initial Regulatory Impact Analysis
ISO International Organization For Standardization
JIP Joint Industry Project
LMRP Lower Marine Riser Package
MASP Maximum Anticipated Surface Pressure
MIA Mechanical Integrity Assessment
MODU Mobile Offshore Drilling Unit
MPB Multiple Physical Barrier
NAICS North American Industry Classification System
NEPA National Environmental Policy Act
NPRM Notice of Proposed Rulemaking
NTTAA National Technology Transfer and Advancement Act
OCS Outer Continental Shelf
OCSLA Outer Continental Shelf Lands Act
OEM Original Equipment Manufacturer
OFR Office of the Federal Register
OIRA Office of Information and Regulatory Affairs
OMB Office of Management Budget
OORP Office of Offshore Regulatory Programs
Psi pounds per square inch
Ppg pounds per gallon
PRA Paperwork Reduction Act
PWD Pressure While Drilling
QRA Quantitative Risk Analysis
RCD Regional Containment Demonstration
RFA Regulatory Flexibility Analysis
RIA Regulatory Impact Analysis
ROT Remotely Operated Tools
ROV Remotely Operated Vehicle
RTM Real-Time Monitoring
SBA Small Business Administration
SCCE Source Control and Containment Equipment
SDO Standards Development Organization
Secretary Secretary of the Interior
SEMS Safety and Environmental Management Systems
SPPE Safety and Pollution Prevention Equipment
SRAM System Risk Assessment Management
TBT Technical Barriers to Trade
WAR Well Activity Report
WCP Well Containment Plan
WCR Well Control Rule
WTO World Trade Organization

I. Background

A. BSEE Statutory and Regulatory Authority and Responsibilities

BSEE derives its authority primarily from the Outer Continental Shelf Lands

Act (OCSLA), 43 U.S.C. 1331–1356a. Congress enacted OCSLA in 1953, authorizing the Secretary of the Interior (Secretary) to lease the OCS for mineral development, and to regulate oil and gas exploration, development, and production operations on the OCS. The Secretary delegated authority to perform certain of these functions to BSEE.

To carry out its responsibilities, BSEE regulates offshore oil and gas operations to enhance the safety of exploration for and development of oil and gas on the OCS, to ensure that those operations protect the environment, and to implement advancements in technology. BSEE also conducts onsite inspections to ensure compliance with regulations, lease terms, and approved plans and permits. Detailed information concerning BSEE's regulations and guidance to the offshore oil and gas industry may be found on BSEE's website at: *https://www.bsee.gov/guidance-and-regulations.*

BSEE's regulatory program covers a wide range of facilities and activities, including drilling, completion, workover, production, pipeline, and decommissioning operations. Drilling, completion, workover, and decommissioning operations are types of well operations that offshore operators [2] perform throughout the OCS. These well operations are the primary focus of this rulemaking.

B. Purpose and Summary of the Rulemaking

This final rule amends and updates certain provisions of the Blowout Preventer Systems and Well Control regulations and updates the regulations to better implement BSEE policy. This final rule will strengthen the Administration's policy of facilitating energy security leading to increased domestic oil and gas production, and reduce unnecessary burdens on stakeholders while still maintaining safety and environmental protection. Since 2010, in order to improve worker safety and environmental protection, BSEE has promulgated a number of rules (*e.g.,* Safety and Environmental Management Systems I and II (75 FR 63610, October 15, 2010; 78 FR 20423, April 5, 2013), the final safety measures rule (77 FR 50856, August 22, 2012), the production safety systems final rule (83 FR 49216, September 28, 2018), and the 2016 WCR (81 FR 25888; April 29, 2016). The 2016 WCR consolidated into one part the equipment and operational requirements pertaining to BOP and well control for offshore oil and gas drilling, completions, workovers, and decommissioning that were previously codified in various parts of BSEE's regulations. More specifically, the 2016 WCR incorporated industry standards; adopted reforms to well design, well control, casing, cementing, real-time well monitoring, and subsea containment requirements; and implemented many of the recommendations arising from various investigations of the *Deepwater Horizon* incident. Most of the provisions of the 2016 WCR became effective on July 28, 2016.

Since the time the 2016 WCR regulations took effect, oil and natural gas operators have raised various concerns, and BSEE has identified issues during the implementation of the rule. The concerns and issues involve certain regulatory provisions that impose undue burdens on oil and natural gas operators, but do not significantly enhance worker safety or environmental protection. BSEE understands the operators' concerns that have been raised, but BSEE also fully recognizes that the BOP and other well-control requirements are critical to ensure safety and environmental protection. Consistent with recent Executive and Secretary's Orders (discussed further in Section I.D below) and congressional direction, BSEE undertook a review of the 2016 WCR. It did so with a view toward the policy direction of encouraging energy exploration and production on the OCS and reducing unnecessary regulatory burdens, while ensuring that any such activity is conducted in a safe and environmentally responsible manner. BSEE carefully analyzed all 342 provisions of the 2016 WCR, and proposed to revise or add to 71 provisions—or approximately 20%—of the 2016 WCR provisions. In the process, BSEE compared each of the changes to the 424 recommendations arising from 26 separate reports from 14 different organizations [3] developed in the wake of and response to the *Deepwater Horizon* disaster. This final rule is consistent with the proposed revisions and none of the final changes ignore or contradict any of those recommendations, or alters any provision of the 2016 WCR in a way that would make the result inconsistent with those recommendations. Further, nothing in this final rule alters any elements of other rules promulgated since *Deepwater Horizon,* including the Drilling Safety Rule (Oct. 2010), SEMS I (Oct. 2010), and SEMS II (April 2013). BSEE's review was thorough, careful, and tailored to the task of reducing unnecessary regulatory burdens while ensuring that OCS activity is conducted in a safe and environmentally responsible manner.

This rule revises current regulations that impact offshore oil and gas drilling, completions, workovers, and decommissioning activities. The final regulations also address various issues that BSEE identified during the implementation of the 2016 WCR, as well as numerous questions that have required substantial informal guidance from BSEE regarding the interpretation and application of the 2016 WCR.[4] For example, this final rule:

- Clarifies the rig movement reporting requirements.
- Clarifies and revises the requirements for certain submittals to BSEE to eliminate redundant and unnecessary reporting.
- Clarifies the drilling margin requirements in §§ 250.414 and 250.427.
- Revises § 250.723 by removing references to lift boats from the section.
- Removes certain prescriptive requirements for RTM.
- Replaces the use of a BAVO with the use of an independent third party for certain certifications and verifications of BOP systems and components, and removes the requirement to have a BAVO submit a Mechanical Integrity Assessment report for the BOP stack and system.
- Revises the accumulator system requirements and accumulator bottle requirements to better align with API Standard 53.
- Revises the control station and pod testing schedules to ensure component functionality without inadvertently requiring duplicative testing.
- Includes coiled tubing and snubbing requirements in Subpart G.
- Revises the text to ensure consistency and conformity across the applicable sections of the regulations.
- Revises the regulation to include a 21-day BOP testing frequency.

[2] BSEE's regulations at 30 CFR part 250 generally apply to ''a lessee, the owner or holder of operating rights, a designated operator or agent of the lessee(s). . . .,'' covered by the definition of ''you'' in § 250.105. For convenience, this preamble will refer to all of the regulated entities as ''operators,'' unless otherwise indicated.

[3] DOI, DOI OCS Safety Oversight Board, DOI OIG, DOI/Department of Homeland Security (DHS) Joint Investigation Team, National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Chief Counsel for the National Commission, National Academy of Engineering, Joint Industry Subsea Well Control and Containment Task Force, Environmental Law Institute, Ocean Energy Safety Advisory Committee, Chemical Safety Board, Joint Industry Oil Spill Preparedness and Response Task Force, Transportation Research Board, U.S. Government Accountability Office (GAO).

[4] BSEE posted approximately 100 responses to questions regarding the 2016 WCR provisions on the BSEE web page *https://www.bsee.gov/guidance-and-regulations/regulations/well-control-rule.*

C. Summary of Documents Incorporated by Reference

This rule updates a document currently incorporated by reference to a newer edition, includes an addendum to an already incorporated standard, and adds two new standards for incorporation. A brief summary of the final changes, based on the descriptions in each standard or specification, is provided in the text that follows.

API Standard 53 and Addendum—Blowout Prevention Equipment Systems for Drilling Wells

API Standard 53 (Fourth Edition published November 2012) and addendum (published July 2016) provide requirements for the installation and testing of blowout prevention equipment systems whose primary functions are to confine well fluids to the wellbore, provide means to add fluid to the wellbore, and allow controlled volumes to be removed from the wellbore. BOP equipment systems are comprised of a combination of components that are covered by this document, Including: Installations for surface and subsea BOPs; choke and kill lines; choke manifolds; control systems; and auxiliary equipment. The document also addresses equipment arrangements. The Addendum contains clarifications to API Standard 53, 4th Edition.

This standard also provides industry best practices related to the use of dual shear rams, maintenance and testing requirements, and failure reporting. The standard does not address diverters, shut-in devices, and rotating head systems (rotating control devices), whose primary purpose is to safely divert or direct flow, rather than to confine fluids to the wellbore. It also does not include procedures and techniques for well control and extreme temperature operations.

API Bulletin 92L—Drilling Ahead Safely With Lost Circulation in the Gulf of Mexico

API Bulletin 92L, First Edition, was published in August 2015. API Bulletin 92L addresses drilling margins and drilling ahead with lost circulation in wells drilled in the OCS environments. The drilling margin is the difference between the maximum pore pressure and minimum fracture pressure of a formation. Lost circulation is the flow of drilling fluid into the formation instead of returning up the annulus. If uncontrolled, lost circulation can lead to consequences potentially as severe as a blowout. This bulletin identifies items that should be considered to safely address lost circulation challenges when equivalent circulation density (ECD) exceeds the fracture gradient of a formation. It also provides guidance regarding appropriate responses when lost circulation is experienced with either surface or subsea BOP stack operations (excluding diverter operations). Lastly, the bulletin recommends four decision tree flow charts for common lost circulation scenarios in the OCS: (1) Drilling Exploration Wells with Lost Circulation; (2) Drilling Ahead Below Salt with Lost Circulation; (3) Drilling Depleted Zones with Lost Circulation; and (4) Managed Pressure Drilling with Lost Circulation. Although similar, each flow chart is unique and specific to the circumstances surrounding the lost circulation event. The flow charts serve as an aid for operators to use when deciding how best to safely drill ahead when lost circulation occurs.

API Standard 65—Part 2, Isolating Potential Flow Zones During Well Construction

This standard, which API issued in December 2010 (reaffirmed November 2016), outlines the process for isolating potential flow zones during well construction. The new Standard 65—part 2 enhances the description and classification of well-control barriers, and defines testing requirements for cement to be considered a barrier.

API Recommended Practice 17H—Remotely Operated Tools and Interfaces on Subsea Production Systems

The final rule updates the incorporated version of this document from the First Edition (July 2004, reaffirmed January 2009) to the Second Edition (June 2013) and Errata (January 2014). This recommended practice provides general recommendations and overall guidance for the design and operation of remotely operated tools (ROT) and remotely operated vehicle (ROV) tooling used on offshore subsea systems. ROT and ROV performance is critical to ensuring safe and reliable deepwater operations and this document provides general performance guidelines for this and associated equipment. One of the main differences between the first edition and second edition of this recommended practice is that the second edition includes provisions on high flow Type D hot stabs.

International Organization for Standardization (ISO)/IEC (International Electrotechnical Commission) 17021–1—Conformity assessment—Requirements for Bodies Providing Audit and Certification of Management Systems—Part 1: Requirements.

The final rule incorporates into the regulations a reference to ISO/IEC 1702–1, First Edition, June 15, 2015, for purposes of the quality management system certification requirements of § 250.730(d). This standard contains principles and requirements to ensure the competence, consistency, and impartiality of bodies providing audit and certification of all types of management systems. It provides general requirements for such bodies performing audit and certification in the fields of quality, the environment, and other types of management systems. Incorporation of this standard will provide clarity and consistency surrounding the critical qualifications of entities responsible for certifying quality management systems for the manufacture of BOP stacks.

How To View the Documents Incorporated by Reference

When a copyrighted publication is incorporated by reference into BSEE regulations, BSEE is obligated to observe and protect that copyright. BSEE is working with the standards organizations to provide free online viewing for standards incorporated by reference. Many such organizations already make relevant standards publicly available free of charge. BSEE provides members of the public with website addresses where these standards may be accessed for viewing—sometimes for free and sometimes for a fee. Standards development organizations decide whether to charge a fee. One such organization, API, provides free online public access to view read-only copies of its key industry standards, including a broad range of technical standards. All API standards that are safety-related and that are incorporated into Federal regulations, or that are considered for incorporation, are available to the public for free viewing online in the Incorporation by Reference Reading Room on API's website at: *http://publications.api.org.*[5] In addition to the

[5] To view these standards online, go to the API publications website at: *http://publications.api.org.* You must then log-in or create a new account, accept API's ''Terms and Conditions,'' click on the ''Browse Documents'' button, and then select the applicable category (*e.g.,* ''Exploration and Production'' or ''IBR Documents Under

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free online availability of these standards for viewing on API's website, hardcopies and printable versions are available for purchase from API. The API website address to purchase standards is: *https://www.api.org/products-and-services/standards/purchase.*

The International Organization for Standardization (ISO) creates documents that provide requirements, specifications, guidelines, or characteristics that can be used consistently to ensure that materials, products, processes, and services are fit for their purposes. All ISO International Standards are available at the ISO Store for purchase at: *https://www.iso.org/store.html.*

For the convenience of members of the viewing public who may not wish to purchase copies or view these incorporated documents online, they may be inspected at BSEE's office in Houston, at 1919 Smith Street, Suite 14042, Houston, Texas 77002. To make an appointment to inspect incorporated material at the Houston BSEE office, call 1–844–259–4779. BSEE may also make the standards available at its other offices located in: Washington, DC; Sterling, Virginia; New Orleans, Louisiana; Camarillo, California; and Anchorage, Alaska. Individuals wishing to view standards at a BSEE office may make arrangements by sending an email to: *regs@bsee.gov.*

D. Executive and Secretary's Orders

On March 28, 2017, the President issued Executive Order (E.O.) 13783—Promoting Energy Independence and Economic Growth (82 FR 16093). The E.O. directed Federal agencies to review all existing regulations and other agency actions with a goal toward ''avoiding regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation.'' It instructs agencies to ''review existing regulations that potentially burden the development or use of domestically produced energy resources and appropriately suspend, revise, or rescind those that unduly burden the development of domestic energy resources beyond the degree necessary to protect the public interest or otherwise comply with the law.''

On April 28, 2017, the President issued E.O. 13795—Implementing an America-First Offshore Energy Strategy (82 FR 20815), which directed the Secretary to review the 2016 WCR for consistency with the policy ''to encourage energy exploration and production, including on the Outer Continental Shelf, in order to maintain the Nation's position as a global energy leader and foster energy security and resilience for the benefit of the American people, while ensuring that any such activity is safe and environmentally responsible'' and to ''publish for notice and comment a proposed rule revising that rule, if appropriate and as consistent with law.'' It further directed the Secretary of the Interior to ''take all appropriate action to lawfully revise any related rules and guidance for consistency with the policy set forth in section 2 of this order. Additionally, the Secretary of the Interior shall review BSEE's regulatory regime for offshore operators to determine the extent to which additional regulation is necessary.''

To further implement E.O. 13795, the Secretary issued Secretary's Order No. 3350 on May 1, 2017, directing BSEE to review the 2016 WCR for consistency with E.O. 13795 and prepare a report ''providing recommendations on whether to suspend, revise, or rescind the rule'' in response to concerns raised by stakeholders that the 2016 WCR ''unnecessarily include[s] prescriptive measures that are not needed to ensure safe and responsible development of our OCS resources.''

Based on E.O.s 13783 and 13795, congressional guidance, and Secretary's Order No. 3350, and in light of the requests received for clarification and revision of various provisions, BSEE reviewed the regulations promulgated through the 2016 WCR and is making revisions to those regulations that will reduce unnecessary burdens on industry without affecting key 2016 WCR provisions that have a significant impact on improving safety and equipment reliability.

On September 28, 2018, the Department of the Interior (Department) issued Secretary's Order No. 3369 (S.O. 3369), ''Promoting Open Science.'' S.O. 3369 directs bureaus within the Department to ensure that their use of science in decision-making is open and transparent to facilitate public awareness, and to ensure that, when decisions are based on scientific data or literature, bureaus utilize the ''best available science.'' As previously discussed, BSEE used a number of sources of information to inform decisions related to these revisions, including comments received through a ''Request for comments'' on the DOI's regulatory reform initiatives, published in the **Federal Register** on June 22, 2017 (82 FR 28429), and experience gained during the implementation of the 2016 WCR and the policies developed in response to those experiences. In addition, BSEE solicited input from interested parties to identify potential revisions to the regulations, including through the public forum held on September 20, 2017, in Houston, Texas. Further, BSEE gained valuable insights from comments received in response to the proposed rule. BSEE regulatory staff used information from these sources and worked directly with BSEE regional subject matter experts to assess the current requirements for well control and blowout preventers in order to determine which provisions could potentially be revised, while leaving critical safety provisions intact to maintain safety and environmental protection. BSEE also reviewed publically available lists of alternate procedures and departures that BSEE granted through permits, and reviewed past incident data, specifically concerning information on equipment failure after a successful seal of the well.

E. Stakeholder Engagement

Implementation of the 2016 WCR—BSEE Qs and As

The Department promulgated the original ''Blowout Preventer Systems and Well Control'' final rule (WCR) (81 FR 25888, April 29, 2016). Subsequently, during the implementation of the regulations, BSEE received numerous questions from stakeholders seeking clarification and guidance concerning the 2016 WCR's provisions. The questions covered a vast array of issues and spanned multiple subparts of the regulations.

BSEE reviewed each question it received and decided whether the question presented an issue that was appropriate for Bureau guidance. To the extent that a question required guidance or clarification, BSEE provided a response to clarify any potentially confusing language. In addition to deciding on the appropriateness of a question for guidance, BSEE determined whether the question was of sufficient public interest to merit broader publication of a response. After finalizing regulatory guidance in response to a stakeholder's question, BSEE typically publishes both the question and BSEE's answer on its web page. The information, which reflects BSEE's guidance on the current regulations, may be found at: *https://www.bsee.gov/guidance-and-regulations/regulations/well-control-rule.* BSEE posted approximately 100 responses to questions regarding the 2016 WCR provisions on the web page.

BSEE reexamined the questions and answers pertaining to the 2016 WCR.

Consideration'') for the standard(s) you wish to review.

After carefully considering all relevant information in the questions and answers, BSEE determined that it is appropriate to revise certain of the regulations promulgated through the 2016 WCR to support the goals of the regulatory reform initiative, while still maintaining safety and environmental protection. Additionally, the revisions will help clarify any ambiguity in the regulatory language, eliminate redundancies in the provisions, and align specific requirements more closely with relevant technical standards.

BSEE public forum on well control and blowout preventer rule: To ensure a complete and thorough review of the 2016 WCR, prior to this rulemaking, BSEE solicited input from interested parties to identify potential revisions to the regulations promulgated through the 2016 WCR that would reduce regulatory burdens while maintaining safety and environmental protection on the OCS. BSEE held a public forum on September 20, 2017, in Houston, Texas. More than 110 participants attended and provided comments and suggestions. Participants included representatives from:

- Federal agencies;
- Media;
- Oil and gas companies;
- Classification societies;
- Trade associations;
- Environmental groups; and
- Equipment manufacturers.

Additionally, there were eight presentations made at the forum. These presentations are available at: *https://www.bsee.gov/guidance-and-regulations/regulations/well-control-rule/public%20forum.*

II. Discussion of Compliance Dates for the Final Rule

BSEE considered the public comments on the proposed rule, as well as relevant information gained during, among other activities, BSEE's interactions with stakeholders, involvement in development of industry standards, and evaluation of current technology. Based on its analysis, BSEE is setting an effective date of 60 days following publication of the final rule, by which time operators will be required to comply with most of the final rule's provisions. BSEE determined, however, that it is appropriate to identify alternative compliance dates, subsequent to the effective date of the final rule, for certain provisions identified below. Detailed explanations for the requirements associated with these compliance dates are provided in Sections IV and V of this preamble.

A. April 29, 2021—Alternative Cutting Device No Longer Allowed

Current regulations require, at § 250.733(a)(1), that operators use an alternative cutting device capable of shearing any electric-, wire-, or slick-line before closing the BOP if, prior to April 29, 2021, an operator's blind shear rams (BSR) are unable to cut such lines under maximum anticipated surface pressure (MASP) and seal the wellbore. After April 29, 2021, BSEE will no longer allow the use of an alternative cutting device, and the BSR in the surface stack will be required to shear any electric-, wire-, or slick-line under MASP and seal the wellbore. BSEE is aware that some current BSR technology is available to shear electric-, wire-, or slick-line. BSEE established this extended timeframe to allow operators to acquire and install equipment to meet the requirements and to discontinue the use of the alternative cutting device. Current regulations at § 250.733(b)(1) require that new surface BOPs installed on floating production facilities after April 29, 2019, comply with the BOP requirements of § 250.734(a)(1). This final rule extends that compliance date to April 29, 2021, in order to eliminate any confusion between applicable compliance dates for §§ 250.733(b)(1) and 250.734(a)(1). The dual shear ram requirements for both surface and subsea BOPs will now have the same compliance date of April 29, 2021.

B. May 1, 2023—Drill Pipe Positioning Within Shearing Blades

Current regulations at § 250.734(a)(16)(i) require operators to have the capability to position the drill pipe completely within the area of the shearing blades during shearing operations no later than May 1, 2023. This final rule retains that compliance date from the 2016 WCR.

III. Discussion of Final Rule Requirements

A. Summary of Key Regulatory Provisions

After review of all the public comments received in response to the proposed rule, BSEE determined that it will include the following proposed revisions in this final rule. This final rule includes most of the provisions in the proposed rule without change, although the final rule revises several of the proposed provisions in response to comments, as explained in sections IV and V of this preamble.

Documents incorporated by reference[6]—The final rule:

- Requires compliance with the industry standards contained in API Standard 53.
- Requires compliance with API RP 17H to standardize ROV hot stab activities. This will allow certain functions of the BOP to be activated remotely and within specified timeframes.
- Requires compliance with the cementing guidelines of API Standard 65—Part 2 to help achieve a successful cement job.
- Requires compliance with ISO/IEC 17021–1, which provides requirements of an entity that certifies quality management systems for BOP stack manufacturing.
- Requires compliance with API Bulletin 92L, which provides guidance regarding how to safely address lost circulation challenges.

Safe drilling practices—The final rule:

- Requires operators to maintain safe drilling margins, provides details on when operators may request BSEE approval of the safe drilling margins, and specifies actions the operator must take if a safe drilling margin cannot be maintained.
- Includes requirements related to downhole equipment that operators use to help reduce the likelihood of a major well-control event and ensure the overall integrity of the well.
- Requires real-time monitoring when conducting well operations with a subsea BOP or with a surface BOP on a floating facility, or when operating in a high pressure high temperature (HPHT) environment. Also requires operators to develop and implement a real-time monitoring plan. This will allow operators to anticipate and identify issues in a timely manner and to utilize resources to assist in addressing critical issues.

Failure reporting and analysis—The final rule:

- Requires that operators report any significant problems with BOP or well-control equipment to BSEE or BSEE's designated third party, so BSEE can help analyze failure trends and determine whether information should be provided, in a timely manner, to OCS operators and, if appropriate, to international offshore regulators and operators.
- Requires that operators conduct an investigation and failure analysis within a designated timeframe to help ensure that the causes of failures are identified and addressed.

[6] To view online read-only API documents visit: *http://publications.api.org/AccessToDocuments.aspx.*

Equipment requirements—The final rule:

- Requires access to and utilization of well intervention equipment for certain subsea completed wells with a tree installed. This will allow the necessary equipment to be maintained and available to perform intervention operations when necessary.
- Requires the BOP accumulator capacity to provide fast closure of the BOP components for autoshear/deadman in accordance with API Standard 53.

Operational requirements—The final rule:

- Requires retesting protocols for when the BOP or lower marine riser package (LMRP) are unlatched and then relatched. These requirements provide clarity for the testing required when an operator returns to a well location and relatches the BOP or LMRP to the well. These tests help confirm that the BOP or LMRP is properly functional prior to resuming operations after being removed.
- Requires high and low pressure testing procedures for certain BOP components. The testing requirements codify BSEE policy and provide clarity and consistency for permitting.
- Requires the development of an alternate testing schedule for control stations and pods for subsea BOPs. The intended result of an alternating testing schedule is to ensure that operators can use each control station, and each pod for subsea, to properly function all required BOP components, while reducing unnecessary duplicative testing and risk of component wear.

B. Summary of Significant Differences Between the Proposed and Final Rules

After consideration of all relevant and significant comments, BSEE made a number of revisions from the proposed rule to the final rule. We are highlighting several of these changes here because they are significant and because numerous comments addressed these topics. Discussions of the relevant and significant comments and BSEE's responses are found in sections IV and V of this preamble. The significant revisions made in response to comments include:

1. Safe Drilling Margin—§§ 250.414 and 250.427(b)

When drilling a well, operators use the hydrostatic pressure from a mud column to keep sufficient pressure on the formation to prevent gas or oil from flowing into the wellbore (*i.e.,* a ''kick''). If the hydrostatic pressure from the mud column is too high, however, the formation may fracture and result in a significant number of operational issues, one of which is ''lost returns.'' Lost returns, or lost circulation, occur when drilling fluids escape from the well into the formation. A drilling margin is the difference between the pore pressure of the formation, with the mud weight taken into consideration, and the fracture pressure of the formation. The 2016 WCR established a default minimum drilling margin of 0.5 ppg, but also provided avenues for operators to obtain approval of lower margins through the permitting process (81 FR 25894). Since the effective date of the 2016 WCR, BSEE has approved many Applications for Permit to Drill (APDs) with a drilling margin less than 0.5 ppg.[7] BSEE did not propose changes to the 0.5 ppg safe drilling margin requirements; however, BSEE solicited comments on possible revisions to, or options regarding, the 0.5 ppg drilling margin issue.

Multiple commenters recommended replacing the current requirement with a performance-based standard under which an approved safe drilling margin would be established on a case-by-case basis, based on data and analysis specific to a particular well. They suggested that this is a safer and better alternative that would provide a risk-based approach that ensures safety and provides investment certainty to the industry. Multiple commenters also submitted comments on § 250.427 and recommended that, in instances where an operator encounters a lost circulation zone, the operator should have options for safely addressing the situation. In particular, many commenters asserted that suspending operations in certain circumstances may negatively impact safety and that drilling ahead to get through a lost circulation zone may be the safest option to restore the integrity of the well. For example, a commenter asserted that suspending drilling while in the weak zone to set casing (or otherwise remedy the situation) may simply transfer risk to a deeper hole section, where conditions may be even more challenging. Commenters suggested that it is appropriate for operators to specify in the Deepwater Operations Plan (DWOP) or APD how they will remedy an anticipated loss of circulation on bottom. They suggested using API Bulletin 92L as the standard for responding to such situations. A significant number of commenters also strongly opposed any changes to the 0.5 ppg drilling margin requirements in the current regulations.

In this final rule, BSEE is not revising the 0.5 ppg default drilling margin requirement or the requirements for justifying any alternative equivalent downhole mud weight. However, based on comments received, BSEE is revising § 250.414(c)(2) to allow operators the option to submit the required justification for BSEE approval at an earlier date rather than waiting to submit with the APD. The proposed rule indicated that BSEE was considering ''whether it should adhere to its practice of identifying a specific drilling margin with an avenue for allowing operators to submit adequate documentation justifying the use of a different drilling margin . . . .'' (83 FR 22133). The relevant comments informed BSEE's decision to revise § 250.414(c)(2) to permit submission of the alternative drilling margin justification prior to submitting an APD. Also, based on comments received, BSEE is revising § 250.427(b) to allow an operator to respond to lost circulation events in accordance with API Bulletin 92L and to require notification to the BSEE District Manager documenting the operator's use of API Bulletin 92L.[8] In conjunction with the use of API Bulletin 92L, BSEE is requiring that an operator submit a revised permit documenting any remedial actions. BSEE is also clarifying that the District Manager must review and approve proposed remedial actions in an APD. BSEE recognizes that API Bulletin 92L may not be a consensus document. According to API policy,[9] documents that are classified as ''bulletins'' may be developed without following a consensus process, which is the preferred process for documents incorporated by reference in government regulations according to the guidance in OMB Circular A–119. However, OMB Circular A–119 does not preclude the use of standards that are developed without following a voluntary consensus process. API Bulletin 92L addresses specific technical issues, such as lost circulation while drilling, to help operators diagnose well stability issues and remedy the situation. BSEE determined that this document is consistent with BSEE policy in the approaches used to

[7] Between August 1, 2016 and March 22, 2018, ''BSEE's records show that there have been 305 wells drilled. Of those wells, BSEE approved operators' use of drilling margins that are less than 0.5 ppg for 32 wells.'' 83 FR 22128, 22133 (May 11, 2018).

[8] API Bulletin 92L provides operators with flow charts to help evaluate what is happening in the well during lost circulation events and to respond accordingly. (*e.g.,* Depending on the situation operators may have to stop drilling and run casing, or contact the regulator and drill ahead no more than 300 ft.)

[9] The Organization and Procedures for the CSOEM: Policy Document 2017 (S1) and the Procedures for Standards Development 2016 (Procedures for Standards Development).

address these issues, appropriate for meeting the agency's regulatory needs, and preferable to an agency-developed standard. Therefore, API Bulletin 92L is appropriate for incorporation into the regulations, even though it is a non-consensus developed bulletin. BSEE has evaluated API Bulletin 92L and determined that compliance with it would not reduce safety. The content of the bulletin includes flow charts that can be used as an aid for operators to use in deciding how best to safely drill ahead when lost circulation occurs and the required criteria and procedures are met.

2. Centering Capabilities While Shearing—§§ 250.732 and 250.734(a)(16)

Current regulations at §§ 250.732 and 250.734 require the use of a shear ram positioning mechanism to ensure that pipe is centered within the area of the shearing blade. Since the publication of the 2016 WCR, many of the shear ram designs have improved the shearing capabilities to help ensure shearing is conducted on the appropriate shearing area of the shear blades. This is commonly done by shaping the shear ram cutting blades in a ''V'' or ''W'' pattern to help center the pipe as it shears, as well as to increase the blade face surface area to ensure there are no areas that cannot shear the pipe in the well. Accordingly, BSEE proposed to remove the centering mechanism requirements in both §§ 250.732 and 250.734. However, in the proposed rule preamble, BSEE solicited comments about the effectiveness of requiring shear rams to center pipe or wire while shearing, or requiring shear rams to have the capability to shear any pipe or wire in the hole without a separate centering mechanism. BSEE also discussed the option of retaining the centering mechanism requirements, but expressly provided that the shear rams with these capabilities satisfy the requirements.

Based on comments, BSEE recognizes that the technology exists to help ensure the pipe is positioned within the shear surface to optimize shearing capabilities. BSEE agrees that even though this technology exists, the rule as proposed would not have specifically required the use of such technology. In this final rule, BSEE is now retaining the existing requirement to maintain the capability to position the pipe within the shearing blade, however BSEE will not require this to be achieved using a separate mechanism and will allow this capability to be accomplished with the shear ram itself. As encouraged by Congress [10] to ensure that offshore operations promote safety and protect the environment in a technically feasible manner, BSEE does not want to limit the use of improved technological advancements in shear blade designs.

3. Shearing Combinations—§ 250.734(a)(1)(ii)

In the 2016 WCR, BSEE established that both shear rams must have the capability to shear the specified equipment. During the development of the 2016 WCR, BSEE did not receive comments specific to the ''both shear rams'' provision.

BSEE proposed to revise § 250.734(a)(1)(ii) by clarifying that a ''combination of the'' shear rams must be capable of shearing all the items specified in the paragraph. BSEE is aware that certain casing shears still have difficulty shearing electric-, wire-, or slick-line, while certain BSRs have difficulties shearing larger casing sizes. As stated in the proposed rule, the proposed revision would have provided the operators flexibility for how they utilize the BOP system and components for operations, while still ensuring all critical shearing capabilities.

Multiple commenters generally agreed with the proposed language; however, other commenters opposed any changes to existing requirements. Commenters expressed concerns about the proposed removal of the requirement to have two fully redundant shear rams and suggested that such a change would not account for the possibility of one shear ram malfunctioning. The benefit of having two, fully capable shear rams is a fully redundant back up. Under the proposed revisions, if one shear ram were to fail and the remaining shear ram could not independently shear the necessary equipment, well control might not have been achieved.

Based on comments received, BSEE is keeping the language in existing § 250.734(a)(1)(ii) that requires ''both shear rams to be capable of shearing'' the specified equipment in the hole. BSEE principally bases this decision on comments BSEE received concerning the importance of shearing redundancy and a recognition that the proposed language's reliance on a ''combination'' of shear rams potentially interjected some ambiguity regarding the number of rams subject to this shearing requirement.

BSEE is not revising the dual shear ram requirements or the associated compliance date of April 29, 2021, found in existing § 250.734(a)(1).

4. Subsea Accumulator Capacity—§ 250.734(a)(3)(iii)

The purpose of the accumulator system and applicable accumulator capacity requirements is to ensure that there is sufficient volume and pressure in the accumulator bottles to properly operate BOP components in a specified timeframe regardless of the location of the accumulator bottles.

In the proposed rule, BSEE proposed to remove the reference to the subsea location of the accumulator capacity. BSEE understands that the accumulator system works together with the surface and subsea accumulator capacity to achieve full functionality and BSEE determined that it was unnecessary to specifically identify only subsea requirements when API Standard 53 covers the entire system.

BSEE received multiple comments supporting the proposed revisions; however, BSEE also received comments asserting that BSEE had not explained how removing the reference to the subsea location of accumulator capacity would ensure that the accumulator system can adequately function if there is a loss of the power fluid connection to the surface. Based on these comments, BSEE has decided to keep the clarification that certain accumulator capacity must be located subsea in order to avoid confusion about how the autoshear and deadman systems utilize accumulator capacity. The autoshear and deadman systems do not use accumulator capacity from the surface accumulators. The conditions to function these emergency systems involve the loss of electrical/hydraulic communication or connection between the BOP stack and the rig. Therefore, it is necessary to require that the autoshear and deadman emergency systems' accumulator capacity must be able to function properly without connection or communication with the surface and therefore the accumulator capacity must be located subsea.

In this final rule, BSEE is clarifying that the accumulator bottles for the autoshear/deadman systems need to be located subsea. The autoshear/deadman systems are not controlled by surface personnel and are essentially considered failsafe. Consistent with the

[10] Explanatory Statement to Accompany Div G. of Consolidated Appropriations Act, 2017 (Interior, Environment, and Related Agencies), Public Law 115–31 (May 5, 2017). (''Blowout Preventer Systems and Well Control Rule.—The Committees encourage the Bureau to evaluate information learned from additional stakeholder input and ongoing technical conversations to inform implementation of this rule. To the extent additional information warrants revisions to the rule that require public notice and comment, the Bureau is encouraged to follow that process to ensure that offshore operations promote safety and protect the environment in a technically feasible manner.''). 163 Cong. Rec. H 3327, 3880 (May 3, 2017).

existing regulations, the accumulator bottles that operate these systems need to be located subsea to ensure there is enough fluid and pressure to operate the associated functions. This is a clarification to ensure there is no confusion about where the required fluid and pressure must reside to operate the autoshear/deadman emergency functions.

5. 21-Day BOP Testing Frequency—§ 250.737

In the proposed rule, BSEE requested comments on whether the BOP testing interval should be 7 days, 14 days, or 21 days for all operations (*i.e.,* drilling, completions, workovers, and decommissioning). BSEE also requested comments on the specific cost and operational implications of each testing interval to further its consideration of the issue. Current regulations (multiple citations throughout § 250.737) require pressure and function testing of specific BOP components for drilling, completions, workovers, and decommissioning operations every 14 days. Although BSEE did not present revisions to the testing frequency regulatory text in the proposed rule, BSEE raised the option of 21-day BOP testing in the preamble.

The industry and BSEE currently rely on function and hydrostatic tests to verify the performance of BOP equipment in the field. These tests have traditionally been the primary method of verifying the capability of in-service equipment. In recent years, the industry has raised concerns related to the benefits of pressure and function testing of subsea BOPs when compared to the costs and potential operational issues associated with such testing, including wear and tear.

BSEE received multiple comments supporting a 21-day BOP testing frequency. These comments provided some data to justify a 21-day BOP testing frequency. However, BSEE also received many comments opposing any changes to the BOP testing frequency and a commenter even stated that the BOP testing frequency should be increased to every 7 days.

BSEE analyzed the justifications provided in the 2016 WCR for the decision to adopt a 14-day rather than a 21-day testing frequency. The relevant analysis offered little by way of data-driven conclusions, so BSEE has, through this rulemaking, undertaken a thorough analysis of the information available. In the final rule, based on comments received, BSEE is revising § 250.737 to allow the use of a 21-day BOP testing frequency if an operator meets certain criteria and if BSEE approves an operator's 21-day BOP testing frequency request. BSEE is requiring operators to demonstrate, in the 21-day BOP testing frequency request, that they have developed a BOP health monitoring plan that includes certain system capabilities. BSEE is requiring the BOP health monitoring plan to include condition monitoring tools that are able to provide continuous surveillance of sensor readings from the BOP control system, real-time condition analysis and displays, functional pressure signal analysis, and trending capabilities of the sensor data. The condition monitoring tools also must include failure propagation analysis and a failure tracking and resolution system to identify recurring problems. BSEE is also requiring operators to submit quarterly reports of the data collected to the BSEE Regional Supervisor, District Field Operations. BSEE will review this data to help ensure compliance with the requirements of the regulations and help support its continual analysis of the 21-day BOP testing frequency.

This approach offers a path for operators to avoid the identified cost and operational concerns associated with more frequent testing, while at the same time requiring that adequate and proven tools for ensuring safety and environmental protection are in place before testing frequency is changed to a 21-day interval.

IV. Discussion of Public Comments on the Proposed Rule

In response to the proposed rule, BSEE received over 265 sets of comments containing individually submitted comments and multiple similar group form letters, totaling over 118,000 submittals. Comments included submittals from individual entities (*e.g.,* companies, industry organizations, non-governmental organizations, State governments, and private citizens). Some entities submitted comments multiple times and a majority of the individual commenters submitted nearly identical comments (similar to a form letter). Over 117,000 of the comments submitted follow a type of form letter and contain similar comments. All relevant comments are posted at the *Federal eRulemaking* portal: *http://www.regulations.gov.* To access the comments at that website, enter BSEE–2018–0002 in the Search box. BSEE reviewed all comments submitted, and this section and section V of this preamble contain brief summaries of the relevant comments as well as of BSEE's responses.

A. General Support for the Proposed Rule

BSEE received hundreds of comments expressing general support for the proposed rule. The public comments expressing or suggesting general support for the proposed rule as a whole or for some of its major provisions comprise a few hundred of the total number of comments received. BSEE received supporting comments from, but not limited to, oil and gas companies, contractors, industry trade groups, equipment manufacturers, class societies, private citizens, and legal firms. Some of the commenters expressing general support for the proposed rule also provided specific detailed comments, addressed further infra.

The comments submitted by industry trade groups, operators, and service companies generally supported the proposed alleviation of administrative burdens and reduction of prescriptive regulations. As rationale for their support of the proposed rule, those commenters often identified concerns about how the current regulations increase operational risks and impose unnecessary cost burdens but provide no commensurate safety improvements or environmental protection. However, while the commenters voiced support broadly for the proposed changes, some of them also cited additional regulatory provisions that they asserted impose unnecessary regulatory burdens that the proposed revisions would not go far enough to relieve, as discussed in this section and section V of this preamble.

B. General Opposition to the Proposed Rule

A majority of entities and individuals that commented on the proposed revisions expressed general opposition to the proposed rule and many of its major proposals. A majority of those comments were submitted by non-governmental organizations, environmental groups, multiple State Attorneys General, lawmakers from the U.S. House of Representatives and U.S. Senate, public, and academia.

A large majority of the approximately 118,000 comments that BSEE received voiced significant concerns about the proposed changes. The rationale for the commenters' opposition to the proposed revisions to the existing regulations generally fell into two main categories. First, many commenters asserted that BSEE does not have sufficient evidence to support many of the proposed revisions to the existing regulations. However, many of the commenters did not provide additional information/data

to support assertions. Comments in this first group highlighted the fact that BSEE adopted the WCR in 2016 and thus asserted that it has not had enough time to gather the data necessary to support any changes.

Second, some commenters cited the findings from the investigations and reports arising out of *Deepwater Horizon* to support their general contention that oversight of the oil and gas industry in the form of regulations is vitally important and necessary. Among these comments, opposition to the proposed rule was apparently premised on the belief that any ''rollback'' of the existing regulations will adversely impact safety and environmental protection.

For a discussion of the substantive comments in opposition to specific provisions and BSEE's responses, refer to later parts of this section and Section V of this preamble.

C. 21-Day BOP Testing Frequency

In the proposed rule, BSEE did not propose any specific regulatory text changes to the existing requirement for the minimum 14-day testing frequency for BOP systems. However, BSEE solicited comments in the proposed rule on whether the BOP testing frequency should be 7 days, 14 days, or 21 days for all types of operations. BSEE also requested comments on the adequacy of the current function and pressure test requirements for BOP systems in predicting the performance of this equipment in subsequent drilling operations. Furthermore, BSEE requested comments about what circumstances or environments might justify an increase or decrease to the required testing frequency.

In addition, BSEE is aware of potential technologies that may improve the operability and reliability of BOP systems and thus may affect the need for and appropriate frequency of BOP testing. Accordingly, BSEE also solicited comments on whether there are additional technologies, processes, or procedures that can be used to supplement existing requirements and provide additional assurances related to the performance of this equipment. BSEE asked commenters to provide justifications and data to support their comments.

Summary of Comments—21-Day BOP Testing Frequency

BSEE received comments both supporting a 21-day BOP testing frequency and opposing such a change. Numerous commenters proposed aligning the regulatory requirement for BOP testing frequency with the 21-day testing frequency found in API Standard 53; some of those commenters cited the fact that Texas regulations for onshore operations have successfully used 21-day testing for many years. These commenters cited studies indicating that a 21-day testing frequency: Provides for a safe and reliable BOP system; aligns with global practices and technological capabilities; and prevents extensive pressure testing that can cause premature system wear. Some commenters also asserted that function tests provide more reliable indications of BOP performance. Commenters also suggested a pilot program that would implement 21-day testing to gather data to assess the difference in BOP performance between 14 and 21-day testing frequency. Another commenter provided some data comparing the results of 14-day and 21-day BOP testing worldwide. Another commenter suggested that a 21-day testing interval is appropriate if there are tools, systems, and data collection to ensure that the 21-day testing keeps operational risk and process safety performance equivalent to the 14-day testing interval.

Commenters who did not support the change to the 21-day testing frequency noted that BSEE considered a 21-day BOP testing interval in the context of the 2016 WCR, but rejected that testing interval because the agency did not receive data to support it. The commenters further asserted that BSEE is again proposing a 21-day BOP testing interval, despite not having any new data to support the change. Another commenter proposed a 7-day interval for BOP testing, along with a recommendation that BSEE undertake a technical risk analysis of BOP failure rates for 7-, 14-, and 21-day BOP test intervals. One commenter suggested that BSEE postpone a revision to the BOP testing frequency and solicit input from an advisory committee regarding what a reasonable and prudent standard should be. A commenter requested that BSEE show the impact of the proposed change on all system risks and asserted that BSEE should not rely on industry comments as a basis for the change.

• *Response:* After considering all comments regarding this potential change, BSEE agrees with many of the commenters' recommendations to allow a 21-day test frequency, under limited circumstances when an operator meets appropriate qualifications. Therefore, BSEE is revising § 250.737 in the final rule to maintain the 14-day test frequency as the default requirement, but to allow operators to request special approval to use a 21-day BOP testing frequency in lieu of a 14-day BOP testing frequency if the operator meets certain criteria and receives BSEE approval. To address the concerns raised by commenters regarding the availability of data that demonstrates the impact on reliability due to testing frequency, the final rule requires any operator seeking to change testing frequency to develop a BOP health monitoring plan that includes condition monitoring tools that provide continuous surveillance of sensor readings from the BOP control system, real-time condition analysis and displays, functional pressure signal analysis, and trending capabilities of the sensor data. The condition monitoring tools also must include failure propagation analysis and a failure tracking and resolution system to identify recurring problems. BSEE is also requiring operators to submit quarterly reports of the data collected to the BSEE Regional Supervisor, District Field Operations. The BOP health monitoring plan will provide BSEE with relevant data on how the BOP equipment operates throughout the equipment lifecycle and additional assurance of the successful functioning and oversight of the BOP equipment. BSEE will review this data to help ensure compliance with the requirements of the regulations and help support its continual analysis of the 21-day testing frequency.

These efforts are consistent with BSEE's implementation of E.O.s 13783 and 13795, congressional guidance, and Secretary's Order No. 3350 (described in Section I.D above).

BSEE analyzed the justifications provided in the 2016 WCR for the decision to adopt a 14-day rather than a 21-day testing frequency, which offered little by way of data-driven conclusions. Following closure of the comment period, BSEE undertook a thorough review of available data, existing regulations, and all comments related to the evaluation of 7-, 14-, and 21-day BOP testing interval requirements. As part of its analysis, BSEE considered the BOP equipment failure reporting data captured in the U.S. Department of Transportation Bureau of Transportation Statistics (BTS) 2017 SafeOCS report titled *Blowout Prevention Safety System—2017 Annual Report.*[11] The report analyzed 1129 events and found that there were 1044 notifications for subsea BOPs and 85 notifications for surface BOPs. Of the total events, 946 reported events were found while the BOPs were not in operation. That report observes on page 28 that ''[w]ear and tear was the most frequently reported root cause of

[11] *https://www.safeocs.gov/2017_WCR_Annual_Report_v4.pdf.*

failures (53.6 percent).'' This data helps BSEE establish a baseline of operating events for the 14-day BOP testing frequency. That report also indicates that various forms of monitoring were responsible for detecting at least as many reported ''in-operation'' BOP equipment failures as the equipment failures detected through additional testing during 2017. These data suggest that monitoring plays an important role in the detection of BOP equipment failures, in conjunction with regular testing. Health monitoring systems allow operators to detect and remediate potential failures before they occur, and to understand potential failures and their impact on overall BOP system reliability, potentially contributing to downward failure trends. Accordingly, BSEE determined that operators who desire to reduce the frequency of their regular testing should be required to adopt more robust BOP health monitoring capabilities to ensure that oversight of BOP operability is not compromised. Adopting a 21-day testing frequency would align BSEE requirements with the BOP testing provisions of API Standard 53 that are widely utilized and accepted internationally. A 21-day testing frequency would also align with widely adopted BOP testing standards followed by the international offshore oil and gas industry. BSEE contacted many international regulators [12] responsible for overseeing offshore operations and requested information on whether those regulators allow the use of a 21-day BOP testing frequency. BSEE was informed that, among others, Brazil, Denmark, the United Kingdom,[13] and the Netherlands allow a 21-day BOP testing frequency. BSEE recognizes the successful international use of the 21-day testing frequency and relied, in part, on that experience to support its decision that a 21-day testing frequency may be appropriate for OCS operations under certain conditions.

BSEE also requires additional specified function testing of certain BOP components. For example, existing § 250.737(d)(9) requires BOP function testing of annular and pipe/variable bore rams every 7 days. This function testing would continue to confirm important aspects of BOP functionality at more frequent intervals if pressure testing is conducted at a 21-day frequency.

In addition, one commenter submitted an analysis of field pressure testing data across two rigs with similar BOP equipment—one subject to 14-day testing under requirements applicable in the Gulf of Mexico and the other on a 21-day testing cycle overseas. The commenter's analysis indicates that no reduction in BOP reliability was found in connection with the international 21-day testing standards. BSEE reviewed the commenter's data and agrees that the commenter's analysis demonstrates successful use of 21-day BOP testing.

Summary of Comments—21-Day BOP Testing Frequency in the Economic and Environmental Analyses

Multiple commenters questioned the validity of BSEE's cost and environmental analyses and asserted that BSEE did not provide any concrete data or analysis to support a change to the BOP testing frequency in the regulations.

• *Response:* BSEE disagrees with the commenters' assertion that the draft economic and environmental analyses released with the proposed rule were invalid. BSEE reviewed all relevant comments related to these analyses and updated or revised them, as appropriate, for the final rule (see discussions of the 21-day testing provisions in the environmental assessment and Regulatory Impact Analysis).

D. BSEE Approved Verification Organization (BAVO)

The 2016 WCR established criteria and associated requirements related to the use of BAVOs. Pursuant to the regulations promulgated through the 2016 WCR, a BAVO is an entity that submits qualifications to BSEE and receives BSEE approval in order to perform certain independent engineering reviews and provides reasonable assurances that certain equipment would perform as designed under the operating conditions relevant to the particular well where the equipment will be used. The 2016 WCR regulations at §§ 250.731, 250.732, 250.734, 250.738, and 250.739 covered BAVO requirements. The 2016 WCR established that the BAVO requirements would not take effect until one year after BSEE published a list of BAVOs. BSEE has not yet published a BAVO list; accordingly, the BAVO requirements are not currently effective. However, the 2016 WCR also required that operators use independent third-parties to perform certain of the certifications, verifications, and reporting functions pending implementation of the BAVO requirements.

In the proposed rule, BSEE proposed to remove all references to BAVOs and to replace them with references to an independent third party in §§ 250.731, 250.732, 250.734, 250.738, and 250.739. BSEE received many comments supporting these proposed changes. This section includes a summary of the general BAVO-related comments and BSEE responses. For additional discussions of comments associated with BAVO-specific provisions and BSEE responses, refer to section V of this final rule preamble.

Summary of comments: Multiple commenters expressed concerns that changing BAVO requirements in the new rule would negatively affect safety and accountability. Multiple comments requested keeping the requirement for BSEE to certify BAVOs, as described in the 2016 WCR. Those commenters desired assurance that the third-party will be well-qualified for the extremely important work that is required, which includes verifying and documenting the proper functioning of the BOP. A commenter requested that BSEE explain how it will ensure that third-party reviewers are truly independent, qualified, and consistent in their execution of inspections and establish a process to evaluate the independent third parties. Another commenter recommended that BSEE not surrender the authority to approve the third-party organizations. A different commenter asserted that BSEE cannot avoid the responsibilities it has to ensure drilling safety by allowing inspections by organizations that may not have the expertise or capacity to determine whether blowout preventers are being correctly operated and maintained. Another commenter asserted that this change would reduce oversight, suggesting that if BSEE does not have a role in approving the inspectors, the operators would be able to choose who inspects their BOPs, and that such inspectors would not even be required to be present during inspection. One commenter asserted that reports prepared by a third-party that is not present during the actual inspection would be of minimal value and be too late to affect real change/improvement.

• *Response:* BSEE does agree that the independent third-parties need to be qualified to perform the required work. The independent third-party must have the qualifications listed under § 250.732(b), which requires the independent third-party to be a technical classification society, or a licensed professional engineering firm, or a registered professional engineer

[12] Canada-Nova Scotia Offshore Petroleum Board (CNSOPB), Canada-Newfoundland and Labrador Offshore Petroleum Board, Danish Offshore Oil and Gas, United Kingdom, Brazil ANP (National Agency of Petroleum, Natural Gas and Biofuels), Norway PSA (Petroleum Safety Authority), and Australia National Offshore Petroleum Safety and Environmental Management Authority.

[13] *http://www.hse.gov.uk/offshore/ed-well-control.pdf.*

capable of providing the required certifications and verifications. As BSEE described in the preambles to the 2016 WCR and the proposed rule, BSEE expected most of the companies or individuals that would be approved as BAVOs to be drawn from the group currently being used as independent third-parties. BSEE determined that, under these circumstances, submittal to become a BAVO would be unnecessary and would not provide significant meaningful improvements to safety or environmental protection. BSEE has increased its interaction with the independent third-parties to better understand how they operate and carry out certifications and verifications. For example, BSEE engineers and inspectors are regularly on a rig or at a testing facility concurrently with independent third-parties during BOP testing. BSEE utilizes these opportunities to observe the independent third-parties and discuss the required verifications for the associated operations with them. If BSEE becomes aware of any concerns with the required independent third-party certifications or verifications, there are still options for BSEE to address the issues through the operator (*e.g.,* verifications through the permitting process).

BSEE disagrees with the assertions that BSEE is surrendering authority to approve third parties, that BSEE is avoiding responsibilities for ensuring safety, or that the changes reduce oversight. The regulatory revision that eliminates the BAVO process will continue to meet the objectives BSEE stated in 2015: ''The objective is to have this equipment monitored during its entire lifecycle by an independent third-party to verify compliance with BSEE requirements, OEM recommendations, and recognized engineering practices. The BSEE believes that the importance and complexity of BOP systems and the fact that they might be operated at various worldwide locations throughout their service life warrants a thorough and regular assessment of the systems and verification that design, installation, maintenance, inspection, and repair activities are documented and traceable.'' (Proposed WCR, 80 FR 21504).

Although the regulations allow operators to select the independent third party who performs the inspection, there are multiple paths by which BSEE can directly verify the adequacy of independent third party performance. For example, BSEE will continue to review the verifications and certifications submitted by independent third parties and confirm that they provide a sufficient level of detail to ensure compliance with the regulations. Since 2015, BSEE has consistently articulated the importance of independent third-party verification and documentation. This regulatory amendment does not eliminate or reduce the role of such verification and documentation. While the regulations do not require the independent third party to be present at the major inspections, they require the independent third party to review the documentation of the inspections to help ensure that the appropriate entities accurately and appropriately complete the inspection and maintenance. The independent third party document review also allows the comparison of the design data to the current status of the equipment. The intent of the major inspection is to verify that the well control system components are fit for service and within design tolerances to be utilized for specific well conditions, which can be verified through a data review and does not require a physical presence.

Summary of comments: Commenters suggested that BSEE should take steps to ensure that any third-party is acting in good faith before it verifies rig safety measures and that BSEE should provide additional explanation and justification to support the proposed change.

• *Response:* BSEE agrees with the commenters that the independent third-parties must act in good faith and be capable and competent when conducting the required verifications and certifications. The qualification requirements set forth in final § 250.732(b) are designed, in part, to ensure such professional standards. If BSEE becomes aware of any concerns with certifications or verifications that are performed by an independent third-party as required by the regulations, BSEE retains options to address these potential issues through its regulation of the operator (*e.g.,* verifications through the permitting process).

Summary of comments: A commenter asserted that the proposed definition of independent third-party is too broad and would allow organizations or individuals to perform verification activities without having the proper expertise. The commenter recommends retaining and applying the current BAVO requirements found in previous § 250.732(a)(3)(i) through (vi) to potential independent third-parties.

• *Response:* BSEE disagrees with the commenter's suggestion to include the identified BAVO requirements in this final rule. Final § 250.732 paragraph (b) references the independent third party qualifications. The existing regulations do not require a BAVO to be a technical classification society, a licensed professional engineering firm, or a registered professional engineer capable of performing the required actions; however, for an individual or company to become an independent third-party that performs the required certifications and verification under this final rule, it must continue to meet the qualifications currently set forth in § 250.732(a)(2) and being retained in the final rule at § 250.732(b). These standards ensure a level of professional competence and independence comparable to that required of BAVOs in the existing regulations.

E. Legal Comments

General Comments on Legal Aspects of the Rulemaking Process

Summary of comments: BSEE received a number of comments regarding the rulemaking process. Some commenters raised specific concerns about the process. For example, a commenter asserted that BSEE engaged in an inadequate information-gathering process. Several others claimed the public comment period was too short, and did not involve enough participation from stakeholders. Other commenters expressed support for the rulemaking process, asserting that this rule would address perceived deficits in the previous rule.

• *Response:* BSEE disagrees with the assertion that the bureau provided an unreasonably short public comment and that BSEE engaged in an inadequate information gathering process. As previously discussed, BSEE held a public forum on September 20, 2017, in Houston, Texas, prior to initiating the rulemaking process, to solicit input on the development of the proposed rule. In addition, BSEE accepted comments through a ''Request for comments'' on the Department of the Interior's regulatory reform initiatives, published in the **Federal Register** on June 22, 2017 (82 FR 28429), with no deadline for comments. BSEE received 19 comments relevant to this rulemaking from interested parties as a result of this request for comments. BSEE published the proposed rule with a 60-day comment period that was scheduled to close on July 10, 2018, and extended that comment period by 27 days to August 6, 2018. BSEE determined that this 87 day comment period on the proposed rule was reasonably sufficient because it afforded interested parties a meaningful opportunity to participate in the rulemaking process.

Compliance With the Administrative Procedure Act (APA)

Summary of comments: A commenter asserted that if BSEE chooses to publish a final rule, then it must first provide analysis and data upon which the proposed rule is based, in compliance with the fair notice requirements of the Administrative Procedure Act (APA), asserting that the APA requires BSEE to provide specific revisions with data and analysis supporting those proposals and to request further public comments on those specific proposed revisions, rather than simply ask for comments on a broad range of topics. The commenter asserted that there are several places in the proposed rule where BSEE solicits comments for amending certain existing provisions but provides no specific plans for how it intends to amend those provisions and asserted that without a defined course of action, the public cannot intelligently critique the proposed rule. The commenter asserted that BSEE did not include the analysis or data on which other proposed revisions are based, thus precluding meaningful public criticism.

• *Response:* BSEE disagrees. The APA's notice and comment provision (5 U.S.C. 553(b)) requires that an agency test its regulation through exposure to diverse public comment and give affected parties an opportunity to develop evidence in the record to support their positions regarding the rulemaking, thereby enhancing the quality of agency decisionmaking.[14] As evidenced by BSEE's receipt of diverse, extensive public comments, the proposed rule fairly apprised interested parties about the rule's detailed subjects and the range of alternatives the bureau was considering. BSEE's evaluation of the comments it received permitted the bureau to test these final regulatory provisions. Through this rulemaking process, BSEE provided ample and adequate notice of the potential for each regulatory change implemented through this final rule and ensured that the rulemaking record included adequate justification for each such change.

With regard to revisions to the BOP system testing requirements, BSEE solicited comments in the proposed rule ''on whether the BOP testing interval should be 7 days, 14 days, or 21 days for all types of operations including drilling, completions, workovers, and decommissioning,'' as well as comments ''on the specific cost and operational implications of each testing interval.'' [15] Contrary to the commenter's assertion, BSEE specifically discussed industry's and BSEE's current reliance on function and hydrostatic tests and industry's concerns ''related to the benefits of pressure and functional testing of subsea BOPs when compared to the costs and potential operational issues.'' [16] BSEE requested comments on these specific tests and intervals, including ''[u]nder what circumstances or environments . . . the testing frequency [should] be increased or decreased,'' and what ''technologies, processes, or procedures can be used to supplement existing requirements and provide additional assurances related to the performance of this equipment.'' BSEE did not propose the regulatory text adopted in the final rule regarding BOP testing frequency. However, BSEE discussed all of the final rule elements in the proposed rule, and a reasonable commenter could have anticipated the adopted changes and the text of the final rule BOP testing frequency provisions was a logical outgrowth of the proposed rule. BSEE specifically requested comments on whether the BOP testing interval should be 21 days for all types of operations, including associated costs and operational considerations, and highlighted questions surrounding the benefits of current testing requirements compared to known concerns. 83 FR 22143. BSEE specifically requested comments on circumstances in which testing frequency might be decreased and alternative approaches to ensuring the operability and reliability of BOP systems. *Id.* BSEE derived the final regulatory changes from comments received pursuant to the solicitations in the proposed rule. The final rule's BOP testing interval constitutes a logical outgrowth from the proposed rule because interested parties should have anticipated that this change was possible and, in fact, filed relevant comments.[17]

Enforcement of Compliance With Documents Incorporated by Reference

Summary of comments: A number of commenters asserted that, by relying on incorporation by reference of industry standards, the proposed rule would allow the oil and gas industry to regulate itself without government oversight.

• *Response:* BSEE disagrees. As discussed elsewhere in this final rule, BSEE incorporates technical standards by reference in accordance with the requirements of the National Technology Transfer and Advancement Act (NTTAA) [18] and implementing Office of Management and Budget (OMB) guidance, the Office of the Federal Register (OFR) regulations (1 CFR part 51), and BSEE's own procedures for incorporation (§ 250.115, *What are the procedures for, and effects of, incorporation of documents by reference in this part?*). These processes include thorough evaluation of the pertinent standards for appropriateness and adequacy as regulatory requirements. The effect of incorporation by reference of an industry standard into the regulations is that the incorporated document becomes a regulatory requirement, *see* § 250.115(c), and, thus, becomes subject to BSEE oversight and enforcement in the same manner as other regulatory requirements. BSEE incorporates standards developed by SDOs with a preference for those standards that are developed using a consensus process. Furthermore, BSEE may incorporate portions of SDO standards, limit their applicability to specified sections of BSEE's regulations, and impose other limitations such as providing that where a provision of an incorporated standard conflicts with BSEE regulatory provisions, those regulatory provisions prevail. If an SDO later revises a standard that BSEE has previously incorporated in a final rule, BSEE would need to evaluate the revised standard before incorporating it through rulemaking in the regulations; in other words, industry itself cannot change the regulatory requirements by revising a standard after that standard is incorporated in BSEE's regulations. Nor is industry authorized to oversee or enforce compliance with standards once incorporated into regulation. Once incorporated, BSEE enforces these standards as any other regulatory requirement.

Correcting Issues From the 2016 Rulemaking Process

Summary of comments: A commenter asserted that this proposed rule corrected a failure in the 2016 WCR to provide a Statement of Energy Effects, as required by E.O. 13211. According to

[14] *Prometheus Radio Project* v. *F.C.C.,* 652 F.3d 431, 449 (3d Cir. 2011), certiorari denied 567 U.S. 951 (2012).

[15] 83 FR 22143 (May 11, 2018).

[16] Ibid.

[17] ''A rule is deemed a logical outgrowth if interested parties 'should have anticipated' that the change was possible, and thus reasonably should have filed their comments on the subject during the notice-and-comment period.'' *NE Maryland Waste Disposal Auth.* v. *E.P.A.,* 358 F.3d 936, 952 (D.C. Cir. 2004) (internal cites omitted). *See also, CSX Transp., Inc.* v. *Surface Transp. Bd.,* 584 F.3d 1076, 1081 (D.C. Cir. 2009) (''[A] final rule represents a logical outgrowth where the NPRM expressly asked for comments on a particular issue or otherwise made clear that the agency was contemplating a particular change.'').

[18] National Technology Transfer and Advancement Act, 15 U.S.C. 370 *et seq.*

the commenter, E.O. 13211 required BSEE to publish for public comment a detailed statement relating to (1) ''any adverse effects on energy supply'' and (2) ''reasonable alternatives to the action.'' A commenter claimed that the proposed rule makes adjustments to the 2016 rule to provide ''economically feasible'' regulations as required by OCSLA.[19] A commenter asserted that a detailed evaluation of ''reasonable alternatives'' to the 2016 WCR ''would necessarily have included use of consensus standards.'' According to this same commenter, BSEE's recent cost impact assessment of the 2016 WCR found needless waste under certain provisions of the rule, leading to ''idled rigs, unnecessary new equipment, unnecessary reporting, non-productive time, and lost production opportunities, all of which have no offsetting benefit to safety or environmental protection.'' This commenter contended that the proposed rule included adjustments to the 2016 WCR that provide economically feasible avenues for reaching the safety and environmental goals required by OCSLA. One commenter asserted that E.O. 13211 is unconstitutional, so any reliance on it is unlawful.

• *Response:* BSEE's articulation of its 2016 position with respect to the applicability of E.O. 13211 to the 2016 WCR constitutes the best evidence of the bureau's position.[20] The OCSLA provision cited by the commenter addresses economic feasibility with respect to the use of certain technologies during OCS operations, not with respect to the economic feasibility of regulatory updates.[21] This rulemaking does not make a determination regarding the economic feasibility of any technology under 43 U.S.C. 1347(b). As explained in more detail in section I of this final rule preamble, E.O.s 12866 and 13563 direct BSEE to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select a regulatory approach that maximizes net benefits (accounting for the potential economic, environmental, public health, and safety effects). As a general matter, BSEE informs its decision-making with respect to rulemaking through fulfillment of the requirements of the APA and associated regulations and guidance.

Comments on Other Legal Issues

Summary of comments: A commenter asserts that the agency cannot adopt new revisions in the final rule based on solicited comments when the agency did not propose those revisions in the proposed rule nor provide an opportunity for public comment on those revisions.

• *Response:* BSEE disagrees. BSEE decision-making regarding regulatory revisions is governed by the requirements of the APA and associated regulations and guidance. BSEE has complied with the notice and comment requirements of applicable law with respect to all provisions of the final rule. Any provisions not specifically proposed in the proposed rule reflect existing requirements and/or are logical outgrowths from the proposed rule.

Summary of comments: A commenter asserted that BSEE must perform a Quantitative Risk Analysis (QRA) before BSEE can realistically conclude that the changes ensure safe operations. In addition, the commenter asserted that BSEE must evaluate the significant environmental impacts of the rulemaking by preparing an Environmental Impact Statement (EIS). The commenter based this assertion on the requirement under the National Environmental Policy Act (NEPA) to take a ''hard look'' at the cumulative impacts the rulemaking would have on water resources, wildlife, coastal habitats, marine species, air quality, and sociocultural and economic systems, including direct and indirect impacts. The commenter also asserted that the rulemaking requires BSEE to undertake Endangered Species Act (ESA) consultations because removing certain regulatory provisions regarding environmental and worker protections may affect listed species and critical habitat.

• *Response:* BSEE disagrees with the claim that a QRA is the only way for BSEE to conclude that these changes ensure safe operations. As more fully discussed in the final Environmental Assessment (EA), NEPA requires that BSEE take a ''hard look'' at the potential impacts of a rulemaking, however it does not specifically require a QRA. BSEE took its ''hard look'' through the final EA, and reached a Finding of No Significant Impact (FONSI), demonstrating that an EIS is not required. Further, before any actual operations can be conducted on the OCS, there are a number of additional stages (*e.g.,* leasing program, lease sales, planning, permitting) at which additional analyses of potential impacts are and will be performed. In addition, guidance in OMB Circular A4 regarding the preparation of a regulatory impact analysis (RIA) for significant rulemakings states that agencies ''should seek to use more rigorous approaches with higher consequence rules.'' BSEE evaluated the recommendations from the stakeholders and commenters, considering a number of factors including risk, benefits, and cost. As previously discussed, consistent with congressional encouragement, BSEE solicited input from stakeholders early in this rulemaking process to identify those provisions of the existing regulations that BSEE could amend, revise, or remove to reduce unnecessary burdens on stakeholders while still maintaining safety and environmental protection. BSEE generally focused on those provisions in the existing regulations that did not significantly enhance worker safety or environmental protection.

With respect to ESA consultation, BSEE considered the ongoing Section 7 ESA consultations with the U.S. Fish and Wildlife Service, and whether this rule would affect any listed species or habitat. The National Marine Fisheries Service expressly excluded this rule making from the ongoing programmatic consultation. The final rule would not give rise to any additional or modified activities that would affect listed species or designated critical habitat. BSEE has determined that the final rule will have ''no effect'' on listed species or designated critical habitat. BSEE has determined that ESA consultation is therefore not required for this rule.

Comments on Best Available and Safest Technology (BAST) Requirement in OCSLA

Summary of comments: A commenter emphasized that OCSLA requires BSEE to ensure that operators use ''the best available and safest'' technology (BAST) possible, unless BSEE determines that the narrow impracticability exception applies. The commenter asserted that BSEE failed to ensure or otherwise determine that the proposed rule meets these requirements. This commenter asserted that before BSEE may rescind and revise technological requirements that were determined to meet the requirements of BAST, BSEE is obligated to demonstrate compliance with BAST by ensuring that those revisions are as good as the original requirements. The commenter maintained that BSEE may not adopt the proposed revisions without a determination that the benefits of the

[19] The commenter cited 43 U.S.C. 1347(b) as the basis for its assertion. BSEE–2018–0002–0050 Attch. 1 (p. 3).

[20] 81 FR 25888, 26013 (April 29, 2016).

[21] 43 U.S.C. 1347(b) states, in part: ''[The Secretary] shall require, on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technologies which the Secretary determines to be economically feasible . . . .''

original provisions are clearly insufficient to justify the incremental costs of implementing these technologies. This commenter asserted that BSEE must provide information demonstrating that the rulemaking will meet the BAST requirements of OCSLA.

A commenter urged BSEE to expeditiously finalize its consideration of the potential revisions to § 250.107.

• *Response:* The Conference Report regarding OCSLA's BAST provision [22] explains that that this provision requires the Secretary to make a ''determination as to what are the best available and safest technologies economically feasible . . . .'' [23] Neither the 2016 WCR nor this rule made or makes any such determination with respect to any specific technology. Therefore, in this rule, the Secretary has not undertaken any BAST evaluation of economic feasibility of any specific technology, nor did the Secretary do so in the context of the 2016 WCR (*see, e.g.,* 81 FR 25901; 25911; and 25929). Thus, the BAST statutory requirement does not apply here because this rulemaking makes no BAST determinations, nor does it alter any existing BAST determinations. The BAST statutory requirement is independent from OCSLA's provisions establishing the Secretary's authority to promulgate regulations to govern OCS operations.[24]

Comments on Grounds for Decisions

Summary of comments: A commenter asserted that BSEE failed to meet the APA's legal standards and argued that BSEE must provide ''the grounds of its decision and the essential facts upon which the administrative decision was based,'' and ''good reasons'' for the proposed changes in policy, explaining the reasons why BSEE disregarded the ''facts and circumstances that underlay or were engendered by'' the prior rule. The commenter asserted that BSEE needs to provide a more detailed justification, providing ''reasoned explanation.'' The commenter also asserted that it is arbitrary and capricious for BSEE to assume that the proposal to repeal regulations, that two years ago BSEE found would provide significant societal benefits, will not have an effect on societal costs and benefits.

• *Response:* BSEE disagrees. The APA's provisions regarding notice and comment (5 U.S.C. 553(b) and (c)) require that an agency test its regulation through exposure to diverse public comment and give affected parties an opportunity to develop evidence in the record to support their positions regarding the rulemaking, thereby enhancing the quality of agency decisionmaking.[25] BSEE provided thorough and reasoned explanations for its proposed regulatory actions and submitted them to public comment. BSEE's evaluation of the comments it received permitted the bureau to test these final regulatory provisions. Through this rulemaking process, BSEE provided ample and adequate notice of each regulatory change implemented through this final rule and ensured that the rulemaking record included adequate justification for each such change. Further, BSEE undertook its review of the provisions of existing regulations as promulgated through the 2016 WCR pursuant to the direction of multiple Executive Orders and Secretary's Orders, as well as congressional direction. Thus, BSEE faithfully implements OCSLA and fully complied with procedural legal requirements, including those applicable to this rulemaking.

Comments on Weakening of Requirements

Summary of comments: One commenter strongly opposed the proposed rule, asserting that the proposal to weaken the existing well control regulations, just two years after they were promulgated, and before some provisions of the regulations are effective, would increase the likelihood of another *Deepwater Horizon* disaster. The commenter observed that the previous rulemaking was specifically designed to prevent another scenario similar to the *Deepwater Horizon* event. The commenter stressed that this action would ''epitomize an arbitrary and capricious reversal of position.''

• *Response:* The APA requires that BSEE give a ''general statement of [the regulations'] basis and purpose.'' (5 U.S.C. 553(c)). As previously described, BSEE broadly based this rulemaking on congressional guidance, interaction with stakeholders, BSEE's experience implementing the 2016 WCR, BSEE's recognition of technological advancements, and directions contained in Executive and Secretary's Orders issued subsequent to the 2016 WCR. Pursuant to those Orders, BSEE evaluated existing regulatory provisions to identify unnecessary regulatory burdens, but always within the bounds of maintaining safety and environmental protection. BSEE believes that its process accomplished these goals without ''weaken[ing]'' existing regulation or failing to maintain safety and environmental protection. BSEE's articulation of these sound reasons for its regulatory decisions demonstrates that it is not acting arbitrarily or capriciously.[26] BSEE disagrees with the commenter's assertion that this rule would increase the likelihood of an event similar to DWH. As discussed in section I.D of this preamble, this rulemaking reduces regulatory burden while maintaining safety and environmental protection.

F. Economic Comments

Comments on Cost and Benefits

Summary of comments: Some commenters made assertions regarding the cost/benefit aspects of the proposed rule as presented in the initial regulatory impact analysis (IRIA). These comments were varied in scope and in position. Some commenters supported the overall conclusion of the IRIA, that BSEE is alleviating unnecessary regulatory burdens on industry with no foregone benefit to the public. Many commenters challenged this conclusion, both for the rule as a whole and with respect to some of the individual provisions. Commenters often supported their claims with descriptions in the 2016 WCR or by highlighting statements from the multiple investigative and engineering studies following the *Deepwater Horizon* incident in 2010.

Most comments did not challenge the IRIA's methodology or the compliance cost or savings estimates. Commenters that noted these did so generally, usually in the context of added risks or foregone benefits to the public. In other words, commenters mostly accepted the compliance savings estimates in the IRIA, but asserted that it was incomplete and that BSEE essentially ignored the ''benefit'' part of a cost-benefit analysis. On this basis, one commenter challenged BSEE's ''neutral'' designation for safety and environment impacts, claiming it treats foregone benefits as having zero value. The commenter further asserted, ''BSEE must analyze and monetize the forgone societal benefits from [the proposed rule] that it analyzed and monetized in

[22] 43 U.S.C. 1347(b).

[23] Conf. Rpt. 95–1091 (Aug. 10, 1978) (p. 109).

[24] 43 U.S.C. 1334(a) states, in part: ''The Secretary shall . . . prescribe . . . regulations as may be necessary to carry out [OCSLA]. The Secretary may at any time prescribe and amend such . . . regulations as may be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the [OCS], and the protection of correlative rights therein . . . .''

[25] *Prometheus Radio Project* v. *F.C.C.*, 652 F.3d 431, 449 (3d Cir. 2011), certiorari denied 567 U.S. 951 (2012).

[26] See, *Natl. Indus. Sand Ass'n* v. *Marshall*, 601 F.2d 689, 717 (3d Cir. 1979).

2016, including the risk reduction benefits.'' In the absence of such an analysis, a separate commenter asserts that, ''BSEE provides no evidence that the existing rule *is* actually a burden or that removing safeguards will ensure adequate protections remain in place.'' Further comments suggest the savings estimates presented in the IRIA are insignificant in comparison to the billions in gross domestic product (GDP) generated by the coastal communities placed at greater risk if this rule is finalized—a risk, commenters note, BSEE did not evaluate. Variations of these claims are found in multiple comments.

• *Response:* The 2016 WCR did not make specific claims regarding the reduced risk created by the provisions in that rulemaking. A breakeven analysis of the rule's total compliance costs claimed only that BSEE believed the risk reduction was greater than one percent. This final rule does not modify or change the overwhelming majority of the provisions codified in the previous rulemaking. Further, BSEE identified the changes being made specifically because they maintain safety and environmental protection, and the societal benefits associated therewith. The revisions made through this rulemaking exemplify that there are multiple approaches to maintaining safety and environmental protection, and the associated societal benefits. As discussed in the ''Section-by-Section Summary'' discussions in this preamble, this final rule leaves in place several of the provisions proposed for revision in the proposed rule. The final rule focuses only on those provisions that are expected to reduce unnecessary burdens on operators, while still maintaining safety and environmental protection. Accordingly, BSEE has adequately incorporated those benefits into its formulation of this final rule.

Comments on Compliance Costs or Savings Estimates

Summary of comments: BSEE received few comments on compliance cost or savings estimations in the IRIA. One commenter resubmitted a cost analysis prepared for the 2016 WCR to support the position that BSEE should revise additional provisions not included in the proposed rule. Similarly, a separate commenter highlighted an unspecified cost burden related to the retention period of real-time monitoring data as defined by a provision not proposed for revision in the proposed rule.

• *Response:* BSEE's rulemaking process revises only the provisions identified in the proposed rule and changes that would be considered a ''logical outgrowth'' of the proposed rule. These comments suggested that BSEE should revise provisions that it did not propose for modification in the Notice of Proposed Rulemaking (NPRM) and that it did not analyze in the IRIA. BSEE considers the suggestions made in these comments to be outside the scope of this rulemaking.

Comments on the Elimination of BAVO Requirements

Summary of comments: Regarding elimination of the BAVO framework, a commenter asserted that, based on the supporting RIA for the 2016 WCR, ''BSEE estimated that the BAVO system would result in a mere $10,000 in annual costs to operators and verification organizations. BSEE has provided no evidence that such a small annual cost outweighs the critical benefits of the BAVO system.''

• *Response:* As discussed previously, BSEE concluded that the use of independent third parties will provide the same level of safety as the BAVO framework. Implementation of the BAVO framework would also impose meaningful costs and burdens on BSEE. BSEE considers any compliance cost that does not contribute to safety or environmental protection burdensome and therefore believes it is appropriate that the regulatory impact analysis reflect a compliance savings and no foregone public benefit.

Comments on Lack of a Risk Analysis or Risk Assessment and Financial Analysis

Summary of comments: Several comments asserted that the proposed rule lacks sufficient risk analysis and asserted that additional analyses are required, while other commenters stated they were satisfied with the proposed risk assessment.

One commenter asserted that BSEE claimed the proposed rule would not cause a major increase in costs or prices for: Consumers; individual industries; Federal, State, Tribal, or local governments; or regions of the nation. The commenter then asserted that these conclusions do not consider the risk of another spill like *Deepwater Horizon* or consider the impacts of that event related to the shutdown of fishing and tourism businesses for months or longer. The same commenter noted that according to BSEE, the proposed changes would reduce regulatory costs over a 10-year period at a rate less than $1 billion total, which the commenter asserted is a relatively small amount when compared to the damage of one oil spill.

Another commenter made a similar assertion regarding BSEE's position that the rule would not cause major increases in cost or prices, and asserted that this position does not address important risk factors. The commenter asserted that the proposed rule failed to account for foregone benefits along with the avoided costs. The commenter asserted that because the proposed revisions ''would have a positive annual effect on the economy of $100 million or more,'' this rulemaking is subject to the cost-benefit analysis requirements under E.O.s 12866 and 13563, as well as OMB Circular A–4. The commenter asserted that BSEE claimed it has conducted the required analysis, but argued that while BSEE's analysis quantifies industry's anticipated reduction in compliance costs, it does not address the foregone benefits of protections against the types of spills that have cost billions of dollars to remediate. The commenter further asserted that BSEE simply stated that, ''[t]he proposed amendments would not negatively impact worker safety or the environment.'' The commenter observed that the economic analysis conducted for the 2016 WCR ''quantified and monetized the potential benefits of the rule, including time savings, reductions in oil spills, and reductions in fatalities.''

One commenter asserted that the rulemaking is consistent with the Executive and Secretary's Orders, in that the rulemaking would remove undue burdens on operators. The commenter supported BSEE's assertion that the proposed rule would increase the competitiveness of America's offshore energy industry.

Another commenter asserted that the proposed rule would hold risk to an acceptable level and that the risk-based standards and procedures as currently used by operators are sufficient to maintain well control. The commenter asserted that operators can maintain well control and manage events safely when: Wells are designed for the range of anticipated risk; equipment and safeguards have the required redundancy and are properly maintained and tested; personnel are trained; tests and drills are conducted; and established procedures are followed. The commenter emphasized the importance of highly skilled and trained personnel on location who are able to provide timely and effective well control and safety decision making. The commenter also recommended that BSEE consider these general operating practices when finalizing this and other regulations.

• *Response:* BSEE disagrees with the commenters' assertion that BSEE did not consider risk in the development of the proposed and final rule. BSEE evaluated operational considerations, equipment design and specifications, and relevant public input and comments to identify appropriate revisions. As previously discussed in this preamble, BSEE carefully considered potential changes to these regulations, under direction to identify possible revisions that would reduce unnecessary regulatory burdens on stakeholders, while still maintaining safety and environmental protection. As discussed qualitatively in the RIA, BSEE determined that the selected revisions are likely to maintain the same worker safety and environmental protection as the 2016 final rule, therefore BSEE did not evaluate the costs related to a potential increase in spills or safety issues. BSEE recognizes that pursuant to OMB guidance (OMB circular A–4),[27] agencies are encouraged to ''seek to use more rigorous [economic analysis] approaches with higher consequence rules,'' *i.e.,* those rulemakings that are expected to have annual benefits and/or costs in the range from $100 million to $1 billion. BSEE recognizes that there is a potential relationship between a decrease in regulatory requirements and an increase in risks. However, during the rulemaking process, BSEE considered the potential impacts of contemplated revisions to safety and environmental risks to identify those revisions that would reduce burdens on operators while maintaining safety and environmental protection. While BSEE did not develop a specific risk analysis for this rulemaking, BSEE considered potential risks as part of the process of developing this rule and RIA. BSEE has a number of completed and ongoing efforts related to evaluating risk in OCS operations. BSEE considered information from these efforts when evaluating the requirements of the current well control regulations to identify requirements that could be revised while still maintaining safety and protection of the environment. Among the ongoing efforts considered by BSEE that address well control-related risk issues, are:

(1) The SafeOCS failure reporting program, and the ''Blowout Preventions System Events and Equipment Component Failures'' 2016 Annual Report and ''Blowout Preventions System Safety'' 2017 Annual Report on failures, by BTS. These reports include summaries and analysis of the data received through the SafeOCS program on BOP equipment component failures on the OCS and other key information, such as failure causes, operational impacts, and opportunities to improve data quality. More information on the SafeOCS reporting system and copies of the 2016 and 2017 BTS reports are available at: *https://www.safeocs.gov/wcr_home.htm.*

(2) Argonne National Laboratory (ANL) 2017 report and updated 2018 report on *Risk-Based Evaluation of Offshore Oil and Gas Operations Using a Multiple Physical Barrier Approach.* This project was designed to assist BSEE in developing a multiple physical barrier (MPB) model of risk analysis. The project resulted in a risk-analysis technique, developed by ANL, that focuses on the use of physical barriers to prevent hydrocarbon release. BSEE has used a multiple barrier approach as part of its approach to regulations for many years. This project supports that approach through the development of a formalized methodology for evaluating process safety, to ensure that *success paths* (*e.g.,* systems, components, and human actions needed to ensure the success (of a barrier)) are in place and are capable of performing their functions in all expected conditions and circumstances. The initial (2016) ANL project resulted in a joint industry project (JIP), a case study on plug and abandonment barriers. More information on this project and the two ANL reports is available at: *https://www.bsee.gov/research-record/risk-based-evaluation-of-offshore-oil-and-gas-operations-using-a-multiple-physical.*

Regarding the comments on BSEE's determination that the proposed rule would not cause a major increase in costs or prices, the revisions to the regulatory requirements in this final rule are expected to reduce unnecessary burdens, while still maintaining safety and environmental protection. The 2016 WCR did not make specific claims regarding the risk reduction created by the provisions in that rulemaking. A breakeven analysis of the rule's compliance costs claimed only that BSEE had concluded that the risk reduction was greater than one percent (81 FR 25987). This final rule does not modify or change the overwhelming majority of the provisions codified in the 2016 WCR. BSEE determined that the selected revisions are likely to maintain safety and environmental protection.

This final rule does not codify some provisions of the proposed rule. One example is the proposed revision to existing § 250.734(a)(1)(ii), which requires ''both shear rams to be capable of shearing'' the specified equipment run in the hole. BSEE proposed to change this provision to require only that a ''combination of the shear rams must be capable of shearing'' the specified equipment run in the hole. As previously stated, BSEE based the decision not to make that change in this final rule on consideration of the public comments on the proposed rule, the importance of shearing redundancy, and the potential ambiguity the change would create regarding the number of rams subject to this shearing requirement. For more information on specific proposed provisions that are not being codified in this final rule, refer to section V of this preamble.

Concerning the comment that recommended that BSEE consider these general operating practices when finalizing these and other regulations; BSEE agrees and does this routinely as part of developing regulations and policies. The incorporation by reference of industry developed standards in the regulations is one approach BSEE uses to address general operating practices used by the industry. Since these documents are developed by industry, they reflect common industry practices. BSEE also considered input from industry to identify those provisions from the existing regulations that were unduly burdensome, although this was not the only input that BSEE considered in determining how to revise these regulations.

Comments on Potential Safety Impacts of Proposed RTM Rrevisions

Summary of comments: One commenter asserted that BSEE must ascertain whether removing certain provisions, such as RTM requirements, would increase the risk of human error, or remove a check on human error, regarding the need for an operator's offshore and onshore teams to come to consensus on how to proceed. The commenter also asserted that BSEE must provide quantitative risk analyses to support the proposed rule provisions, stating that such an analysis is critical to understanding whether BSEE's proposal to rescind such built-in safety checks would impermissibly undermine safety. The commenter also cited System Risk Assessment and Management (SRAM) as an approach that works effectively in other countries.

• *Response:* The final rule revises part of the existing RTM requirements, but does not entirely remove them. Section 250.724 paragraph (a) of the final rule continues to require RTM when operators conduct ''well operations with a subsea BOP or with a

[27] *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf.*

surface BOP on a floating facility, or when operating in a high pressure high temperature (HPHT) environment.'' The operator must ''gather and monitor real-time well data using an independent, automatic, and continuous monitoring system capable of recording, storing, and transmitting data.'' This includes data regarding the BOP control system, the well's active fluid circulating system, and the downhole conditions with bottom hole assembly tools.

The final rule continues to require operators to transmit such data as they are gathered in accordance with a real-time monitoring plan. The final rule requires that operators have the capability to monitor the data using qualified personnel. In addition, BSEE requires the operator to develop and maintain a real-time monitoring plan that meets certain specified criteria.

The final rule removes the language in existing § 250.724(b) discussing contact between onshore and offshore personnel and stating that, after completing operations, the operator must preserve and store these data for recordkeeping purposes as required in §§ 250.740 and 250.741, and must provide BSEE with access to the designated real-time monitoring data onshore upon request. The final rule also removes the requirement from § 250.724 that the operators include certifications that they have a real-time monitoring plan in their APD. These provisions are prescriptive, but unnecessary. The regulations still require the operator's RTM plan to describe how the data will be transmitted and monitored by qualified personnel, procedures for, and methods of, communication between rig personnel and monitoring personnel, and actions to be taken in the event of loss of communications. Further, the existing regulations (§§ 250.740 and 250.741) already specify recordkeeping requirements for all of Subpart G. BSEE also has the authority to request these records from the operators. Removal of these redundant or unnecessary requirements for storage of RTM data from § 250.724 do not remove the obligation for the operator to develop and implement an RTM plan, which includes a description of how the data will be stored; therefore, the change in risk is minimal and a quantitative risk analysis, as suggested by the commenter is not needed.

Regarding the commenter's mention of the SRAM, BSEE recognizes that there are numerous ways to approach risk assessments and may consider other approaches for future policies or regulations.

Comments on Financial Assurance

Summary of comments: A commenter asserted that operators should provide evidence of financial ability to plug wells and cover lost income, including the loss of income to those who rely on a clean ocean for their livelihoods.

• *Response:* BSEE assumes that this comment is related to financial assurance (bonding) issues. BSEE does not regulate financial assurance for the offshore oil and gas industry; the Bureau of Ocean Energy Management's (BOEM's) regulations at 30 CFR parts 553, *Oil Spill Financial Responsibility for Offshore Facilities* and 556, *Leasing of Sulfur or Oil and Gas and Bonding Requirements in the Outer Continental Shelf* address that responsibility.

G. Environmental Comments

Comments on the OCS Leasing Program

Summary of comments: A number of commenters addressed elements of the BOEM draft proposed 2019–2024 National OCS Leasing Program (Leasing Program). These commenters focused on the potential impacts of the proposed regulations in conjunction with the potential for oil and gas exploration and development in areas that could be opened for leasing under BOEM's proposed Leasing Program. One commenter asserted that BOEM's proposed expansion of leasing would entail the issuance of leases at a pace that exceeds the pace of recent leasing activities. The commenter further asserted that this would lead to an increase in the risk of spills, blowouts, and other consequences, and that the leases would be issued in areas where there is currently no oil and gas production and little or no production of oil and natural gas has taken place. The commenter asserted that the proposed rule would weaken the precautions in place to prevent these consequences just as offshore drilling would begin in areas that are not prepared to respond to spills.

Some comments asserted that the proposal in the Leasing Program to expand OCS leasing into additional geographic areas would magnify any reduction in safety and environmental protection resulting from the proposed revisions in this rulemaking. Some commenters asserted that BSEE must consider the impacts that the proposed rule would have under the expanded Leasing Program proposed by BOEM.

• *Response:* BSEE is aware of BOEM's Leasing Program. The proposed Leasing Program is a separate action by BOEM, which is a separate bureau from BSEE within the Department. The Leasing Program specifies the size, timing, and location of potential leasing activity that the Secretary determines will best meet national energy needs for the five-year period under consideration. The Leasing Program is subject to its own separate public comment processes and is beyond the scope of this rulemaking. While certain regulations apply exclusively to certain regions, the bulk of BSEE's regulations apply to the entire OCS regardless of location. As analyzed throughout, BSEE disagrees with the commenters' assertion that this rulemaking weakens the precautions to prevent spills and incidents. Accordingly, the impacts of this rule are not pertinent to commenters' concerns, and any concerns related to the expansion of operations into new areas should be directed toward BOEM's proposed Leasing Program, as that is not a subject of this rulemaking. Regardless of the BOEM leasing pace, BSEE permits operations on an individual well-by-well basis taking into account site-specific environmental and operational conditions to help ensure safety and environmental protection.

BSEE disagrees that the regulations are being weakened and it selected the revisions implemented through this rule based in part on the fact that they are likely to maintain the same level of safety and environmental protection for OCS activities as established by the 2016 final regulations. This rulemaking does not revise or reduce the oil spill response plan requirements.

General Comments on Environmental Impacts

Summary of comments: Multiple commenters were concerned that the proposed rule would increase environmental impacts of drilling and other well operations, thus negatively affecting the environment. One commenter asserted that the penalties imposed for failures are insufficient to motivate operators to comply with the regulations. The commenter asserted that the 2016 WCR was overly conservative in its estimations of its environmental benefits. The commenter also asserted that BSEE admitted that it understated the environmental benefits when BSEE assumed that the rule would reduce oil spill risk by only one percent per year. The commenter asserted that this mistake is further compounded by the fact that BSEE relies on this erroneous one percent reduction of risk assessment in its costs reduction analysis for the proposed revisions to the regulations promulgated through the 2016 WCR. The commenter also asserted that a significant monetary imbalance exists between current civil penalties and operating costs; asserting

that the penalties are too small to deter risk-taking and provide a financial incentive to disregard regulatory compliance. The commenter, however, acknowledged that BSEE cannot address this problem through regulations, and that Congress needs to mandate penalties that will discourage this behavior.

A different commenter expressed concern regarding how the proposed rule would negatively affect the environment. The commenter expressed opposition to any provisions of the proposed rule that would weaken requirements for decommissioning, such as possibly excluding decommissioning from RTM requirements. The commenter referenced a 2010 article by the Associated Press asserting that there are more than 27,000 sealed and abandoned oil and gas wells in the Gulf of Mexico, with more than 3,200 wells classified as active that have no cement plugging. The commenters asserted that these 3,200 wells pose a significant risk to the health of the Gulf and coastal communities because the factors that could lead to leaks are not being monitored. The commenter noted that in recent years, millions of dollars from *Deepwater Horizon* recovery and restoration funds were provided to state programs to safely plug abandoned wells. The commenter asserted that BSEE should strengthen requirements for decommissioning activities to prevent the risk of future leaks.

• *Response:* BSEE disagrees with the commenters' assertions that the selected regulatory revisions would negatively affect the environment. BSEE has determined that this rulemaking does not alter the baseline (2016 level) risk profile of the 2016 WCR, for the reasons specified in the rule and RIA. There are no benefits (forgone or otherwise) to quantify because the baseline risk profile is unchanged. Therefore, those forgone benefits are ultimately quantified at zero. In the EA, BSEE evaluated the revisions in this rulemaking to focus the impact analyses on those revisions that could potentially change operators' responsibilities for how they conduct their operations. The impact analysis focuses on the likely impacts associated with a possible loss of well control, discharges of hydrocarbons to the environment, and air pollution emissions associated with testing activities. BSEE evaluated the impacts of the final rule provisions and determined that none of the provisions will significantly impact the quality of the human environment under NEPA (refer to the final EA and FONSI).

BSEE generally agrees with the commenters' assertions about the importance of civil penalties. However, those considerations are beyond the scope of this rulemaking. BSEE also agrees that the sufficiency of the maximum civil penalties allowable under OCSLA is a question that would need to be addressed by Congress. BSEE also generally agrees with the commenters' assertions about the importance of decommissioning. However, this aspect of decommissioning operations is also beyond the scope of this rulemaking.

Comments on the Need for an EIS

Summary of comments: Multiple commenters recommended that BSEE should prepare an EIS. These commenters asserted that the environmental impacts discussed in the draft EA are significant in scope and intensity and that the impacts of a catastrophic discharge would be severe. The commenters also asserted that the proposed rule would increase the risk of significant impacts; therefore, BSEE should prepare an EIS for this rulemaking. Another commenter asserted that the standard for triggering an EIS is low and that an EIS should be prepared when substantial questions are raised about whether a project may have a significant impact on the environment. A commenter also asserted that agencies must identify their methodologies, indicate when information is incomplete or unavailable, acknowledge scientific disagreement and data gaps, and evaluate indeterminate adverse impacts based on approaches or methods ''generally accepted in the scientific community.'' Some commenters asserted that BSEE's utilization of an environmental assessment is unsupportable because of the potential effects from a possible catastrophic oil spill, like the Deepwater Horizon incident, and BOEM's plans to dramatically expand the scope of offshore drilling through the National OCS Program under development.

• *Response:* BSEE disagrees that the potential impacts of the rule are significant. BSEE used the best available scientific information to conduct a comprehensive review of the potential environmental impacts of the provisions of the proposed rule. More specifically, BSEE reviewed and incorporated the impact analyses from multiple existing environmental documents into the draft EA and determined that there were no significant environmental impacts associated with any of the NEPA alternatives considered, and, most importantly, with the provisions in this final rule. Furthermore, BSEE disagrees that the proposed rule would increase the risk of significant impacts. As previously mentioned, BSEE considered potential risks while developing the final rule. In particular, we concluded that the risk of a catastrophic oil spill is not increased by the regulatory revisions of this rule. These considerations included the public's input on the proposed rule and information from a number of BSEE efforts related to evaluating risk in OCS operations—such as BSEE's SafeOCS failure reporting program and the ANL report on *Risk-Based Evaluation of Offshore Oil and Gas Operations Using a Multiple Physical Barrier Approach.* These various sources of information led BSEE to identify changes to the regulations implemented through the 2016 WCR that would reduce regulatory burden while maintaining safety and environmental protection on the OCS. For example, the final rule does not include certain changes initially mentioned in the proposed rule that would have eliminated the requirement for both shear rams in a BOP to be capable of shearing specific equipment run in the hole and eliminated requirements related to pipe positioning for shear rams. Inasmuch as the impacts of the rule are either neutral or positive, the potential for expansion of the geographic area subject to leasing does not increase the risks to a level approaching significance. General statements of dissatisfaction with the draft EA's analyses or general statements regarding NEPA legal standards, do not assist BSEE in providing any supplemental analysis that could assist the public in understanding the potential environmental impacts of the final rule.

Comments on the Adequacy of Impacts Analysis

Summary of comments: A number of comments asserted that BSEE's analyses of impacts on environmental resources are inadequate. One comment asserted that BSEE's one-sided evaluation of economic impacts violates NEPA and that the analysis fails to address the ''crippling economic consequences of failing to prevent an oil spill that could have been prevented under the 2016 well control rule.'' Another comment asserted that the draft EA fails to disclose and analyze impacts to water resources, wildlife on nearby habitats, air quality, sociocultural systems, commercial and recreational fisheries, tourism, and recreation, as well as cumulative impacts. The commenter also disapproved of BSEE's determination that consultation for threatened and endangered species is

not necessary at this time. The commenter asserted that BSEE's conclusions are not supported by any qualitative or quantitative analysis and therefore fail to satisfy the hard look requirement of NEPA.

• *Response:* BSEE stands by the conclusions provided in the EA, while noting that BSEE used the best available scientific information to conduct a comprehensive review of the potential environmental impacts. This information includes multiple existing environmental analysis documents, listed in the next paragraph, as well as information received through public comment on the proposed rule and a number of BSEE efforts (*e.g.,* ANL studies) related to evaluating risk in OCS operations. As previously mentioned, the changes to the regulations promulgated through the 2016 WCR are limited only to those that would reduce regulatory burden while maintaining safety and environmental protection on the OCS. Those comments that express general dissatisfaction with the analyses do not provide any supplemental analysis that could assist the public in understanding the potential environmental impacts of the rule.

The project area evaluated in the EA is fully described in Chapter 3 of the EA, *Affected Environment.* The EA incorporates by reference baseline information regarding resources that are relevant to the operations conducted under the revised regulations from the Final Programmatic Environmental Impact Statement; Outer Continental Shelf Oil and Gas Leasing Program: 2017–2022; Final Environmental Impact Statement; Gulf of Mexico OCS Oil and Gas Lease Sales: 2017–2022; Gulf of Mexico Lease Sales 249, 250, 251, 252, 253, 254, 256, 257, 259, and 261; Final Programmatic Environmental Assessment of the Use of Well Stimulation Treatments on the Pacific Outer Continental Shelf: May 2016; and the Final Environmental Assessment; Oil and Gas and Sulfur Operations on the Outer Continental Shelf—Blowout Preventer Systems and Well Control: April 2016. BSEE rigorously evaluated and discussed in Chapter 4 of the EA, *Environmental Consequences,* the analyses of impacts on water resources, wildlife on nearby habitats, air quality, sociocultural systems, commercial and recreational fisheries, tourism, and recreation, as well as cumulative impacts, while noting that many of the quantitative and qualitative analyses are supported in the documents incorporated by reference.

In the EA, BSEE identified the scope of reasonably foreseeable activities that may be attributed to this rulemaking in order to estimate its environmental effects. BSEE acknowledges that there is some level of risk associated with offshore oil and gas activities; however the scope of this EA is limited to this rulemaking, which adopted changes to the current regulations that reduce regulatory burdens while maintaining safety and environmental protection.

The cumulative impacts analysis considered the baseline data included in Chapter 3, Affected Environment, which describes current conditions and past and ongoing impacts on the resources that could potentially be affected by the activities included under each alternative, as well as reasonably foreseeable future activities that should be taken into account. The EA appropriately describes and analyzes all of the current and reasonably foreseeable future impacts from other activities described in the Cumulative Effects section 4.5 of the EA based on the estimated negligible to small impacts attributed to promulgating the final regulations in this rulemaking under Alternative 4, and the small contribution to total cumulative impacts.

BSEE considered the ongoing Section 7 ESA consultations with the U.S. Fish and Wildlife Service and National Marine Fisheries Service, and whether this rule would affect any listed species or habitat. The final rule would not give rise to any additional or modified activities that would affect listed species or designated critical habitat. BSEE has determined that the final rule will have ''no effect'' on listed species or designated critical habitat. BSEE has determined that ESA consultation is therefore not required for this rule.

H. Miscellaneous Comments

Comments on General Safety Issues

A number of comments discussed overall safety issues purportedly implicated by the rulemaking, not related to a specific proposed revision. Some commenters stated that they perceived that the proposed rule would improve the overall safety of operations, while others raised concerns that the proposed rule would decrease overall safety.

Summary of comments: Multiple commenters expressed support for the proposed rule's reliance on best management practices, innovation to increase safety and reliability, optimization of risk reduction, support for the nation's efforts to increase energy independence, and incorporation of API Standard 53. One commenter asserted that adoption of API Standard 53 would improve safety by aligning the regulations with actual industry practices; by incorporating the standard it would apply to operators, suppliers, and contractors; and that the standard would provide for timely introduction and management of new technology.

A commenter asserted that the economic production of crude oil and natural gas in the Gulf of Mexico is vital to the U.S. economy and American consumers. The commenter emphasized the importance of ensuring that any regulations BSEE adopts optimize risk reduction without making development and production uneconomic or unsafe.

A commenter asserted that new technologies can provide industry with operational information. The commenter asserted that the industry and BSEE recognize that technologies already exist, or are in development, that can provide operators with data regarding the equipment's performance. The commenter asserted that use of these and other emerging technologies, along with API Standard 53 failure reporting, may lead to advances that further improve safety and reliability.

• *Response:* BSEE agrees with the comments generally supporting the selected revisions. BSEE has reviewed all comments submitted and is revising the proposed rule as appropriate. BSEE responds directly to comments on specific provisions and discusses the final rule provisions in section V of this preamble.

Summary of comments: Several commenters asserted that the proposed rule failed to adequately demonstrate how it will protect safety. Another commenter asserted that the proposed rule allows operators to govern their own safety. The commenter asserted that the proposed revisions would allow a substantial degree of self-governance to the operators and that this is an industry that has demonstrated an inability to obtain oil in a safe, responsible way. The commenter referred to a recent series of surprise inspections of drilling rigs that revealed a number of major safety violations and asserted that several of the companies pushing hardest against the regulations were cited for violations more often than the industry average. A different commenter asserted that the proposed rule lacked adequate evidence that it would protect safety. This commenter asserted that BSEE must evaluate safety with respect to the different geographical environments where the oil and gas operations will occur. The commenter noted that different ocean environments present different constraints, challenges, and operational risks; and asserted that BSEE must

evaluate whether the proposed revisions would ensure safety in all environments. The commenter further asserted that BSEE did not provide evidence that the existing regulations are actually a burden or that removing safeguards will ensure adequate protections remain in place. The commenter also asserted that the proposed rule did not provide sufficient analysis on how it would safeguard workers and protect the environment, but focused on assertions about reducing regulatory burdens for industry and burdensome paperwork for regulators. The commenter asserted that the proposed rule lacked any studies, investigations, reports, or public solicitations for information.

A commenter contended that the reduced oversight contemplated by the proposed rule would make losses of well control and oil spills more likely to occur. The commenter claimed that weakening safety regulations designed to prevent blowouts would further contribute to the already routine oil spills that will occur in the Atlantic if the Administration finalizes its plan to allow oil and gas development in that area. The commenter asserted that, if offshore drilling increases, the level of safety and prudence must also increase.

• *Response:* BSEE reviewed all comments submitted and is revising the proposed rule as appropriate. BSEE does not agree with the commenters' assumption that this rulemaking will allow the operators to govern their own safety. The use of various regulatory approaches in this rulemaking—including the incorporation of standards; performance-based requirements; independent third parties instead of BAVOs—increases the responsibilities on operators, but does not reduce BSEE's oversight responsibilities. BSEE continues to review and approve permit applications for specific activities and to inspect all OCS facilities for compliance with applicable law, regulation, plans, permits, and lease terms. Operator applications must contain appropriate information to demonstrate compliance with BSEE regulations, including any documents incorporated by reference. The incorporation by reference of industry standards does not mean the industry is self-regulating. BSEE participates in the development of many of the standards incorporated by reference. In addition, BSEE reviews and analyzes any standards incorporated in the regulations to ensure the documents provide for safety and environmental protection and are consistent with BSEE's authorities and policies. BSEE may supplement standards with specific regulatory provisions, if there are any places where the standards are lacking. Most importantly, once incorporated by reference, such standards are enforceable as any other regulatory requirement, and BSEE is responsible for oversight of compliance and enforcement—it is not left to industry. Further, if industry modifies an incorporated standard, those modifications do not impact the regulatory requirements unless and until BSEE incorporates those modifications through a separate rulemaking.

The commenter referred to a recent series of surprise inspections of drilling rigs that revealed a number of major safety violations and asserted that several of the companies pushing hardest against the regulations were cited for violations more often than the industry average. BSEE regularly conducts unscheduled or ''surprise'' inspections of facilities on the OCS. BSEE is not certain whether this comment is referring to the regular unplanned inspections or a specific increased inspection effort. Regardless, BSEE normally inspects mobile offshore drilling units (MODUs) at least once every 30 days when they are in operation on the OCS. BSEE does not agree with the assertion that the companies most vigorously opposing the regulations were cited for violations more often than the industry average. BSEE did not consider the number of violations issued to specific operators when developing this rulemaking.

Regarding the concern that BSEE must evaluate safety with respect to the different geographic environments where the oil and gas operations will occur, BSEE agrees that differences in geographic environment can impact the nature of operations. This is reflected in the fact that certain of BSEE's regulatory requirements are specifically tailored to particular geographic environments, such as the Arctic or frontier areas. Prior to receiving approval from BSEE to begin drilling operations on the OCS, an operator must submit an exploration or development plan to BOEM for approval. The exploration or development plan addresses operational considerations relevant to the specific location and operating environment (for more information on the content of exploration and development plans, go to: *https://www.boem.gov/Submitting-Complete-Exploration-and-Development-Plans/*). As part of the review of the APD, BSEE confirms whether the APD is consistent with the approved exploration or development plan, as well as consistent with the additional requirements applicable to such submissions, under the circumstances presented.

Concerning the commenter's assertion that the development of the proposed rule did not include studies, investigations, reports, or public solicitations for information, BSEE disagrees. As previously discussed, BSEE considered questions that arose during the implementation of the 2016 WCR and the policies developed in response to those questions. In addition, BSEE solicited input from interested parties to identify potential revisions to the regulations; including the public forum held on September 20, 2017, in Houston, Texas. Further, BSEE received and considered a substantial amount of information from commenters through the APA notice and comment process. BSEE's approach to this regulatory reform was to consider input from a variety of sources to make proposals that would carefully remove unnecessary burdens while leaving critical safety provisions intact.

Summary of comments: One commenter asserted that implementation of the proposed rule and adoption of a related procedure for checking well pressures as a standard industry practice would potentially have prevented a number of fatalities. This commenter recommended that BSEE incorporate a specific safety procedure in the regulations, so it would become a standard industry practice.

• *Response:* BSEE received and assessed the comment and is not incorporating the commenter's suggested procedure into the regulations at this time. BSEE disagrees that it would be appropriate to require the commenters' identified specific procedures on all wells and rigs, and doing so would be beyond the scope of this rulemaking. BSEE may evaluate the procedures for possible inclusion in future rulemakings, if appropriate.

Comments on Energy Independence

Summary of comments: Some commenters expressed concern that BSEE is promoting increased drilling and energy independence at the expense of its obligations to protect the environment. One commenter asserted that BSEE's function is to promote safety and protect the environment. The commenter referenced BSEE's explanation in the proposed rule that the intention of this rulemaking is to fortify the Administration's position toward facilitating energy security leading to increased domestic oil and gas production and to reduce unnecessary burdens on stakeholders.

However, the commenter asserted that it is not BSEE's duty to increase production of oil or gas. The commenter noted BSEE's mission statement that says its mission is to ''promote safety, protect the environment, and conserve resources offshore through vigorous regulatory oversight and enforcement.'' The commenter asserted that it is inappropriate for BSEE to sacrifice its public trust obligations in favor of enhancing industry profits.

• *Response:* BSEE disagrees with the commenters' assertions that this rulemaking is promoting increased drilling and energy independence at the expense of BSEE's obligations to protect safety and the environment. BSEE recognizes its obligations to protect safety and the environment under OCSLA; however, as stated in § 250.101(b), and pursuant to 43 U.S.C. 1332(3). BSEE is also obligated to follow sound conservation practices to make OCS resources available for development to meet the Nation's energy needs. Applying sound conservation practices includes ensuring that the requirements in the regulations do not unduly burden responsible development and production of oil and natural gas resources, while maintaining safety and environmental protection. BSEE's responsibilities go beyond safety and environmental protection and extend to numerous aspects of the proper management of OCS oil and gas operations. In addition, as previously discussed, this rulemaking executes the mandates from the President and the Secretary, as set forth in E.O. 13783—Promoting Energy Independence and Economic Growth; E.O. 13795—Implementing an America-First Offshore Energy Strategy; and Secretary's Order No. 3350. BSEE disagrees that this rule fails to maintain safety and environmental protection and stands by its determination that every change made in this rule meets that standard.

Comments on Conflicts of Interest

Summary of comments: Some commenters took issue with the fact that BSEE incorporated input from interested parties in the proposed rule. The commenters claimed that the proposed rule would allow operators to provide their own oversight, while not acknowledging API's role as a lobbyist for the oil and gas industry. These commenters asserted that this creates a conflict of interest for these parties and for BSEE and that this would make losses of well control and catastrophic oil spills more likely. One of these commenters asserted that adopting standards developed by API creates a conflict of interest, because API is a major oil and gas industry trade association and lobbying firm. The other commenter views the performance-based standards in the proposed rule as poorly defined, claiming they should be clearly established before the final rule's publication. The commenter asserts that a number of provisions in the proposed rule regarding performance-based standards are extremely vague. This commenter opined that BSEE should have published an Advance Notice of Proposed Rulemaking (ANPR) to gather the information necessary to prepare a better defined proposed rule, if BSEE did not know which proposed standards to include.

Response: BSEE disagrees with the suggestion that BSEE should have published an ANPR before publishing the proposed rule. As previously discussed, when BSEE initiated its review of these regulations, BSEE held a public forum in Houston, Texas, which was attended by more than 110 interested parties. The participants of the public forum provided comments and suggestions before BSEE began the process of developing the proposed rule. BSEE likewise obtained useful input into the development of this rulemaking through the Department's ''request for comment'' on its overall regulatory reform initiatives. The proposed rule also served as an opportunity for BSEE to secure public comment and input.

As discussed previously, this rulemaking does not allow operators to operate without oversight. BSEE continues to serve in an oversight and enforcement capacity, even where regulatory requirements are tied to industry standards. BSEE also disagrees with the commenters' assertion that there is a conflict of interest inherent in using industry standards. Federal law in fact requires that an agency ''use standards developed or adopted by voluntary consensus standards bodies rather than government-unique standards, except where inconsistent with applicable law or otherwise impractical.'' NTTAA; OMB Circular A–119 at p. 13. BSEE follows the requirements of the NTTAA and the relevant guidance in OMB Circular A–119 when incorporating standards into its regulations. Membership in an API standard development committee is not limited to industry representatives [28] and may include non-industry members, such as government personnel, consumer advocates, and academics.

BSEE disagrees with the assertion that the performance-based standards incorporated by reference in this rulemaking are poorly defined and vague and need to be more ''clearly established'' before they can be adopted in a final rule. Performance-based standards establish expectations for safe operations that allow for more flexibility to determine the appropriate approach to meeting the expectations based on specific operating conditions. This approach is not a design flaw that must be corrected, but rather an important feature of such standards. BSEE's regulations include a mix of prescriptive and performance-based regulatory standards, and both approaches offer a variety of strengths and benefits.

Comments on Production Safety Systems

Summary of comments: A commenter discussed the removal of the requirement for third-party certification for safety and pollution prevention equipment (SPPE). This commenter asserted that both safety and environmental risks would increase by removing the requirement for third-party inspection and certification, especially for extreme conditions. The commenter expressed concern regarding BSEE's proposal to remove the requirement for review and certification of SPPE by an independent third party contained in § 250.802(c)(1), including the requirement of inspection and certification to demonstrate that the SPPE will function under the most extreme conditions to which it may be exposed. The commenter opposed this change, asserting that: These inspections were specifically tailored to address one of the causes of the *Deepwater Horizon* catastrophe; third-party inspections respond to extreme conditions becoming more prevalent and intense with climate change; and SPPE implicates a level of risk that meets BSEE's standard for requiring third-party inspection.

• *Response:* This comment is related to another rulemaking—1014–AA37 Production Safety Systems (AA37). The final rule for that rulemaking was published in the **Federal Register** on September 28, 2018 (83 FR 49216). BSEE received this comment in connection with that rulemaking, as well, and responded to it in the AA37 production safety systems final rule.

[28] *http://mycommittees.api.org/standards/Reference/API%20Procedures%20for%20Standards%20Development-2016.pdf.*

V. Section-by-Section Summary and Responses to Comments on the Proposed Rule

This summary discusses every section of 30 CFR part 250 proposed for revision in the proposed rule and this final rule. This summary does not address sections of the existing regulations that are not implicated by the proposed or final rule. Although BSEE did not receive substantive comments on numerous sections covered by the proposed rule, the final rule includes and summarizes those sections. BSEE received substantive comments on many other sections covered by the proposed rule, some of which are included in this final rule without revision and some of which are revised in the final rule. Those sections, as well as the relevant comments on those sections and BSEE's responses, are summarized here.

Subpart A—General

What are the procedures for, and effects of, incorporation of documents by reference in this part? (§ 250.115)

This section in the current regulations is reserved.

Summary of Proposed Revisions

BSEE did not propose any specific changes to this section in the proposed rule. However, in the proposed rule discussion of § 250.198, BSEE discussed the potential for technical (non-substantive) revisions to § 250.198 for the purposes of reorganizing and revising that section to make it clearer, more user-friendly, and more consistent with the OFR's recommendations for incorporations by reference in Federal regulations. BSEE consulted with the OFR regarding its suggestions for specific organizational and language changes to § 250.198 and addressed such technical revisions in this final rule. One element of the organizational changes involved moving certain portions of existing § 250.198 out of that regulation, so that it is focused more exclusively on the incorporated materials themselves. BSEE chose to implement this action by relocating the relevant provisions to reserved § 250.115. BSEE determined that those technical revisions will not have a substantive impact on the incorporations by reference of industry standards discussed in this rule or elsewhere.

Summary of Final Rule Revisions

This final rule adds new § 250.115 in accordance with the recommendations and requirements of the OFR pertaining to regulations that incorporate documents by reference. The language of § 250.115 is based on the introductory language in the existing § 250.198, with certain minor, non-substantive wording changes for clarity. The revised § 250.198, which will serve as a centralized Incorporated by Reference (IBR) section, deletes the introductory language in accordance with OFR's recommendations for these types of IBR provisions. Specifically, the OFR recommends that a centralized IBR section, such as § 250.198, should not include language regarding legal requirements or justifications, scope of the regulations, instructions, or policy. The OFR recommends that the centralized IBR section list documents incorporated by reference and provide information about where the standards are referenced in the regulations and how to obtain a copy of the actual standards. Accordingly, this rulemaking removes the introductory language in existing § 250.198 and relocates the language to the new § 250.115 with minor revisions.

Documents Incorporated by Reference (§ 250.198)

This section of the existing regulations includes citations and other information regarding all documents (*e.g.,* industry standards) incorporated by reference in 30 CFR part 250, including where to find references to the incorporated documents in specific sections of the regulations. The requirements for complying with a specific incorporated document can be found where the document is referenced in the regulations, as specified in existing § 250.198. The existing section also discusses BSEE's process for incorporating documents by reference, the regulatory effects of incorporation, and procedures that operators may follow to seek BSEE's approval to comply with alternatives to an incorporated document.

Summary of Proposed Revisions

BSEE proposed to:

Revise existing paragraph (h)(63), which incorporates API Standard 53, to add a new cross reference to § 250.734, as revised in the final rule. BSEE also solicited comments on whether to incorporate the 2016 addendum to this standard;

Revise existing paragraph (h)(78), which incorporates API Standard 65—Part 2, Isolating Potential Flow Zones During Well Construction; Second Edition, December 2010, to add a new cross reference to § 250.420(a);

Revise existing paragraph (h)(94) to update the incorporation of API RP 17H to the Second Edition; and

Add a new paragraph (j)(2) for the incorporation by reference of ISO/IEC 17021–1 in order to update the erroneous standard previously incorporated by the 2016 WCR.

As previously mentioned, the proposed rule also discussed potential technical (non-substantive) revisions to § 250.198 that BSEE was considering to address recommendations from the OFR.

Summary of Final Rule Revisions

As explained in the previous discussion of new § 250.115, BSEE is reorganizing this section consistent with the OFR's recommendations. These revisions include technical, non-substantive changes to the organization of the section to remove discussions of matters other than the incorporated materials themselves and to make the section more user friendly, as well as minor wording and formatting changes for clarity and consistency.

Also, based on comments on the proposed rule, BSEE is revising final paragraph (e)(94) to include the addendum to the already incorporated API Standard 53 Fourth Edition, November 2012.

For the reasons discussed in the section-by-section summary for § 250.427 of this final rule, BSEE is also adding a new paragraph (e)(6), incorporating by reference API Bulletin 92L.

The final rule includes, without change, all other documents proposed for incorporation by reference, including:

API Standard 65—Part 2, Isolating Potential Flow Zones During Well Construction; Second Edition, December 2010;

API Recommended Practice 17H, Remotely Operated Tool and Interfaces on Subsea Production Systems, Second Edition, June 2013, Errata January 2014; and

ISO/IEC 17021–1—Conformity assessment—Requirements for bodies providing audit and certification of management systems—Part 1: Requirements, First Edition, June 2015.

Summary of Comments

Comments Related to Proposed § 250.198—Incorporation of API Standard 53 Addendum

Summary of comments: Some commenters suggested that BSEE incorporate API Standard 53, 4th Edition, Addendum, which was released in July 2016. These commenters asserted that many of the operations in the Gulf of Mexico already comply with the July 2016 Addendum

of API Standard 53 4th Edition. They asserted that the Addendum clarifies the existing text of API Standard 53, including clarifying unintended conflicts with API Specification 16C, *Specification for Choke and Kill Equipment* and that these clarifications would increase operational safety and reliability. They also asserted that the Addendum was compiled, reviewed, and approved by industry representatives, including operators, equipment owners, original equipment manufacturers (OEMs), independent third parties, and service companies. These commenters stated that API is developing a 5th Edition of API Standard 53, but that it was not available at the time of the rulemaking.

• *Response:* BSEE agrees with the commenter's suggestion about incorporating the API Standard 53 addendum into the regulations. BSEE reviewed the Addendum and determined that it would not significantly alter or negatively impact safety. It does, however, address and resolve the same problematic issues for which BSEE currently grants departures, and the IBR of the Addendum will eliminate the need for granting such departures going forward (*e.g.,* section 7.2.3.2.9 Side outlet location and section 7.3.13.2.5 fire rating of MUX lines). Therefore, BSEE determined that the Addendum is appropriate for incorporation into the regulations.

With regard to the comments about API developing API standard 53 5th Edition, BSEE will evaluate that document when it is finalized for possible incorporation into the regulations in a future rulemaking.

Summary of comments: A commenter suggested that arbitrary requirements beyond the provisions in API Standard 53 ''reduce safety by adding unnecessary complexity to the blowout prevention equipment systems.''

• *Response:* The commenter does not specify which requirements in the regulations the commenter considers to be arbitrary or how such requirements add ''unnecessary complexity to the blowout prevention equipment systems.'' In any event, BSEE disagrees with the commenter's assertion that any requirements in this final rule or existing regulations related to BOP systems are arbitrary or unnecessary. For all the reasons discussed in the 2016 WCR, other prior rulemakings, and in the proposed rule and this final rule, BSEE has determined that any such additional requirements are reasonable and appropriate to ensure that BOP systems are designed and utilized appropriately.

Comments Related to Proposed § 250.198—Effectiveness of Using Industry Standards

Summary of comments: A commenter objected to BSEE incorporating by reference any industry standards developed by the oil and gas industry, asserting that standards are ''more fluid and not enforceable by law.'' The commenter asserted that this makes it more difficult for BSEE to be effective, noting that similar problems existed prior to the *Deepwater Horizon* oil spill. The commenter cited the BP Oil Spill Commission report, asserting that it criticized this culture and stated that the Department of the Interior has in turn relied on API in developing its own regulatory safety standards and that API's shortfalls have undermined the entire Federal regulatory system. This commenter was concerned about findings from the BP Oil Spill Commission report that the API standards represent the ''lowest common denominator,'' and do not reflect ''best industry practices.''

• *Response:* BSEE disagrees with the commenters' assertions that the documents incorporated by reference are not enforceable and that BSEE relies on API to develop regulations. First, BSEE notes that the cited Report's concerns with incorporation of industry standards were based on agency practices and other circumstances pre-dating the 2010 *Deepwater Horizon* incident. Since that event, many BSEE and industry practices and circumstances have changed significantly. Concerning the comments on BSEE's use of API standards and the assertion that API standards increasingly do not represent best industry practices, BSEE does not agree that incorporation and use of the standards referenced in this final rule is either inappropriate or detrimental to safety and environmental protection. For example, BSEE evaluated the differences between the first and second editions of API RP 17H and determined that the second edition of API RP 17H eliminates the conflict between the first edition and API Standard 53, helps ensure that the appropriate methods are utilized to comply with the API Standard 53 ROV closure timeframes of 45 seconds, and includes provisions on high flow Type D 17H hot stabs. All of the standards referenced in this rulemaking serve as a valuable complement to BSEE's regulations in helping to achieve the bureau's safety and environmental objectives under OCSLA. When incorporated into the regulations, these standards provide a binding baseline that BSEE may supplement with specific requirements where appropriate.

Moreover, as previously discussed, the NTTAA mandates that Federal agencies use technical standards developed by voluntary consensus standards organizations, instead of government-developed standards, where practicable and consistent with applicable law. There are only a few SDOs, including API, that address issues related to offshore oil and gas operations. Also, API provides standards on technical topics that are not addressed by other SDOs. Additionally, consistent with the NTTAA's preference for agency use of voluntary consensus standards (*see* 15 U.S.C. 272(e)(1)(A)(v)), API develops its standards through a general consensus process, which provides for input from those who are potentially materially impacted by the standard, however, membership on API standards committees is not limited to industry participants. In addition, based on recommendations in other post-*Deepwater Horizon* reports (*see, e.g.,* Final Report on the Investigation of the Macondo Well Blowout, *Deepwater Horizon* Study Group (March 1, 2011) at pp. 94–98), BSEE has expanded its standards program and increased its involvement in the standards development process, including development of many API standards, and is continuously improving and formalizing BSEE's internal process for reviewing standards relevant to the regulatory program. These developments help BSEE identify issues that may not be adequately addressed in incorporated standards and to supplement those standards, as necessary, in its regulations.

BSEE also disagrees with the commenter's assertion that industry developed standards should not be incorporated in its regulations because BSEE does not have the authority to enforce compliance with incorporated documents. BSEE incorporates industry standards by reference in accordance with the requirements of the NTTAA and implementing OMB guidance, OFR regulations (1 CFR part 51), and BSEE's own procedures for incorporation (§ 250.115, *What are the procedures for, and effects of, incorporation of documents by reference in this part?*). The effect of incorporation by reference of an industry standard into the regulations is that the incorporated document becomes a regulatory requirement, *see* existing § 250.198(a)(3) (moved to new final § 250.115(c)), and thus becomes subject to BSEE oversight and enforcement in the same manner as other regulatory requirements. BSEE has

repeatedly described this principle in a number of previous rulemakings.

BSEE is not certain what the commenter means by industry standards being ''more fluid.'' However, the commenter may be concerned about industry issuance of revisions to or new editions of incorporated standards. The OFR regulations, at 1 CFR part 51, govern how BSEE and other Federal agencies incorporate documents by reference. Agencies may incorporate a document by reference by publishing in the **Federal Register** the document title, edition, date, author, publisher, identification number, and other specified information. Incorporation by reference of a document is limited to the edition of the document so incorporated. *See* existing § 250.198(a)(1) (moved to new final § 250.115(a)). In short, the operator must comply with the edition of the standard that BSEE incorporates in its regulations. If an SDO later revises a standard that BSEE has previously incorporated in a final rule, BSEE would need to evaluate the revised standard before choosing whether to incorporate it through rulemaking into the regulations; in other words, industry itself cannot change the regulatory requirements by revising a standard after BSEE incorporates the standard in its regulations.

Comments Related to Proposed § 250.198—Use of the Latest Published Edition and Incorporation of Additional Documents

Summary of comments: Several commenters recommended that BSEE incorporate the latest published edition of each standard into the regulations. Commenters asserted that BSEE has directly participated in the development of these standards and that recognition of these standards in the regulations would be consistent with the expectations of the NTTAA, which requires BSEE to consult and use technical standards that are developed or adopted by voluntary consensus standards bodies in lieu of BSEE creating its own unique standards.

• *Response:* BSEE generally agrees that it should consider whether to incorporate the latest editions of standards for which prior editions are already incorporated in the regulations. BSEE reviews its regulations in accordance with E.O. 13563—Improving Regulation and Regulatory Review and E.O. 13610—Identifying and Reducing Regulatory Burdens, ''to ensure, among other things, that regulations incorporating standards by reference are updated on a timely basis . . . .'' (OMB Circular A–119 at p. 4). In fact, BSEE is currently reviewing many of the standards incorporated in the existing regulations and will provide additional information regarding its review when appropriate. If BSEE decides that some updating of incorporated standards (*e.g.,* by referencing new editions of existing standards, or replacing previously incorporated standards with different standards, or simply deleting outdated standards) in the regulations is warranted, it will explain its position through future rulemakings, as appropriate. Of course, BSEE may also decide, for appropriate reasons, to keep a previously incorporated edition of a standard in the regulations even if there is an updated edition. BSEE is not in a position at this time, either substantively or procedurally, to implement the updates suggested by the commenter as part of this final rule.

Summary of comments: Some commenters recommended that BSEE should incorporate into its regulations additional documents and updated editions associated with BOP systems (*e.g.,* ANSI/API Spec. 16A—Specification for Drill-through Equipment, API Standard 16AR—Standard for Repair and Remanufacture of Drill-through Equipment, and API Spec 20E—Alloy and Carbon Steel Bolting for Use in the Petroleum and Natural Gas Industries).

• *Response:* BSEE acknowledges the importance of those standards to offshore operations. However, they were not proposed for incorporation in the proposed rule and BSEE is not currently in a position—procedurally or substantively—to incorporate them into this final rule. BSEE will evaluate these documents for possible future incorporation in the regulations. BSEE continually evaluates new standards and new editions of existing standards for possible incorporation into the regulations. If, after completing evaluations of these standards, BSEE determines they are appropriate to incorporate, we may proceed with a separate rulemaking process to incorporate the documents.

Summary of comments: A commenter recommended that BSEE define international standards as any globally recognized, good-practice standards.

• *Response:* BSEE does not agree that any such definition is necessary in these regulations. BSEE follows the guidance established by OMB Circular A–119. With respect to international standards, OMB Circular A–119 explains that the United States is obligated under the Technical Barriers to Trade (TBT) Agreement to use relevant international standards, except where such standards would be an ineffective or inappropriate means to fulfill the legitimate objective pursued. In particular, according to OMB Circular A–119, the TBT Agreement, Article 2.4, provides that where technical regulations are required and relevant international standards exist or their completion is imminent, World Trade Organization (WTO) Members shall use them, or the relevant parts of them, as a basis for their technical regulation. In addition, 19 U.S.C. 2532 directs Federal agencies, in developing standards, to base their standards on international standards, if appropriate. OMB Circ. A–119 (p. 22).

Subpart B—Plans and Information

What must the DWOP contain? (§ 250.292)

This section of the existing regulations specifies information (*e.g.,* description of the typical wellbore, structural design for each surface system) that must be included in a DWOP. Paragraph (p) of this section details the information that must be contained within a DWOP relating to free standing hybrid risers (FSHR) and the associated buoy and tether system.

Summary of Proposed Revisions

BSEE proposed to revise the FSHR requirements of this section to eliminate duplicative submittals and certifications of FSHR systems.

Summary of Final Rule Revisions

BSEE received no substantive comments on these provisions of the proposed rule and includes the proposed language in the final rule without change.

Subpart D—Oil and Gas Drilling Operations

What must my description of well drilling design criteria address? (§ 250.413)

This section of the existing regulations specifies the type of information that must be provided in the well drilling description portion of an APD.

Summary of Proposed Revisions

BSEE proposed to add to paragraph (g) a parenthetical clarification of ''surface and downhole'' after ''proposed drilling fluid weights,'' to ensure the operator includes the weight of the drilling fluid in both places. BSEE proposed this clarification to help ensure the drilling fluid weight is fully evaluated and appropriate for the estimated bottom hole pressures.

Summary of Final Rule Revisions

BSEE received a few comments in general support of the proposed revisions to this section, and is including the proposed language in the final rule without change.

What must my drilling prognosis include? (§ 250.414)

This section of the existing regulations describes the information that must be included in the drilling prognosis portion of an APD.

Summary of Proposed Revisions

BSEE proposed to revise paragraph (c)(3) of this section to add the words ''and analogous'' before ''well behavior observations'' and '', if available'' at the end of the paragraph. BSEE proposed this minor wording change to ensure that operators use available data from wells with similar conditions to those of the well being drilled when determining the pore pressure and fracture gradient to ensure accuracy and safety when establishing the drilling margin. In the proposed rule, BSEE solicited comments on many of the safe drilling margin provisions, including potential alternatives to the current default 0.5 ppg drilling margin and the possibility of replacing it with a more performance-based standard.

Summary of Final Rule Revisions

The 0.5 ppg drilling margin requirements in this section remain unchanged. As in the existing regulations, the final rule requires the use of a default 0.5 ppg drilling margin while continuing to allow for a deviation from the default under certain circumstances. The request to deviate does not have to be submitted as an alternate procedure or departure request. However, as the proposed rule indicated, BSEE considered whether to allow a different method or ''avenue'' for operators to submit a justification for a different drilling margin (83 FR 22133). Based on comments received, BSEE is revising § 250.414(c)(2) to allow operators the option to submit the required justification for BSEE approval at an earlier date prior to the APD. Any such approval will be contingent upon confirmation in the APD that the plans and information underlying the BSEE approved justifications have not changed. An operator may submit such requests prior to an APD, or continue to provide that information within the APD. Regardless of the timing of the request to use an alternative drilling margin, each request will require the supporting justifications as provided in existing regulations. BSEE is currently approving some APDs with drilling margins other than 0.5 ppg based on specific well conditions.

Summary of Comments

Comments Related to Proposed § 250.414—Opposition to Any Proposed Revisions to the 0.5 ppg Safe Drilling Margin

Summary of comments: Multiple commenters expressed significant concerns about potential revisions to the 0.5 ppg safe drilling margin requirements and emphasized the importance of a safe drilling margin. Many commenters also asserted that the 0.5 ppg margin was added to the existing regulations based on the technical work and recommendations from the National Academy of Engineering and the National Research Council arising out of *Deepwater Horizon* investigations and that any proposed changes to or removal of the safe drilling margin requirements lack technical evidence or justification. Commenters asserted that BSEE must have clear, defined, and enforceable criteria to determine whether the proposed drilling margin will be safe and cannot simply accept an operator's conclusory statements that its proposal is safe.

• *Response:* BSEE agrees with the commenters' concerns about making revisions to the 0.5 ppg drilling margin requirements at this time. BSEE is keeping the 0.5 ppg drilling margin as a presumptive minimum requirement as a default standard in the regulations. As more drilling margin data and research becomes available, BSEE may reevaluate the drilling margin for possible revisions in future rulemakings.

Comments Related to Proposed § 250.414—Use of a Performance-Based Drilling Margin

Summary of comments: Multiple commenters expressed support for revising or removing the 0.5 ppg safe drilling margin default standard requirement. Some commenters recommended replacing the current requirements with a performance-based standard established on a case-by-case basis, based on data and analysis specific to a particular well. Those commenters asserted that this would be a safer and better alternative for establishing safe drilling margins. They asserted that such an alternative would provide a risk-based approach that ensures safety and provides investment certainty to the industry. Some commenters also suggested that industry would welcome the opportunity to propose an engineered, performance-based standard for the establishment of appropriate safe drilling margins through the well permitting process. Some commenters asserted that technology has improved to justify a performance-based drilling margin, specifically citing hydraulic modeling techniques, managed pressure drilling, and use of real-time downhole pressure while drilling (PWD).

• *Response:* BSEE does not accept the commenters' recommendations to replace the 0.5 ppg drilling margin with a performance-based option. BSEE notes, however, that existing regulations provide opportunities for similar case-by-case analyses based on specific well conditions. The regulations establish default minimum requirements; however, they also allow for deviation from the default 0.5 ppg drilling margin with sufficient justification, based on demonstrated well conditions and operational plans. It is the operator's responsibility to provide sufficient data and justification to use a lower drilling margin. BSEE is retaining the 0.5 ppg drilling margin as a presumptive minimum requirement as a default standard in the regulations. As more drilling margin data and research becomes available, BSEE may reevaluate the drilling margin for possible revisions in future rulemakings.

BSEE agrees that technology is improving and could help justify a performance-based drilling margin at some point. However, BSEE would need to obtain and evaluate more research and data before it can develop and adopt a performance-based drilling margin. In the meantime, an operator may use the improved technologies cited by the commenters to substantiate an alternative drilling margin specified in an APD, provided it complies with the requirement in existing § 250.414(c)(2) regarding adequate documentation to justify the alternative margin.

Comments Related to Proposed § 250.414—Drilling Margin Below 0.5 ppg

Summary of comments: Some commenters asserted that evaluation and analysis of industry data on wells drilled demonstrates that operators have safely planned and drilled sections of wells below the current default 0.5 ppg drilling margin and that the current 0.5 ppg margin is arbitrary and does not ensure safety.

• *Response:* BSEE agrees with the commenters that operators have successfully drilled some wells below the default 0.5 ppg drilling margin under the current regulations. As noted in the proposed rule, between promulgation of that default margin in

the 2016 WCR and publication of the proposed rule, BSEE approved the drilling of 32 wells with drilling margins below the 0.5 ppg default. Operators may continue to utilize drilling margins below 0.5 ppg provided that they apply for such a margin in their APDs and comply with the requirements in § 250.414(c)(2) by providing adequate documentation to justify the alternative drilling margin. However, BSEE disagrees with the commenters' assertion that the 0.5 ppg margin is arbitrary and does not ensure safety. A 0.5 ppg is an appropriate safe drilling margin for normal drilling scenarios, and, prior to the promulgation of the 2016 WCR, BSEE approved (and thus made a requirement) this margin in numerous APDs. BSEE understands that there are some well-specific circumstances that may justify an acceptable lower drilling margin to drill a well safely and BSEE has approved appropriate alternative downhole mud weights as part of a safe drilling margin in many APDs. However, BSEE is choosing not to alter the 0.5 ppg default drilling margin in this final rule.

Summary of comments: A commenter recommended adding the Conceptual Deepwater Operations Plan (CDWOP or DWOP) into the regulatory text with the objective of obtaining field-wide approvals when it is anticipated that a lower drilling margin may be needed on numerous wells. The commenter asserted that this would be important for sanctioning major capital projects, since regulatory certainty is critical when making multi-billion dollar investment decisions. In particular, the commenter asserted that industry needs clarity on the requirements for permit approval and reasonable certainty that BSEE will approve an engineered drilling margin before incurring major costs that would be wasted if approval were denied.

• *Response:* BSEE declines to accept the commenter's suggestion. The DWOP or CDWOP is a field overview and not well-specific. The operator submits a DWOP for each development project in which it will use non-conventional production or completion technology, however that submission does not include the full scope of relevant information required in the APD. BSEE does not believe that the relevant determinations can be reached at a field level through the DWOP process, as opposed to the well-specific level. However, BSEE recognizes that the timing of drilling margin approval may affect sanctioning of major capital projects, and BSEE is revising § 250.414(c)(2) to allow operators the option to submit the required justification for a proposed alternative safe drilling margin for BSEE approval at an earlier date prior to the APD. Any such approval will be contingent upon confirmation in the APD that the plans and information underlying the BSEE approved justifications have not changed. BSEE is not revising the requirements to use a default 0.5 ppg drilling margin or the standards for obtaining approval of a deviation from the default under certain circumstances. As such, this change will have no impact on safety or environmental protection. The revision to § 250.414(c)(2) will simply provide operators with the option to request BSEE approval for alternative safe drilling margins on a well-by-well basis at any time that the necessary information is available. BSEE drilling engineers review drilling margins and the APD with intimate knowledge of the particular field and are the subject matter experts on drilling in their respective BSEE regions.

What well casing and cementing requirements must I meet? (§ 250.420)

This section of the existing regulations imposes specific requirements for casing and cementing of all wells.

Summary of Proposed Revisions

BSEE proposed to incorporate by reference API Standard 65—Part 2 in paragraph (a)(6) of this section for purposes of specifying the standards to ensure centralization of the pipe during cementing. BSEE determined that the standards set forth in API Standard 65—Part 2 would provide clearer guidelines for operators than the existing regulatory language.

Summary of Final Rule Revisions

BSEE received a few comments in general support of the proposed revisions to this section and is including the proposed language in the final rule without change.

What are the casing and cementing requirements by type of casing string? (§ 250.421)

This section of the existing regulations specifies casing and cementing requirements applicable to certain types of casing strings (*e.g.,* drive or structural strings, conductor strings).

Summary of Proposed Revisions

BSEE proposed to make minor revisions in paragraphs (c), (d), (e), and (f) to clarify that all identified length requirements are to be taken from measured depth. This clarification of the existing regulatory requirements would provide consistency for planning and permitting purposes. Also, in paragraph (f), BSEE proposed removing the specifics of the listed example regarding when a liner may be used as intermediate casing. The proposed rule stated that the example is redundant because it restates the same information already contained in this section.

Summary of Final Rule Revisions

BSEE received a few comments in general support of the proposed revisions to this section, and is including the proposed language in the final rule without change.

What are the requirements for casing and liner installation? (§ 250.423)

This section of the existing regulations establishes requirements for proper installation of casing in the subsea wellhead or liner in the liner hanger, including requirements for latching or lock down mechanisms and pressure testing on the seal assembly.

Summary of Proposed Revisions

BSEE proposed to revise paragraphs (a) and (b) by removing the words ''and cementing'' after ''upon successfully installing.'' The proposed rule explained that revisions to this section are necessary because there are many situations in the design of the casing or liner string running tool where the latching or lock down mechanism is automatically engaged upon installing the string. BSEE proposed these revisions to allow more flexibility on an operational, case-by-case basis for determining the appropriate time to engage these mechanisms and thus reduce the number of alternate procedure requests submitted to BSEE for approval under § 250.141.

Summary of Final Rule Revisions

BSEE received and considered comments on the proposed revisions and includes the proposed revisions in the final rule. Additionally, as suggested by some commenters, BSEE is revising paragraphs (a) and (b) by removing from each the following language: ''If there is an indication of an inadequate cement job, you must comply with § 250.428(c).'' These statements are unnecessary because § 250.428(c) is applicable for any cementing operation and does not need to be specifically cross referenced in this section. Removing this cross reference does not change any requirements for how operators must respond to indications of an inadequate cement job; if there are any indications of an inadequate cement

job, the operator must evaluate the cement job as required in § 250.428.

Summary of Comments

Summary of comments: Many commenters agreed with the proposed changes, and also asserted that references to section § 250.428 in this section were redundant and should be removed from this section.

• *Response:* BSEE agrees with the commenters that referencing § 250.428 is not necessary in this section, and has revised the final regulatory text accordingly. This language is unnecessary because § 250.428(c) is applicable for any cementing operation and thus does not need to be specifically cross-referenced in paragraphs (a) and (b). Removing this cross-reference does not change any requirements for how operators must respond to indications of an inadequate cement job; if there are any indications of an inadequate cement job, the operator must evaluate the cement job as required in § 250.428.

Summary of comments: A commenter expressed concerns that the proposed revisions to this section would compromise safety and asserted that BSEE failed to explain why its prior rationale for the language of § 250.423 contained in the 2016 WCR was inaccurate or no longer applies. The commenter recommended retaining the current regulatory requirements.

• *Response:* BSEE disagrees that this revision compromises safety or is inaccurate and inconsistent with prior rationale. After further BSEE review since the 2016 WCR, and as discussed in the proposed rule, some of these latching or locking mechanisms are designed to automatically engage upon installation of the associated string. The revisions made by this final rule continue to ensure the lock down mechanisms are properly securing the appropriate liner or casing in place to ensure wellbore integrity while eliminating inconsistency between the existing regulatory text and certain common designs of the relevant mechanisms.

What are the requirements for pressure integrity tests? (§ 250.427)

This section in the current regulations specifies the requirements for conducting pressure integrity testing. This section also requires the operator to revise its drilling program based upon pressure integrity testing and hole behavior observations and requires the operator to maintain the safe drilling margin while drilling.

Summary of Proposed Revisions

BSEE did not propose any revisions to this section. BSEE did, however, solicit comments regarding potential alternative approaches to administering the safe drilling margin requirements, including specifically ''whether there are situations where drilling can continue prior to receiving alternative safe drilling margin approval from BSEE,'' such as ''where, despite not being able to maintain the approved safe drilling margin, an operator's continued drilling with an alternative drilling margin creates little risk'' and ''what level of follow-up reporting . . . would be appropriate.''

Summary of Final Rule Revisions

Based upon comments received, BSEE is revising paragraph (b) to require notification to the BSEE District Manager in the event the required safe drilling margin cannot be maintained, and to incorporate API Bulletin 92L as a standard for further action, where appropriate. In conjunction with the incorporation of API Bulletin 92L, BSEE is requiring submittal of a revised permit documenting any responsive actions taken to remedy lost circulation. BSEE is also clarifying that the District Manager must review and approve any proposed remedial actions where the operator suspends drilling operations in response to an inability to maintain the drilling margin.

Summary of Comments

Comments Related to Proposed § 250.427—Incorporation of API Bulletin 92L

Summary of comments: Many commenters requested that BSEE incorporate API Bulletin 92L, in accordance with NTTAA requirements, for managing certain well conditions such as mud losses. The commenters asserted that this document was developed by API with BSEE participation to provide detailed operational direction in the event of lost circulation while drilling in the Gulf of Mexico. The commenters asserted that it is appropriate for operators to specify, in the well's DWOP or APD, how they will remedy an anticipated loss of circulation on bottom. They also asserted that, if an operator experiences an unanticipated loss of circulation or a reduced drilling margin, the operator should provide notice and the operator's plan for remedying the issue to BSEE within a reasonable timeframe.

• *Response:* For the reasons explained in part III.B.1 of this notice, BSEE agrees with the commenters' recommendations to incorporate API Bulletin 92L. BSEE is revising § 250.427(b) to allow operators to take action in accordance with API Bulletin 92L, and provide notification to the BSEE District Manager documenting the operator's use of API Bulletin 92L, when the operator cannot maintain its approved drilling margin. In conjunction with the use of API Bulletin 92L, BSEE is requiring submittal of a revised permit documenting any remedial actions. BSEE has evaluated API Bulletin 92L and determined that reliance on that standard when responding to drilling margin issues would not reduce safety. BSEE also determined that this document is consistent with BSEE policy in the approaches used to address these issues, appropriate for meeting the agency's regulatory needs, and preferable to an agency-developed standard. API Bulletin 92L includes flow charts that can be used as an aid to safely drill ahead when lost circulation occurs and the required criteria and procedures are met.

What must I do in certain cementing and casing situations? (§ 250.428)

This section of the existing regulations describes actions that must be taken when certain situations (*e.g.,* unexpected formation pressures) are encountered during casing or cementing operations.

Summary of Proposed Revisions

BSEE proposed to revise paragraph (c) to include the term ''unplanned'' when describing the lost returns that provide indications of an inadequate cement job. BSEE proposed this revision to minimize the number of unnecessary revised permits submitted to BSEE for approval. Current cementing practices utilize improved well modelling to identify and account for zones that may have anticipated losses that are not indicative of an inadequate cement job.

BSEE proposed to redesignate existing paragraph (c)(iii) as new paragraph (c)(iv) and to add new paragraph (c)(iii) to allow the use of tracers in the cement, and the logging of the tracers' location prior to drill out, as an alternative approach for locating the top of cement. BSEE proposed this addition to provide more viable options and more flexibility for locating top of cement, without compromising safety, in order to help minimize rig down time from running in and out of the hole multiple times.

In addition, BSEE proposed a revision to paragraph (d) to clarify that, if there is an inadequate cement job, operators are required to comply with § 250.428(c)(1). This revision would help assess the overall cement job to

allow for improved planning of remedial actions.

BSEE also proposed to revise paragraph (d) to allow BSEE to pre-approve remedial cementing actions through a contingency plan within the original approved permit. BSEE proposed to allow operators to include the remedial actions as contingency plans in the original APD, for BSEE to consider for pre-approval, in order to minimize the time necessary for operators to commence approved remedial cementing actions, and to reduce burdens on operators and BSEE resulting from multiple submissions of revised permits. However, the rule clarifies that, if BSEE has not already approved the remedial actions, the operator must submit the remedial actions in a revised permit application for BSEE review and approval.

Summary of Final Rule Revisions:

BSEE received and considered comments on these provisions of the proposed rule and includes the proposed language in the final rule without change.

Summary of Comments

Comments Related to Proposed § 250.428(d)—Use of a Professional Engineer (PE)

Summary of comments: A commenter opposed the proposal to allow pre-approval of remedial cementing actions in lieu of requiring a PE approval at the time, asserting that pre-approval would be hypothetical since the problem to be remedied would not be known at the time of approval.

• *Response:* BSEE disagrees with the commenter. PE certification of the remedial actions may be included in the original permit, if the operator is able to anticipate where losses may occur (*e.g.,* depleted zones, known geology). The PE may review the proposed remedial actions in the original permit to ensure integrity and consistency with BSEE's regulations. If the operator chooses to include contingency planning in the original permit application, those contingencies would be reviewed and certified by the PE. If the operator encounters circumstances that the approved permits do not address (including PE certification), it would be required to submit a revised permit for BSEE approval that would include the PE certification. Accordingly, the commenter's concern that the problem would not be known at the time of approval is addressed by the fact that any approval will reach only those issues foreseen and considered at the time of approval; if the issue that arises was not considered and approved for remedial action, the operator must obtain separate approval to remedy the actual issue presented.

Comments Related to Proposed § 250.428—Unplanned Versus Unanticipated Lost Returns

Summary of comments: A commenter suggested that the proposed wording change should be ''unanticipated lost returns'' instead of ''unplanned lost returns.''

• *Response:* BSEE disagrees with commenter. This change is not necessary because certain lost returns can be planned for within a BSEE-approved permit, and the information can be identified, included, and approved within the permit. Further, there can be lost returns that an operator may not ''anticipate'' occurring, but which the operator nevertheless may be able to plan for in advance, should they occur. The key is whether the operator has an acceptable plan in place for addressing the lost returns, regardless of whether it anticipates them occurring or not. If an operator encounters circumstances that are not described in an approved permit, such as unplanned lost returns, then a new BSEE approval would be required at that time.

Comments Related to Proposed § 250.428(c)(1)—Use of a Casing Shoe Test

Summary of comments: Some commenters suggested that BSEE add the use of a casing shoe test to locate the top of cement.

• *Response:* BSEE disagrees with commenter. A casing shoe test by itself does not confirm cement integrity behind the casing/liner or verify the top of cement (TOC).

Comments Related to Proposed § 250.428(c)(1)(iii)—Use of Tracers

Summary of comments: Some commenters expressed concerns about the proposed language to require logging of the tracers prior to drill out. The commenters recommended removal of ''prior to drill out.'' The commenters asserted that tracers are meant to be used when the losses are more likely, and that operators should be able to find the TOC through the use of bottom hole assembly (BHA) measurement while drilling (MWD).

• *Response:* BSEE does not accept the commenters' suggested removal of ''prior to drill out.'' The addition of tracers to this section allows operators another option for determining if the cement job is adequate. The commenters incorrectly assumed that BSEE is requiring an additional logging run to confirm the location of the tracers; however, BSEE expects that operators will still be able to locate the TOC by logging tracers with the BHA.

Comments Related to Proposed § 250.428(c)—Evaluation Logs

Summary of comments: A commenter suggested that BSEE require a cement evaluation log in complex, higher risk wells and for wells in environmentally sensitive locations. The commenter asserted that temperature and tracer logs will indicate the cement top, but will not provide information on cement quality throughout the entire cement column. The commenter also asserted that a cement evaluation log provides substantially more information on cement placement and quality. The commenter also suggested that if remedial cementing is needed, a cement evaluation log should be run to verify the repair.

• *Response:* BSEE agrees with the commenter that a cement evaluation log helps determine cement placement and the overall quality of the cement job. However, BSEE disagrees with the commenter's suggestion that a cement evaluation log is necessary for the specified wells even when there is not an indication of an inadequate cement job. BSEE requires other tests to help confirm well and cement integrity (*e.g.,* pressure integrity testing required in existing § 250.427). The purpose of paragraph (c) is to help determine whether remedial actions are necessary when there is an indication of an inadequate cement job, and BSEE's regulations offer the option to run cement evaluation logs to determine the TOC. Furthermore, BSEE also has the discretion to require additional logs if warranted on a case-by-case basis.

Comments Related to Proposed § 250.428(d)—Use of Flow Charts

Summary of comments: A commenter recommended the addition of language to allow the use of approved operator flow charts to determine the extent and timeliness of the remedial actions in lieu of BSEE-approved permits.

• *Response:* BSEE declines to expressly include a reference in the regulations that would allow the use of operator flow charts for remedial actions in lieu of a BSEE-approved permit. If a cement job is deemed inadequate according to the criteria specified in the existing regulations, then the operator must take remedial actions. BSEE does not limit the information that is submitted within a permit application for BSEE review and approval. An operator may submit flow charts in the permit application outlining the

proposed remedial actions, if it so chooses. BSEE may consider approval of such flow charts as part of the operator's remedial actions. But flow charts will not replace permits in the approval process.

What are the diverter actuation and testing requirements? (§ 250.433)

This section of the existing regulations describes the requirements for diverter actuation, pressure testing, and vent line flow testing.

Summary of Proposed Revisions

BSEE proposed to revise existing paragraph (b) to modify requirements for subsequent diverter testing after the initial test, by allowing partial activation of the diverter element and by not requiring a flow test. BSEE proposed these changes to codify longstanding BSEE policy, minimize the number of alternate procedure requests submitted to BSEE, and help minimize the possibility of accidental discharge of mud overboard during full flow testing.

Summary of Final Rule Revisions

BSEE received and considered multiple comments regarding this proposed provision, including a number in general support, and includes the proposed language in the final rule without change.

Summary of Comments

Comments Related to Proposed § 250.433—Opposition to Proposed Changes

Summary of comments: A commenter opposed the proposed changes asserting that the proposed rule did not adequately define the proposed reduced diverter system testing or demonstrate that the new test regimen would provide a level of safety equivalent to the existing test requirements.

• *Response:* BSEE disagrees with the commenter. The final rule requirements will improve the existing regulation and will ensure safety at least equivalent to the existing requirements. The revisions will minimize the risk of hydrocarbons or mud inadvertently being discharged overboard during subsequent testing while ensuring functionality and integrity of the components by requiring the partial activation. Furthermore, BSEE still requires actuation of the diverter sealing element, diverter valves, and diverter control systems upon installation, and a flow test of the vent lines as required in existing § 250.433.

What are the requirements for directional and inclination surveys? (§ 250.461)

This section of the existing regulations specifies operational requirements for conducting surveys in vertical and directional wells.

Summary of Proposed Revisions

BSEE proposed to revise paragraph (b) by extending the maximum permitted survey intervals during angle-changing portions of directional wells from 100 feet to 180 feet. This would account for the majority of the pipe stand lengths in use and would address technological developments that BSEE has accommodated through approvals of alternative procedures under § 250.141 since before the 2016 WCR.

Summary of Final Rule Revisions

BSEE received a few comments in general support of the proposed revisions to this section, and is including the proposed language in the final rule without change.

What are the source control, containment, and collocated equipment requirements? (§ 250.462)

This section of the existing regulations outlines the requirements for BSEE approval of the operator's source control and containment capabilities, including a determination of the source control and containment equipment capabilities, assurance of access to the equipment, and ability to deploy Source Control and Containment Equipment (SCCE). This section also includes maintenance, inspection, and testing requirements for specified containment equipment.

Summary of Proposed Revisions

In paragraph (b) of this section, BSEE proposed to clarify that the SCCE to which operators need to have access is based on the determinations regarding source control and containment capabilities required in § 250.462(a). BSEE also proposed to clarify that the identified list of equipment represents examples of the types of SCCE that may be determined appropriate in specific circumstances rather than equipment that is universally required.

BSEE proposed revisions to paragraph (e)(1)(ii) to replace the phrase ''a BSEE approved verification organization'' with the phrase ''an independent third party.''

BSEE also proposed revisions to paragraph (e)(3) to clarify that subsea utility equipment utilized solely for containment operations must be available for inspection at all times. BSEE proposed revising paragraph (e)(4) to clarify that it is applicable only to collocated equipment identified in the Regional Containment Demonstration (RCD) or Well Containment Plan and not to all collocated equipment. BSEE proposed revisions to both paragraphs (e)(3) and (e)(4) to help ensure that the equipment described in those paragraphs is available for BSEE inspection.

Summary of Final Rule Revisions

BSEE received and considered multiple comments in support of and in opposition to the proposed changes. BSEE is including the proposed language in the final rule. BSEE is also including in this final rule an administrative revision to paragraph (e)(2)(i) to reflect the correct cross-reference to the Subpart H regulations. This change is technical, non-substantive, and necessary due to the updated citations from another recently published BSEE rulemaking, Final Rule: Oil and Gas and Sulphur Operations on the Outer Continental Shelf—Oil and Gas Production Safety Systems (83 FR 49216, September 28, 2018) which updated the production safety systems requirements of Subpart H.

Summary of Comments

Comments Related to Proposed § 250.462—SCCE Availability

Summary of comments: Some commenters opposed the proposed revisions to this section, asserting that the proposed changes would weaken the requirements to have SCCE available, and could significantly increase the time involved to control a major oil spill.

• *Response:* BSEE disagrees with these comments. The dedicated equipment at issue is used solely for containment and must be available for inspection by BSEE at all times, and the location of this collocated equipment will be provided to BSEE. The equipment required for the specific well location is determined based on the operator's RCD or Well Containment Plan (WCP). As discussed in the proposed rule, the majority of SCCE, such as capping stacks and top hats, has no other commercial purpose and is used solely for containment operations. This unique containment equipment is maintained and readily available for inspection by BSEE at any time and would be available for immediate use if a well control event occurs. Other equipment listed for source control that has broader commercial purposes, such as ROVs and vessels, are also required to be readily available. The clarifying revisions to these regulatory provisions

do not weaken these key safety elements.

Subpart E—Oil and Gas Well-Completion Operations

Tubing and Wellhead Equipment (§ 250.518)

This section of the existing regulations outlines the completion operational requirements for tubing, wellhead equipment, subsurface safety equipment, and packers and bridge plugs.

Summary of Proposed Revisions

BSEE proposed revisions to paragraph (e)(1) to clarify that only permanently installed packers or bridge plugs, which are qualified as mechanical barriers, are required to comply with ANSI/API Spec. 11D1. BSEE proposed these changes to ensure that the packers and bridge plugs utilized as required mechanical barriers are ANSI/API Spec. 11D1 compliant, while eliminating the requirement that packers and plugs used for other, non-critical, purposes meet the standard.

Summary of Final Rule Revisions

BSEE received and considered comments on the proposed revisions and, based on that review, BSEE is revising paragraph (e)(1) in this final rule to further clarify that the ''uppermost'' permanently installed packer and ''all permanently installed'' bridge plugs, which qualify as a mechanical barrier, must comply with ANSI/API Spec. 11D1. These revisions provide further clarity about what packers and bridge plugs are covered by this section and codify BSEE policy that has been in place since the implementation of the 2016 WCR. Also based on BSEE's consideration of comments received on the proposed rule, BSEE is adding in the final rule a new paragraph (g) to require operators to ''have two independent barriers, one being mechanical, in the exposed center wellbore prior to removing the tree and/or well control equipment.''

Summary of Comments

Comments Related to Proposed § 250.518—Barrier clarification

Summary of comments: Multiple commenters supported the proposed clarification of this section. However, one commenter expressed concerns that there would be confusion about the use of mechanical barriers designed for other operations during well completion or workovers. The commenter asserted that identification of the proper barriers should be stated in the well control plan to eliminate any potential confusion.

• *Response:* BSEE agrees with the commenters who expressed general support for the proposed revisions. BSEE also agrees to some extent with one commenter's concerns about potential confusion regarding the mechanical barriers language in the proposed changes to § 250.518, *Tubing and Wellhead Equipment.* The required mechanical barriers are specific to the associated operation (workover, completion, or decommissioning) and the regulatory text should be clear and consistent with similar requirements. Based on the consideration of this comment, BSEE revised the language in final § 250.518 to be consistent with the language in final § 250.619, pertaining to workover operations. During comment review, BSEE determined that it should add a new final paragraph (g) that mimics the language proposed for § 250.619, *Tubing and wellhead equipment,* to address the circumstance of well control equipment being unlatched during initial completion operations. This language is consistent with how BSEE has implemented this regulation, and BSEE is making this addition to further clarify the intent to have two barriers in place prior to removing the tree or well control equipment. This addition reflects current BSEE requirements and operational practice. However, BSEE disagrees with the commenter's suggestion that the barriers should be identified in the well control plan, as these mechanical barriers are identified within the well schematics submitted in BSEE permit applications.

What are the requirements for casing pressure management? (§ 250.519)

This section of the existing regulations requires casing pressure management and adherence to specified industry standards and the requirements of this subpart.

Summary of Proposed Revisions

BSEE proposed minimal revisions to this section in order to update incorrect citations. These revisions are administrative in nature and ensure that the appropriate citations are correctly cross referenced.

Summary of Final Rule Revisions

BSEE received a few comments in general support of the proposed revisions to this section and is including the proposed language in the final rule without change.

How do I manage the thermal effects caused by initial production on a newly completed or recompleted well? (§ 250.522)

This section of the existing regulations specifies operational requirements regarding thermal casing pressure during initial startup.

Summary of Proposed Revisions

BSEE proposed minimal revisions to this section to update incorrect citations. These revisions are administrative in nature and ensure that the appropriate citations are correctly cross referenced.

Summary of Final Rule Revisions

BSEE received a few comments in general support of the proposed revisions to this section and is including the proposed language in the final rule without change.

When am I required to take action from my casing diagnostic test? (§ 250.525)

This section of the existing regulations specifies certain operational conditions that, when identified in the casing diagnostic tests, would require an operator to take actions.

Summary of Proposed Revisions

BSEE proposed minimal revisions to paragraph (d) of this section to update incorrect citations. These revisions are administrative in nature and ensure that the appropriate citations are correctly cross referenced.

Summary of Final Rule Revisions

BSEE received a few comments in general support of the proposed revisions to this section and is including the proposed language in the final rule without change.

What do I submit if my casing diagnostic test requires action? (§ 250.526)

This section of the existing regulations specifies the required submittals in the event of a casing diagnostic test that requires action.

Summary of Proposed Revisions

BSEE proposed minimal revisions to this section to update incorrect citations. These revisions are administrative in nature and ensure that the appropriate citations are correctly cross referenced.

Summary of Final Rule Revisions

BSEE received a few comments in general support of the proposed revisions to this section and is including the proposed language in the final rule without change.

What if my casing pressure request is denied? (§ 250.530)

This section of the existing regulations outlines the steps an operator must take when BSEE denies its casing pressure request.

Summary of Proposed Revisions:

BSEE proposed minimal revisions to paragraph (b) of this section to update incorrect citations. These revisions are administrative in nature and ensure that the appropriate citations are correctly cross referenced.

Summary of Final Rule Revisions

BSEE received a few comments in general support of the proposed revisions to this section and is including the proposed language in the final rule without change.

Subpart F—Oil and Gas Well-Workover Operations

Definitions (§ 250.601)

This section in the existing regulations lists the definitions specific to workover operations.

Summary of Proposed Revisions

BSEE revises the definition of ''routine operations'' in this section to make it consistent with the definition of routine operations in § 250.105 by adding paragraph (m) ''Acid treatments.'' The 2016 WCR did not address this provision, however based on BSEE experience, this revision is necessary to help minimize confusion about the definition of routine operations.

Summary of Final Rule Revisions

BSEE received a few comments in general support of the proposed revisions to this section and is including the proposed language in the final rule without change.

Coiled Tubing and Snubbing Operations (§ 250.616)

This section of the existing regulations specifies the minimum requirements for coiled tubing and snubbing equipment as well as operational requirements for conducting workover operations with the production tree in place.

Summary of Proposed Revisions

BSEE proposed to remove and reserve this section, and to move the content of this section to proposed § 250.750, with minor revisions discussed in connection with that provision. BSEE proposed these revisions to help eliminate inconsistencies between similar requirements throughout different subparts of BSEE's regulations (in 30 CFR part 250) by consolidating those requirements in Subpart G, which is applicable to drilling, completions, workovers, and decommissioning operations.

Summary of Final Rule Revisions

BSEE received a few comments in general support of the proposed revisions to this section and is including the proposed removal and reservation in the final rule without change.

Tubing and Wellhead Equipment (§ 250.619)

This section of the existing regulations outlines the workover operational requirements for tubing, wellhead equipment, subsurface safety equipment, and packers and bridge plugs.

Summary of Proposed Revisions

BSEE proposed to revise paragraph (e)(1) by clarifying that only permanently installed packers and bridge plugs that are qualified as mechanical barriers are required to comply with ANSI/API Spec. 11D1. This revision would codify BSEE's policy developed since promulgation of the 2016 WCR, to ensure that the required mechanical barriers in a well are held to a higher standard than other common packers or bridge plugs used for various well-specific conditions and completions design. Furthermore, BSEE is aware that certain packers and bridge plugs cannot meet the specifications of ANSI/API Spec. 11D1.

BSEE also proposed to require operators to have two independent barriers, including one mechanical barrier, in the exposed center wellbore prior to removing the tree or well control equipment. This addition would codify existing BSEE policy and make the workover requirements in Subpart F regarding mechanical barriers similar to those already found in existing § 250.720(a).

Summary of Final Rule Revisions

BSEE received and considered comments on the proposed revisions and, based on that review, BSEE is revising paragraph (e)(1) in this final rule to further clarify that both the ''uppermost'' permanently installed packer and ''all permanently installed'' bridge plugs that qualify as a mechanical barrier must comply with ANSI/API Spec. 11D1. These revisions provide further clarity about what packers and bridge plugs are covered by this section and codify BSEE policy that has been in place since the implementation of the 2016 WCR. BSEE is also moving the phrase ''You must have two independent barriers, one being mechanical, in the exposed center wellbore prior to removing the tree and/or well control equipment'' from proposed paragraph (e)(1) to new final paragraph (g). This administrative change will help clarify the requirements in paragraph (e)(1) and confirm that paragraph (g) is a stand-alone requirement.

Summary of Comments

Comments Related to Proposed § 250.619—Barrier Clarification

Summary of comments: Multiple commenters supported the proposed clarification of this section for the reasons explained in the proposed rule. However, one commenter expressed concerns that there would be confusion about the use of mechanical barriers designed for other operations during well completion or workovers. The commenter asserted that identification of the proper barriers should be included in the well control plan to eliminate any potential confusion.

- *Response:* BSEE agrees with the commenters' expression of general support for the proposed revisions. BSEE also agrees to some extent with one commenter's concerns about potential confusion regarding the mechanical barriers language in the proposed changes to § 250.518. The required mechanical barriers are specific to the associated operation (workover, completion, or decommissioning) and the regulatory text should be clear and consistent with similar requirements. Based on the consideration of this comment BSEE revised the language in final § 250.518 to be consistent with the language in proposed and final § 250.619, and modified the proposed organization of § 250.619 for clarity and consistency. This language is consistent with how BSEE has implemented this regulation, and BSEE is making this addition to further clarify the intent to have two barriers in place prior to removing the tree or well control equipment. This addition reflects current BSEE requirements and operational practice. However, BSEE disagrees with the commenter's suggestion that the barriers should be identified in the well control plan as these mechanical barriers are identified within the well schematics submitted in BSEE permit applications.

Subpart G—Well Operations and Equipment

What rig unit movements must I report? (§ 250.712)

This section of the existing regulations specifies the requirements for reporting to BSEE of rig unit movement on and off location, and specifies the required content of the reporting.

Summary of Proposed Revisions

BSEE proposed to revise this section by adding new paragraphs (g) and (h). BSEE proposed to add paragraph (g) to clarify that reporting is not necessary for rig movements to and from the safe zone during permitted operations. BSEE proposed to add paragraph (h) to clarify that, if a rig unit is already on a well, BSEE would not require a notification for any additional rig unit movements on that well.

Summary of Final Rule Revisions

BSEE received a comment in general support of the proposed revisions to this section and is including the proposed language in the final rule without change.

When and how must I secure a well? (§ 250.720)

This section of the existing regulations outlines the requirements for securing a well whenever operations are interrupted (*e.g.,* evacuation of the rig crew, inability to keep the rig on location, and repair to major rig or well-control equipment).

Summary of Proposed Revisions

BSEE proposed to revise paragraph (a)(1) to add an impending National Weather Service-named tropical storm or hurricane to the list of example events that would interrupt operations and require notification. Furthermore, BSEE also proposed to add new paragraph (a)(3) to include provisions for testing the applicable BOP or LMRP upon relatch according to § 250.734 paragraphs (b)(2) or (b)(3), respectively, and obtaining BSEE approval before resuming operations. BSEE proposed these revisions to codify the BSEE storm policy reflected in longstanding guidance and to provide clarity for testing requirements when an operator has returned to the well location and relatched the BOP or LMRP. BSEE also proposed to add new paragraph (d) requiring equipment and capabilities for well intervention and specifying that equipment used solely for well intervention must be readily available for use, maintained in accordance with applicable OEM recommendations, and available for inspection by BSEE upon request. BSEE proposed this addition to ensure that when intervention is necessary on a well, the applicable tools (such as the tree interface tools) are available and ready for their intended use.

Summary of Final Rule Revisions

BSEE received and considered comments on the proposed revisions and includes the proposed language in the final rule. Furthermore, based on comments received, BSEE is also adding language to paragraph (a)(3)(iii) to require that the operator, upon relatch of a BOP or LMRP, ''submit a revised permit with a written statement from an independent third party certifying that the previous certification in § 250.731(c) remains valid. . . .'' This revision will provide BSEE with additional assurance that the related equipment is fit for service upon relatch and clarifies the necessary submittal and associated information required in order to receive District Manager approval. This addition reflects current BSEE practice and is the same information operators must submit with the required BSEE permits. This provides assurance that the specified BOP certifications are still valid and provides consistent documentation of recertification. Corresponding edits are also made to §§ 250.734 and 250.738.

BSEE is also revising paragraph (d) to clarify that operators need only meet the requirements from the proposed rule for subsea completed wells with a tree installed that have a shut-in tubing pressure that is greater than the hydrostatic pressure of the water column, or subsea wells that are not capable of having the annulus monitored. This revision will help ensure that operators have available the appropriate intervention tools for wells with higher risk potential, and will reduce the unnecessary burden of applying this new requirement to lower risk wells.

Summary of Comments

Comments Related to Proposed § 250.720(a)—Retesting the Deadman System

Summary of comments: Some commenters expressed concerns with the requirement in § 250.734(b), incorporated here, to re-test the deadman systems when they have not been repaired or affected by the suspension. The commenters recommend not to test the deadman upon relatch. The commenters asserted that, while it is important to verify that the system is functional, in cases where the system has not been modified, the previous test should be sufficient.

- *Response:* BSEE disagrees with the comments. When the functional system is disconnected, whether it is modified or not, it is important to ensure that the emergency systems are completely functional upon reconnection of that system. The deadman system functionality is verified by testing that system, as required by this regulation.

Comments Related to Proposed §§ 250.720(a)(3)(iii), 734, and 738—Independent Third Party Re-Verifications

Summary of comments: A commenter recommended that BSEE require a report from an independent third party if the events listed in § 250.720(a)(1) would invalidate a verification submitted pursuant to §§ 250.731(d) and 250.732(c).

- *Response:* BSEE agrees with the commenter and added a requirement for submitting a revised permit with a written statement from an independent third party certifying that the previous certification under § 250.731(c) remains valid. BSEE also made corresponding edits to similar requirements in §§ 250.734 and 250.738. These revisions help ensure that the BOP is still fit for service at the same location following relatch after disconnect.

Comments Related to Proposed § 250.720(d)—Intervention Equipment Requirements

Summary of comments: Multiple commenters expressed concerns with the proposed requirements related to the availability of intervention equipment. Commenters asserted that the proposed requirements were ''overly prescriptive'' and would place undue financial burden on operators. The commenters proposed replacing § 250.720(d) with language that requires operators to prepare and have available a well intervention readiness plan based on a risk analysis, and that only requires the equipment identified as necessary through that plan to be available for use and BSEE inspection. Additionally, one of the commenters recommended adding a definition for ''readily available.''

- *Response:* BSEE agrees with the commenter's recommendation that the operator should determine the required intervention equipment based on an analysis of the risks associated with a well. Accordingly, BSEE revised proposed § 250.720(d) to limit the intervention equipment requirements to subsea completed wells with a tree installed, that have a shut-in tubing pressure that is greater than the

hydrostatic pressure of the water column, or that are not capable of having the annulus monitored. BSEE wants to ensure that appropriate intervention equipment is available and properly maintained for higher risk wells, but not to impose unnecessary burdens through application of these new requirements to low risk wells. BSEE disagrees with the recommendation to define ''readily available'' because it would be impractical to establish uniform requirements for the deployment timeframe of the intervention equipment due to the variability of equipment and logistics for each well location. Operators should not rely on SCCE for routine intervention operations where intervention equipment is required.

What are the requirements for prolonged operations in a well? (§ 250.722)

This section of the existing regulations specifies actions necessary to determine well integrity for operations continuing longer than 30 days from a previous casing or liner test. If well integrity has deteriorated to a level below minimum safety factors, this section requires repairs or installation of additional casing and subsequent pressure testing, as approved by the District Manager.

Summary of Proposed Revisions

BSEE proposed to revise the prolonged operations well casing reporting requirements in paragraph (a)(2) of this section to clarify that BSEE does not require District Manager approval to resume operations if an operator conducts a successful pressure test as already approved in the applicable permit. BSEE also proposed to clarify that operators must document the successful pressure test results in the Well Activity Report (WAR), and also proposed minor revisions to this paragraph to provide that the calculations are used to ''indicate'' not ''show'' that the well's integrity is above the minimum safety factors.

Summary of Final Rule Revisions

BSEE received a few comments in general support of the proposed revisions to this section and is including the proposed language in the final rule without change.

What additional safety measures must I take when I conduct operations on a platform that has producing wells or has other hydrocarbon flow? (§ 250.723)

This section of the existing regulations requires additional safety measures (*e.g.,* installation of an emergency shutdown station for the production system, and shutting in producing wells for certain rig movements) for operations on a platform that has a producing well or other hydrocarbon flow.

Summary of Proposed Revisions

BSEE proposed to revise this section by removing the phrase ''or lift boat.'' This would primarily impact paragraph (c)(3), which requires a shut-in of all producible wells located in the affected wellbay when a lift boat moves within 500 feet of the platform until the lift boat is in place, secured, and ready to begin operations.

Summary of Final Rule Revisions

BSEE received and considered comments on the proposed revisions and includes the proposed language in the final rule without change. BSEE received comments in general support of and opposition to the proposed changes in addition to the following specific, substantive comments.

Summary of Comments

Comments Related to Proposed § 250.723—Lift Boat Activities

Summary of comments: A commenter recommended requiring lift boats to approach platforms from the opposite side of subsea pipeline placement, which the commenter understands is the current industry-accepted practice. The commenter also asserted that the specific regulations should take into consideration the type of work the lift boat is performing to help minimize unnecessary shut-ins.

• *Response:* BSEE agrees that operators should consider subsea infrastructure when positioning any type of bottom supported vessels. BSEE is not including the commenter's recommendations in the regulations due to the diverse equipment, multiple possible subsea configurations, and varying operational situations presented by impacted operations. They are likewise outside the scope of this rulemaking. Removal of lift boats from this provision should address the commenter's concerns regarding unnecessary shut-ins.

Comments Related to Proposed § 250.723—Lift Boat Size

Summary of comments: Multiple commenters expressed concerns with the removal of lift boats from this section. However, the commenters also suggested that, if the current regulations are too onerous, the shut-in requirement should only apply to lift boats that are above a certain size or class, or when lift boats approach during more challenging weather or environmental conditions that could make mooring more difficult.

• *Response:* BSEE generally agrees with the commenter that different lift boat sizes may present different risks; however, BSEE is not making any changes to this section of the proposed rule. BSEE determined that the vast majority of lift boats used on the OCS are relatively small compared to the size of a MODU and would not typically be expected to have the same operational impacts and potential risks as a MODU. BSEE is considering the effects of the size of lift boats for potential future rulemakings, and may gather additional information and provide guidance on a case-by-case basis for any lift boats that could reasonably be expected to have an operational impact comparable to a MODU.

What are the real-time monitoring requirements? (§ 250.724)

This section of the existing regulations requires operators to gather and monitor real-time well data when conducting operations with a subsea BOP or with a surface BOP on a floating facility, or when operating in an HPHT environment, and to develop a real time monitoring (RTM) plan detailing how the operator will develop and utilize RTM.

Summary of Proposed Revisions

BSEE proposed to revise this section by removing many of the prescriptive real-time monitoring requirements and moving towards a more performance-based approach. BSEE proposed to remove existing paragraph (b) with its associated prescriptive requirements, and to re-designate existing paragraph (c) as paragraph (b), with minor revisions to shift certain prescriptive elements to be more performance-based. BSEE also proposed to continue requiring the items in existing paragraph (c) in an RTM plan.

Summary of Final Rule Revisions

BSEE received and considered comments on this section, and is revising proposed paragraph (a)(2) to clarify that it relates to monitoring of ''the well's active fluid circulating system.'' This revision would clarify the intent of the 2016 WCR RTM requirements and ensure that the system used for circulation of the well fluid is properly monitored, while removing any implication that RTM is required for fluids not in active circulation. BSEE is also adding back in clarifying language similar to the first sentence in existing paragraph (b) (with certain prescriptive elements removed), as follows: ''(b) You must transmit these data as they are

gathered, barring unforeseeable or unpreventable interruptions in transmission, and have the capability to monitor the data, using qualified personnel in accordance with a real-time monitoring plan, as provided in paragraph (c) of this section.'' BSEE is also re-designating proposed paragraph (b) as final paragraph (c) with no other changes to the remainder of the proposed section. These revisions address comments received about clarifying who will be monitoring the data by making that a matter to be addressed in the RTM plan. These revisions do not alter the requirements of the substantive RTM operational capabilities and what is addressed within the company-specific RTM plan.

Summary of Comments

Comments Related to Proposed § 250.724—Performance-Based Real Time Monitoring Plan

Summary of comments: Some of the commenters support the transition from prescriptive requirements to a performance-based Real Time Monitoring (RTM) plan. The commenters assert that a performance-based approach will allow them to develop plans that are tailored to the operating conditions, risk profiles, and operator policies and procedures for specific wells.

• *Response:* BSEE agrees in part with the commenters' assertion that a performance-based approach has the potential to align an operator's RTM plan more effectively with a specific well's operating condition and risk profile. BSEE is establishing an initial framework for RTM and may supplement the regulations with additional operational provisions as more experience and research becomes available.

Comments Related to Proposed § 250.724—Scope and Applicability of Real Time Monitoring Plan

Summary of comments: Some of the commenters support limiting the scope of RTM plans to drilling operations only and providing operators with discretion regarding whether or not to include workover, completion, and decommissioning activities in their RTM plans. On the other hand, multiple other commenters assert that RTM should apply to all operations.

• *Response:* BSEE currently requires RTM for all operations conducted with a subsea BOP, surface BOP on a floating facility, and BOPs used in HPHT environments. BSEE is not making any changes to this requirement. As explained in the regulations, the RTM requirements are located in Subpart G, which covers operations and equipment associated with drilling, completion, workover, and decommissioning activities. BSEE agrees with the commenters that RTM should apply to drilling, completion, workover, and decommissioning operations because all the operations have similar potential hazards and risks, and are also usually conducted utilizing the same types of rigs and equipment.

Summary of comments: Some of the commenters request that BSEE apply RTM only to the operations covered in API Standard 53, reduce the data retention period for RTM data from 2 years to 90 days, and clarify that an RTM monitoring center located onshore is not required.

• *Response:* BSEE disagrees with the comments regarding restricting the applicability of RTM to the scope of API Standard 53 and reducing the data retention timeframes. BSEE believes that it is important for the RTM requirements to apply to all operations conducted with a subsea BOP, surface BOP on a floating facility, and BOPs used in HPHT environments because these types of operations usually have the highest potential for hazards and increased risks. The regulations allow the operator to tailor its approach toward monitoring the specific operational components covered under paragraph (a) in the context of the specific rig and operation through the RTM plan. BSEE is also establishing an initial framework for RTM and may supplement the regulations to include a reduced time period for data retention as more experience and research becomes available. For now, BSEE believes that the longer data retention window is important to ensure the availability of needed data.

BSEE agrees with the commenters that an onshore RTM monitoring center is not required. With currently available technology, operators are capable of using RTM remotely on computers and tablets using web based applications. This allows for subject matter experts to utilize the data anywhere and at any time as necessary, as detailed in the company's RTM plan. BSEE requires the operator to identify in the RTM plan how the RTM data will be transmitted and monitored, requires the rig personnel and monitoring personnel to be separate individuals, and requires certain communication capabilities among personnel, but does not prescriptively dictate the establishment of an onshore monitoring center.

Comments Related to Proposed § 250.724—Weakening Real Time Monitoring Plan Requirements

Summary of comments: Many of the commenters oppose BSEE's proposed elimination of prescriptive requirements for RTM plans and adoption of a performance-based approach. The commenters also assert that the proposed rule: Lacks meaningful standardization of RTM requirements; does not provide sufficient oversight if operators are not required to transmit data onshore in real time for monitoring by qualified personnel; and should not limit the requirements to drilling operations. As the basis for opposing the removal of prescriptive requirements for RTM plans, many of the commenters cite the findings and recommendations of the post-*Deepwater Horizon* investigations and reports as well as the rationales that support the RTM requirements found in the 2016 WCR.

• *Response:* BSEE is establishing an initial framework for RTM and may supplement the regulations with additional operational provisions as more experience and research becomes available. Even though the 2016 RTM requirements have a compliance date of April 29, 2019, a majority of the operators already utilize many of the RTM capabilities within their current operations. BSEE was able, through increased interaction with these companies, to better understand the logistical and operational considerations for implementation of the RTM requirements. The 2016 WCR's RTM requirements were themselves largely performance-based, relying primarily on the operator's development of an RTM plan tailored to its operations but built off of core principles. The revisions implemented here do not reflect a sea change in philosophy, but rather merely remove certain unnecessarily prescriptive elements (*e.g.,* specifying that the RTM data must be transmitted onshore, certain communications protocols, and that monitoring personnel must be onshore). Notwithstanding the performance-based nature of these revisions, BSEE agrees that it is important to retain specific requirements concerning data transmission and has revised the proposed RTM requirements to preserve content similar to the first sentence of existing paragraph (b), due to confusion from the commenters about who is allowed to monitor the data. BSEE bases this revision on comments received seeking clarification regarding who must monitor the data, but does not require changes to RTM operations or the contents of the company-specific

RTM plan. This revision clarifies who must monitor the RTM data as described in the RTM plan. In accordance with paragraphs (c)(5) and (6), BSEE requires the rig personnel and monitoring personnel to be separate individuals. Additionally, the updated regulations still establish requirements for RTM processes and systems.

Comments Related to Proposed § 250.724—RTM Verification

Summary of comments: Multiple commenters recommend that BSEE periodically verify that operators are implementing their RTM plans via audits conducted by the agency, a BAVO, or an independent third-party. The commenters also recommend that BSEE clarify the process by which the implementation of RTM requirements will be verified and enforced.

• *Response:* This regulation requires that operators develop and implement RTM plans, and specifically requires that those plans be made available to BSEE upon request. If BSEE has any concerns with an operator's RTM operations, then BSEE may undertake inspections and enforcement actions to ensure compliance with the regulations. BSEE has additional options such as routine onsite inspections or verifications through the permitting process to ensure that RTM plans are implemented in compliance with the regulations.

What are the general requirements for BOP systems and system components? (§ 250.730)

This section of the existing regulations includes requirements for the design, fabrication, installation, maintenance, inspection, repair, testing, and use of BOP systems and components. This section also requires compliance with certain provisions of API Standard 53 and several related industry standards, and requires operators to use failure reporting procedures.

Summary of Proposed Revisions

BSEE proposed to revise paragraph (a) by removing ''excluding casing shear'' and replacing ''at all times'' with ''in the event of flow due to a kick.'' BSEE requires the BOP system as a whole to be capable of closing and sealing the wellbore. BSEE also proposed to clarify that the BOP system must be able to close and seal the wellbore in the event of flow due to a kick. BSEE knows there are mechanical and operational design limits of equipment, and expects operators to ensure ram closure time and sealing integrity to avoid exceeding those operational and mechanical limits.

BSEE proposed to amend paragraph (b) to clarify that BSEE expects the use of ''applicable'' OEM recommendations for the design, fabrication, maintenance, and repair of BOP systems, as well as personnel training in their use. The proposed revision to include ''applicable'' is necessary because some OEMs may not have specific recommendations for every item required by this paragraph.

BSEE also proposed to revise the failure reporting requirements in paragraph (c) to codify BSEE guidance and current practice. BSEE proposed to remove the failure reporting references to ANSI/API Specs 6A and 16A because the failure reporting process outlined in those standards is redundant to API Standard 53 and the remaining requirements of this section. Proposed revisions to this paragraph also included clarification on submitting failure data and reports to BSEE, unless BSEE has designated a third party to collect the data and reports, and ensuring that an investigation and failure analysis are started within 120 days. BSEE reevaluated the timeframes set forth in the 2016 WCR for performing the investigation and failure analysis and determined that certain operations would preclude operators from meeting the original timeframes. Accordingly, BSEE proposed to require that operators start their investigation and failure analysis within 120 days of the failure. BSEE then proposed a 120-day timeframe for the operator to complete the investigation and failure analysis once they have started the process.

BSEE proposed to revise paragraph (c)(4) to explain that BSEE may designate a third party to collect failure data and reports on behalf of BSEE, and if it does so, operators must send the failure data and reports to the designated third party.

BSEE also proposed to revise paragraph (d) by removing the reference to a document incorrectly incorporated by reference, and incorporating the correct document. The regulations promulgated pursuant to the 2016 WCR require that BOP stacks be manufactured pursuant to a quality management system certified by an entity that meets the requirements of ISO 17011. The reference to the ISO 17011 standard in the 2016 WCR is incorrect, and BSEE proposed to correct the error by incorporating the ISO/IEC 17021–1 standard.

Summary of Final Rule Revisions

BSEE received and considered comments on the proposed revisions, and includes in the final rule most of the proposed language without change, except for the following revisions to paragraph (c). BSEE is revising proposed paragraph (c) by replacing the references to ''BSEE'' with ''the Chief, Office of Offshore Regulatory Programs (OORP)'' for purposes of directing where to send submittals, and adding the address for the Chief of OORP in paragraph (c)(4). These revisions clarify to whom and where to send failure reporting submittals within BSEE, unless BSEE designates a third party to receive that information. Based on comments received, BSEE is also clarifying how to request an extension to the failure analysis timeframe. BSEE is adding to paragraph (c)(2) a requirement that, if an operator cannot complete the investigation and analysis within the allotted time, they must submit a request for an extension of time detailing how the investigation and analysis will be completed. The request for an extension of time must be submitted for approval to BSEE through the Chief of OORP.

Summary of Comments

Comments Related to Proposed § 250.730—What Are the General Requirements for BOP Systems and System Components?

Casing Shear Ram Requirements

Summary of comments: BSEE received a comment regarding the proposed changes to § 250.730(a) removing the phrase ''excluding casing shear'' from requirements for the BOP. The commenter expressed concern that BSEE's justification refers to the fact that BSEE ''expects operators to ensure ram closure time and sealing integrity before exceeding those operational and mechanical limits.'' The commenter asserted that BSEE should clearly define and state these expectations in the regulations. The commenter also asserted that BSEE should confirm all relevant specifications through their permitting process, inspection program, and performance testing requirements, asserting that API Standard 53 and API Spec 16D include details about the accumulator system that enable BSEE to confirm compliance.

• *Response:* BSEE disagrees with the comment. The requirements in this section ensure that operators properly design, install, maintain, inspect, test, and operate each BOP component and the entire BOP system. The requirements of this section apply to the entire BOP system, including the casing

shear. BSEE requires the BOP system as a whole to be capable of closing and sealing the wellbore before exceeding mechanical or operational limits of the equipment. BSEE reviews compliance with the incorporated documents through the permit and inspection process.

Comments Related to Proposed § 250.730(c)—Failure Reporting Requirements

Summary of comments: A commenter recognized BSEE's efforts related to the reporting, analysis, and use of failure data. However, the commenter was concerned that the proposed changes to failure reporting do not provide a clear definition of a reportable failure.

• *Response:* BSEE disagrees that the definition of failure provided in § 250.730(c)(1) is unclear. The definition aligns with the definition used by the Blowout Preventer Reliability Joint Industry Project (JIP), a joint effort of the International Association of Drilling Contractors (IADC) and the International Association of Oil and Gas Producers (IOGP). This definition is generally used and understood by the industry and adopted in the SafeOCS implementing guidance, which was informed by input from the JIP.

Comments Related to Proposed § 250.730(c)—Timing of Failure Investigations

Summary of comments: Multiple commenters expressed concern regarding the timing requirements related to failure investigations. One commenter recognized that BSEE did propose to add additional time for the investigation, but asserted that this did not address potential extenuating circumstances (operational or investigation related) that may prevent the operator from completing an investigation within 120 days. Therefore, the commenter requested that BSEE include a provision in the final rule to address investigations that cannot be completed within the allotted time. The commenter proposed that the provision require operators to provide a progress report, reasons regarding why the investigation was not completed, and a defined period for the extension.

• *Response:* BSEE disagrees with including a provision that would allow operators a blanket extension of the 120 days to complete the failure analysis. The final rule provides adequate time for an operator to initiate and complete a failure analysis. BSEE does, however, acknowledge that there may be extenuating circumstances that prevent an operator from meeting these timelines. Accordingly, the final rule provides that the operator may request an extension to the failure analysis timeframes by submitting a request to the Chief, OORP and, if appropriate, BSEE may approve an extension. The nature of certain operational failures—such as systematic failures, stack pulls, and lower marine riser pulls—may warrant additional case-by-case consideration, as it is reasonable to expect the related analyses would require more time than allowed in the rule. In 2017, only 1.5% of the reported failure notifications resulted in an investigation and failure analysis that required more than 120 days to complete. BSEE extended the timeframe in the final rule to reduce its own administrative burden for those cases where extra time could enable the timely resolution and completion of an investigation and analysis report. For those rare cases requiring more time, BSEE believes that providing for an extension request is appropriate and that the request may reasonably be expected to include the items recommended by the commenter.

Summary of comments: A commenter stressed that the failure investigation and submittal of the reports to BSEE should occur as soon as practicable, preferably immediately after the failure. The commenter asserted that, for conducting a failure investigation and analysis, it makes more sense to provide a required time ''from the time equipment first becomes available for testing'' and not from the time of the incident. In addition, the commenter asserted that, in addition to an option for operators to request an extension, there should be a provision for BSEE to require an accelerated investigation, if warranted by the circumstances. The commenter also suggested that BSEE should not tie the failure analysis to continuing well operations, asserting that continuing well operations should depend on the replacement of the failed equipment with properly functioning equipment.

• *Response:* BSEE agrees that an investigation and failure analysis should occur as soon as practicable after a failure. For subsea BOP operations, equipment is not readily available for investigation until it is returned to the surface. If BSEE were to tie the requirement to begin the investigation and failure analysis to the time the equipment becomes available for testing, rather than the time of the incident, it could result in delays in commencing the investigation. BSEE believes that the new timeframes provide ample time for commencing the investigation without leaving the timing open and indefinite.

BSEE disagrees that a provision is needed for BSEE to require accelerated investigations. BSEE has determined that the timeframes required by the final rule are reasonable for conducting timely and thorough investigations, given that they will generally involve multiple parties and complex, large equipment.

BSEE disagrees that the continuation of well operations should always require the replacement or repair of failed equipment. BSEE regulations require redundant components for well control. Thus, in some cases, well operations may continue following an equipment component failure.

Summary of comments: A commenter asserted that allowing the same amount of time to initiate the failure investigation as to perform and complete the investigation does not seem appropriate. The commenter asserted that an operator should start the investigation within 30 days, and then complete the investigation within 120 days of commencement. The commenter also suggested that if the operator cannot complete the report within the timeframe allotted, the operator should submit monthly progress reports to show progress towards a solution. Another commenter observed that the proposed changes would essentially double the time permitted for failure investigation, thereby delaying completion of the investigation by four months. This commenter asserted that delaying a failure investigation does not make sense because the purpose of this requirement is to inform BSEE and the manufacturer of problems, so those problems may be resolved quickly in order to prevent other accidents or failures.

• *Response:* The commenter's assumption that operators will use all available time to delay a submission does align with BSEE's experience with the recent history of reporting since the rule implementation began. BSEE's experience shows operators to be making a good faith effort to complete investigations as soon as practicable. Based upon a substantial number of submissions, BSEE expects most submitters will have completed their investigation and analysis reports long before the allowable time runs. In 2017, only 1.5% of the reported failure notifications resulted in an investigation and failure analysis that required more than 120 days to complete. The provision in the rule allows extra time for the moderately complicated cases that require more time to process. For example, the nature of certain operational failures—such as systematic

failures, stack pulls, and lower marine riser pulls—may warrant additional case-by-case consideration, as it is reasonable to expect the related analyses would require more time beyond that allowed in the rule. BSEE extended the timeframe in the final rule to reduce administrative burden for those cases where extra time could enable the timely resolution and completion of an investigation and analysis report. For those rare cases requiring more time than the rule allows, BSEE believes that providing for an extension request is appropriate. BSEE does not, however, expect these revised timelines to result in general delays of the type described by the commenter.

We agree with the commenter that it is important for BSEE and the manufacturer to acquire and review the equipment failure information to make recommendations to prevent similar failures in the future. BSEE works with the U.S. Department of Transportation's Bureau of Transportation Statistics (BTS),[29] to ensure technical review of the information provided by submitters. The analysis considers potential consequences related to specific failures, potential systematic concerns, and any reduction in effective barrier operation. When significant safety concerns are identified, there are processes in place to raise awareness in a timely manner to prevent similar failures. Items of lesser potential significance are dealt with through public reports based on aggregated data.

Summary of comments: A commenter suggested that the rule include a method to extend investigations that have been started, but are not complete within the 120 days. This commenter recommended including a requirement for the operator to submit a status update to BSEE detailing the progress to date, the reasons why the investigation was not completed within the required timeframe, and an extension period, if any. The commenter is concerned that the fixed number of 120 days may result in conclusions that do not identify the true root cause, thereby ultimately compromising safety.

• *Response:* BSEE disagrees with allowing a blanket extension of the 120-day completion date for the failure analysis. BSEE does, however, acknowledge that there may be extenuating circumstances that prevent an operator from meeting these timelines. Accordingly, the final rule provides that if an operator cannot meet the required timeframes, the operator may request an extension to the failure analysis timeframes by submitting a request to the Chief, OORP and, if appropriate, BSEE may approve an extension. Due to the potential for some failures to have broader safety implications, it is not reasonable to allow the operator to define an open-ended period in which to complete the investigation. Extension requests will be handled on case-by-case basis to allow consideration of circumstances. In 2017, only 1.5% of the reported failure notifications resulted in an investigation and failure analysis that required more than 120 days to complete. BSEE extended the timeframe in the final rule to reduce administrative burden for those cases where extra time could enable the timely resolution and completion of an investigation and analysis report. For those rare cases requiring more time than the rule allows, BSEE believes providing for an extension request is appropriate and that such a request may reasonably be expected to address the items recommended by the commenter.

Summary of comments: A commenter asserted that proposed § 250.730(c)(1) would reduce the clarity, safety, and effectiveness of BOP systems by limiting information exchange about equipment failures. The commenter opposed the proposed language because it does not specify who the operator must notify at BSEE or other entities, such as the equipment manufacturer. The commenter also asserted that the use of third parties to receive data and reports on behalf of BSEE will make it substantially more difficult for the public to acquire those data and reports using the Freedom of Information Act (FOIA). The commenter contends that because the focus is on equipment failure, it would be important for technical experts to acquire and review the equipment failure information to make recommendations to prevent similar failures in the future. The commenter supported the 120-day failure analysis completion date in the existing regulations, asserting that this timeframe ensures that any needed equipment changes are quickly identified, and changes can be made at problematic wells as soon as possible to prevent additional failures.

• *Response:* BSEE disagrees with the assertion that the language in paragraph (c)(1) will ''reduce the clarity, safety, and effectiveness of BOP systems by limiting information exchange about equipment failures.'' In terms of specifying to whom data should be submitted, BSEE agrees that this was less than clear with respect to submissions to BSEE, and accordingly modified the proposed rule text to clarify that submissions directed to BSEE should be sent to the Chief, OORP. With respect to a third party designated to receive data, BSEE can provide information on who operators should submit this data to through a variety of public notices, such as a press release or NTL. Not including these specifics in the regulations allows BSEE to change the designated third party without undertaking rulemaking. With respect to reporting to equipment manufacturers, it is up to the operator to find out from the equipment manufacturer to whom the required data and information should be submitted.

With respect to the use of a third party to receive data, as previously discussed, BSEE currently has an agreement with BTS to receive and process the data through the SafeOCS program. This agreement is consistent with the policies of the Confidential Information Protection and Statistical Efficiency Act (CIPSEA).[30] CIPSEA requires that BTS treat and store such reports confidentially, under strict criminal and civil penalties for noncompliance. Information submitted under CIPSEA also is protected from release to other government agencies (including BSEE), from Freedom of Information Act (FOIA) requests and subpoenas. If the information were to be submitted to BSEE, BSEE could only protect its confidentiality to the extent allowed by Federal law other than CIPSEA. The SafeOCS program was designed to protect the confidentiality of information submitted and promote failure reporting without fear of reprisals. BSEE uses this third-party approach for submission of equipment component failure information in the interest of promoting the sharing of safety data and information, while protecting sensitive identifying information the release of which could

[29] Operators submit failure information through *www.SafeOCS.gov,* where it is received and processed by BTS. BSEE identified BTS as the designee and recommended that SPPE failure information should be sent to BTS via *www.SafeOCS.gov* through a press release issued on October 26, 2016 (*https://www.bsee.gov/newsroom/latest-news/statements-and-releases/press-releases/bsee-expands-safeocs-program*). BSEE and BTS entered into a Memorandum of Understanding (MOU) that provides for BTS to collect BOP and SPPE failure reports. The MOU may be viewed on BSEE's website at: *https://www.bsee.gov/sites/bsee.gov/files/bsee-bts-mou-08-18-2016_0.pdf.* Reporting instructions are on the SafeOCS website at: *https://www.SafeOCS.gov.*

[30] Reports submitted through *www.SafeOCS.gov* are collected and analyzed by BTS and protected from release under the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) (44 U.S.C. 101). Annual reports for 2016 and 2017 reporting periods for well control regulations are available at: *https://www.safeocs.gov/wcr_home.htm.*

reduce the incentive to share all of the facts related to an incident. This determination was made to protect trade secrets and proprietary information and especially to ensure facts that pertain to safety are not left out of reports due to concerns about disclosure under FOIA. BSEE believes placing this raw data at risk of disclosure under FOIA would reduce operator openness in what is shared regarding equipment component failures. For this reason, the Bureau of Transportation Statistics currently houses BSEE's system of record on this collection effort.

We agree with the commenter that it is important for technical experts and others to acquire and review the equipment failure information to make recommendations to prevent similar failures in the future. BTS engages subject matter experts to analyze the reports and prepare public reports that are available to all stakeholders. BTS has the ability under CIPSEA to have a confidentiality officer from BTS communicate with a respondent when safety issues arise of particular concern to subject matter experts. The BTS confidentiality officer may recommend that the submitter of the information communicate the safety issue directly with BSEE and the OEM.

In addition, § 250.730(c)(1) requires that operators follow the failure reporting procedures in API Standard 53, which is incorporated by reference in BSEE regulations at § 250.198. API Standard 53 includes processes for the sharing of equipment failure information between the manufacturers and owners of blowout prevention equipment. This would include reporting of any malfunction or failure by the equipment owner to the equipment manufacturer and the manufacturer's response to the equipment owner with a timeline for failure resolution.

Comments Related to Proposed § 250.730(c)—Anonymous Failure Reporting

Summary of comments: One commenter expressed concern that the proposal to allow companies to anonymously submit the results of equipment failure investigations through a third-party would effectively make the failure reporting requirement voluntary.

• *Response:* BSEE disagrees. The failure reporting is required regardless of where and how an operator submits the data. This revision does not provide for anonymous failure reporting through a designated third party. The failure reporting is not anonymous. Each time BTS receives a notification of failure under § 250.730(c), it provides BSEE with a notification that a submission was made and includes the name of the company. BSEE may choose to open an investigation at any time when information received from non-BTS sources demonstrates operators are not complying with the requirements. However, it is important to note, BSEE does not receive any information from BTS about a single failure report other than the name, submittal date, and reference ID numbers of the report of the reporting company.

BTS maintains the raw data and entity information to allow aggregated reporting. BTS also has measures available under CIPSEA whereby a confidentiality officer from BTS may communicate with a respondent when safety issues of particular concern to subject matter experts arise and warrant immediate action. Thus far, BSEE has observed a close correlation between the companies engaged in drilling activity and those reporting equipment component failures.

Comments Related to Proposed § 250.730(d)—BOP Stack Manufacturing Requirements

Summary of comments: A commenter recommended that BSEE add the phrase ''or stack sub-assemblies'' to the BOP stack manufacturing requirements under § 250.730(d). The commenter asserted that this change would clarify that the rule covers the overall BOP stack and the component assemblies contained within the stack.

• *Response:* BSEE disagrees with this recommendation. The commenter did not provide enough information or justification to substantiate the recommended change. Stack sub-assemblies are part of the BOP stack; therefore it is BSEE's view that they are already covered under these requirements.

Comments Related to Proposed § 250.730(b)—Corrective Maintenance

Summary of comments: A commenter recommended that BSEE remove ''maintenance'' and ''repair'' from the requirement for the operator to follow original equipment manufacturer (OEM) recommendations for the BOP systems in § 250.730(b). The commenter suggested adding ''remanufacture'' to this requirement. According to the commenter, the recommended changes would ensure consistency with API 53, further noting that maintenance is covered in § 250.730(a).

• *Response:* BSEE disagrees with the comment. The OEM designs the equipment according to detailed specifications. Therefore, the OEM recommendations, if they exist, for maintenance and repair are important for ensuring the condition of the equipment remains within the design limits. BSEE is not adding ''remanufacture'' because this is covered under ''repair''.

Comments Related to Proposed § 250.730—Proposed Revisions Reduce Operational Requirements for BOPs

Summary of comments: A commenter asserted that the proposed revisions in § 250.730 would reduce the conditions under which a BOP must function, while increasing the time allowed for operators to investigate and report on a BOP failure. The commenter asserted that the proposed revisions would only require a BOP to be capable of closing and sealing a wellbore ''in the event of flow due to a kick,'' eliminating the existing language that requires a BOP to be capable of closing and sealing the wellbore ''at all times.'' The commenter emphasized that there are other conditions that may necessitate closure and sealing besides a kick, such as an approaching hurricane or a fire or other malfunction. This commenter asserted that the proposed change would substantially narrow the conditions under which a BOP would be required to be capable of closing.

• *Response:* BSEE disagrees. The proposed revisions would not weaken or alter the underlying requirements that the BOP system must be able to function during all operations. This section ensures that the BOP system is designed to close and seal a well in the event of flow from a kick from the well because that is representative of the most critical and challenging circumstances a BOP must address. The operator must verify the ability of the BOP to function during a non-kick event through the regular function and pressure testing as required by final § 250.737. The operator will also still be required to obtain independent third-party certification that the BOP is designed, tested, and maintained to perform under the maximum environmental and operational conditions anticipated to occur at the well under § 250.731.

Comments Related to Proposed § 250.730—Incorporate API Standard 53 Addendum 1 and API Standard 53, 5th Edition

Summary of comments: A commenter recommended that the incorporation by reference of API Standard 53, Blowout Prevention Equipment Systems for Drilling Wells, Fourth Edition, July 2016, should include Addendum 1 of that standard. The commenter also

noted that the 5th edition of that standard is being finalized and recommended that BSEE consider the 5th edition for incorporation by reference to ensure operations on the OCS are conducted according to the latest edition of the API standard for well control systems and are consistent with operations around the world.

• *Response:* BSEE reviewed the addendum and determined it is appropriate for incorporation into the regulations. The addendum addresses multiple issues that BSEE has had to deal with through departures from compliance with the incorporated API Standard 53 (without the addendum) since the development of the 2016 WCR (*e.g.,* section 7.2.3.2.9 Side outlet location and section 7.3.13.2.5 fire rating of MUX lines). The inclusion of the addendum to API Standard 53 brings the regulations in line with the current latest edition of this standard. BSEE understands that API is developing a 5th Edition of API Standard 53, and BSEE will evaluate that document when it is finalized for possible incorporation into the regulations in a future rulemaking.

Comments Related to Proposed § 250.730—Use of OEM Recommended Maintenance Practices

Summary of comments: A commenter asserted that the OEMs do not have operational experience and the type of continuous feedback needed to develop effective maintenance practices to manage assets. The commenter also asserted that because OEMs do not need to worry about rig downtime, they can afford to be conservative. The commenter concluded that this poses a significant risk that the OEM-developed maintenance practices would require the operator to perform unnecessary maintenance and repairs. The commenter also asserted that this practice could result in OEMs leveraging this as an aftermarket revenue generator, and this approach presents a technical barrier to trade and causes a conflict of interest. The commenter generally challenged certain OEM maintenance recommendations, based on proven field results.

• *Response:* This regulation does not require the OEM to perform the maintenance or train the personnel performing maintenance. With regard to the OEM recommendations, operators are required to comply only with applicable OEM recommendations to the extent that they exist. If an operator has a specific issue with OEM recommendations, BSEE may recognize other alternative procedures. OEMs of offshore operational equipment generally maintain close communications with operators and drilling contractors, including coming on location as needed. OEMs develop maintenance procedures through an effective communication program including practices for sharing information under API Standard 53 and through notification requirements under this final rule.

The TBT Agreement seeks to avoid unnecessary obstacles to international trade, in part by requiring that technical regulations and conformity assessment procedures be consistent with international standards promulgated by international standards developing organizations (SDOs). This rule does not create a technical barrier to trade because it is neutral as to the national origin of regulated equipment. The proposed rule did not, and this final rule does not, discriminate in favor of U.S.-fabricated equipment. The final rule is equally applicable to all relevant equipment, regardless of the equipment's country of origin. Accordingly, BSEE's proposed rule did not, and the final rule does not, create an unnecessary technical barrier to trade.

Comments Related to Proposed § 250.730—Use of Word ''applicable'' for Applying OEM Recommendations

Summary of comments: A commenter asserted that ''applicable'' is subjective and the proposed rule is not clear about who determines if an OEM recommendation is applicable. The commenter was concerned that an operator or drilling contractor could decide to simply disregard OEM recommendations as not applicable. The commenter recommended changing the proposed regulations to state that the operator must follow the OEM recommendations unless BSEE directs them otherwise or they receive other directions in writing from the OEM.

• *Response:* BSEE disagrees. As BSEE explained in the proposed rule preamble, and included in the final § 250.730(b) clarifies that BSEE expects the use of ''applicable'' OEM recommendations for the design, fabrication, maintenance, and repair of BOP systems, as well as personnel training in their use. The proposed revision to include ''applicable'' is necessary because some OEMs may not have specific recommendations for every item required by this paragraph, and operators are not required to follow recommendations that are not applicable to the relevant equipment or operation. BSEE expects operators to follow OEM recommendations to the extent relevant recommendations exist.

Comments Related to Proposed § 250.730(a)—Request To Incorporate API RP 59

Summary of comments: A commenter recommended that BSEE incorporate by reference API Recommended Practice 59, Second Edition—Recommended Practice for Well Control, Section 4.4 in § 250.730(a). The commenter asserts that the methodology of API RP 59, section 4.4 focuses on one open hole interval of flow, not on the entire open well bore interval pertinent to the worst case discharge. This addresses the long-standing, safe well control practice of drilling 10 to 20 feet into a drilling break or a prospective hydrocarbon interval, then stopping drilling operations to ''check for flow'' as the proven method of determining a kick in a well.

• *Response:* BSEE will evaluate API RP 59 for possible incorporation by reference in a future rulemaking. Operators should develop appropriate control procedures based on specific well and site conditions and accepted good engineering practices.

Comments Related to Proposed § 250.730—BOP System Requirements

Summary of comments: A commenter strongly opposed the proposed revisions to requirements in §§ 250.730, 250.733, and 250.734 regarding the BOP systems. The commenter expressed concern that the proposed revisions would allow the use of BOPs that cannot close and seal a wellbore under the range of conditions encountered, including high-pressure, high-temperature drilling environments. The commenter noted that the existing language in § 250.730(a) is unambiguous regarding the key capabilities of the BOP system, stating that the BOP system is required to be able to close and seal the wellbore at all times. The commenter asserted that the proposed rule would weaken this language by specifying only certain circumstances in which the BOP system must function, *i.e.,* only in the event of flow due to a kick.

• *Response:* BSEE disagrees. The revisions do not weaken or alter the underlying requirement that the BOP system must be able to function during all operations. This section specifically ensures that the BOP system is designed to close and seal a well in the event of flow from a kick from the well because that is representative of the most critical and challenging circumstances a BOP must address. The operator is required to verify the ability of the BOP to operate in a non-kick event through regular function and pressure testing required by § 250.737. The regulation

still requires that the operator obtain independent third-party certification that the BOP is designed, tested, and maintained to perform under the maximum environmental and operational conditions anticipated to occur at the well under § 250.731.

What information must I submit for BOP systems and system components? (§ 250.731)

This section of the existing regulations details the information that must be included in the applicable BSEE permit (*e.g.,* APD or APM) for any operation that uses a BOP. The required information includes a complete description of the BOP system and system components, schematic drawings, and verifications demonstrating that the BOP is fit for service on the applicable well.

Summary of Proposed Revisions

BSEE proposed to revise the information submitted to BSEE pursuant to paragraph (a)(5) by replacing ''to achieve an effective seal of each ram BOP'' with ''to close each ram BOP.'' This revision would affect information submitted to BSEE and would more accurately align with the control system and regulator control setting requirements of API Standard 53.

BSEE also proposed to revise this section by removing the BAVO verification requirements in existing paragraphs (d) and (f). The BAVO verifications required by existing paragraphs (d)(1) and (d)(3) were redundant to the verifications required by paragraph (c). However, the verifications required by current paragraph (d)(2) are still necessary and BSEE therefore proposed to add them to revised paragraph (c). BSEE proposed to remove paragraph (f) because the Report that is the subject of that paragraph would be eliminated by the proposed revisions to § 250.732(d). The independent third-party verifications under paragraph (c) help ensure that the BOP is fit for service at each specific well. BSEE also proposed to revise this section by replacing references to a BAVO with references to an independent third party that meets the requirements of § 250.732(b).

Summary of Final Rule Revisions

BSEE received and considered comments on the proposed revisions and includes the proposed language in the final rule without change.

Summary of Comments

Comments Related to Proposed § 250.731(a)(5)—Regulator Set Points

Summary of comments: Multiple commenters asserted that there is a difference between sealing and closing in this context and requested clarification on the intent of the regulation. Commenters expressed concerns with BSEE's explanation and reference to API Standard 53 to adequately clarify the intent. Commenters also requested justification for the removal of the word ''effective''.

• *Response:* BSEE does not agree with the comments. Paragraph (a)(5) principally identifies information that must be submitted to BSEE for BOP systems and system components. Subsequent sections regulate operational and equipment requirements for these systems and components. BSEE used the term ''close'' because the regulator settings are not changed throughout operations. The requirements of paragraph (a)(5) only relate to the regulator set points, and do not alter any of the ram operational requirements contained in §§ 250.733 and 250.734 for surface and subsea BOPs, respectively. Some of the rams do not seal, such as the casing shear ram, and BSEE utilizes this data in the permit application to evaluate ram closing and sealing capabilities. The word ''effective'' in this context is not necessary and does not provide any supplemental regulatory standard.

Comments Related to Proposed § 250.731(c)—Applicability to Coiled Tubing

Summary of comments: A commenter requested clarification about the applicability of paragraph (c) to coiled tubing. The commenter also asserted that § 250.731(c)(1) can be interpreted to mean that a shear test at depth is required. In reality, the depth adjustment is a calculation based on different densities of hydraulic fluid and seawater. The commenter, therefore, recommended adding the words ''and depth'' to § 250.732(a)(3) so that the provision states, ''Include shearing and sealing pressures for all pipe to be used in the well including correction for MASP and depth.'' The commenter also suggested removing § 250.731(c)(1).

• *Response:* Section 250.731(c) applies to coiled tubing; however, § 250.731(c)(4) is only applicable to the specified situations (subsea BOP, a BOP in an HPHT environment, or a surface BOP on a floating facility). BSEE disagrees with the suggestion to add the term ''and depth'' because the definition of MASP already takes into account depth, whether at surface or subsea. BSEE also disagrees with the recommendation to revise § 250.732(a)(3) and remove § 250.731(c)(1) because the requirements in § 250.732 are utilized to provide supporting documentation for the verifications required in § 250.731.

What are the independent third party requirements for BOP systems and system components? (§ 250.732)

This section of the existing regulations describes the criteria for an organization to become a BAVO, and identifies the circumstances in which an operator must use a BAVO to satisfy certification, verification, or reporting requirements.

Summary of Proposed Revisions

BSEE proposed to revise this section by removing all references to a BAVO and, where appropriate, replacing those references with an independent third party. This change would also be made in appropriate locations throughout Subpart G where BAVOs are referenced. Independent third parties have been utilized as a long-standing industry practice to carry out certifications and verifications similar to those that a BAVO would perform. Independent third parties have been performing the functions identified for BAVOs since promulgation of the 2016 WCR. Based on BSEE's determination to remove the use of BAVOs, as previously discussed under section IV of this final rule preamble, BSEE revised the section heading to reflect the change from a BAVO to an independent third party, removed paragraphs (a)(1) and (a)(3), and replaced all remaining BAVO references with references to an independent third party. The independent third-party qualifications in existing paragraph (a)(2) remain in this section, but would now be in proposed paragraph (b).

BSEE also proposed to remove the requirements in current paragraph (b)(1)(iv) to verify that testing was performed on the outermost edges of the shearing blades of the shear ram positioning mechanism. This proposed change would align the verification requirements with BSEE's proposal to remove the centering mechanism requirement from existing § 250.734(a)(16) that is the subject of this verification. BSEE also proposed to remove from existing paragraph (b)(1)(i)—a vestigial reference to a compliance deadline that has already passed. This is merely an administrative revision.

BSEE also proposed to revise existing paragraph (b)(2)(ii) by changing the testing facilities' verification pressure testing hold time demonstration from 30 minutes to 5 minutes. This revision would allow the use of previously established historical data to help demonstrate the blind shear ram functionality in the applicable permit application.

BSEE proposed to make a minor revision to paragraph (c) to update an incorrect citation—the referenced definition of HPHT environments is found in § 250.804(b), rather than § 250.807(b), as stated in the existing regulations.

BSEE proposed to remove the Mechanical Integrity Assessment (MIA) report requirements from paragraph (d). The MIA report was required as a function of the use of BAVOs. BSEE determined that an MIA report is no longer necessary because BSEE proposed to eliminate the use of BAVOs and the information contained within the MIA report is redundant with the BOP equipment capability verifications required by § 250.731.

Summary of Final Rule Revisions

BSEE received and considered comments on the proposed revisions, and includes in the final rule most of the proposed language without change, except for the following revisions. BSEE is revising proposed paragraphs (a)(1)(i) and (iii) and (iv) (final paragraphs (a)(1)(i) and (iii) and (v)) by replacing ''drill pipe'' with ''tubular body of any drill pipe (excluding tool joints, bottom-hole tools, and bottom hole assemblies such as heavy-weight pipe or collars), workstring, tubing and associated exterior control lines and any electric-, wire-, and slick-line to be used in the well.'' BSEE made these revisions to provide consistency with the shearing requirements of §§ 250.733(a)(1) and 250.734(a)(1)(ii). This clarification would help ensure that the shear testing applies to the required equipment that needs to be shearable. This revision does not add new equipment required for shear testing, but instead clarifies BSEE's established practice.

BSEE also is re-designating proposed paragraphs (a)(1)(iv) and (a)(1)(v) as (a)(1)(v) and (a)(1)(vi) respectively, and retaining (in large part) existing paragraph (b)(1)(iv) as new (a)(1)(iv) to ensure that testing is performed on the outermost edges of the shearing blades of the shear ram. This retention was based on comments, and modifies the existing text of the relevant provision only to remove reference to the shear ram positioning mechanism that is no longer required under the cross-referenced regulation. BSEE is retaining in § 250.734(a)(16)(i) the centering requirement for shearing, but not requiring that it utilize a positioning mechanism. BSEE is making corresponding edits to this section to help ensure the shearing verifications and certifications align with the revised shearing requirements. This requirement helps verify that the shear rams will shear along any point of the shearing surface.

BSEE is revising proposed paragraph (a)(2) to clarify that the pressure integrity test applies to sealing components. A pressure integrity test for a non-sealing component is not practicable or feasible. BSEE is also revising proposed paragraph (a)(2)(i) to indicate that testing is conducted after the shearing is completed and prior to opening. BSEE made this revision based on comments to provide clarity for defining how the verification is conducted. BSEE revised this section to help ensure that the testing is accomplished in one continuous action to better simulate sealing after shearing in real-world well control applications.

Summary of Comments

Comments Related to Proposed § 250.732(a)(1)—Definition of Drill Pipe

Summary of comments: A commenter asserted that the use of the word ''drill pipe'' throughout § 250.732(a) is not complete. The commenter recommends that BSEE include terms, such as coiled tubing, shear subs, and landing strings in this section for completeness.

• *Response:* BSEE agrees with the commenter and has revised proposed paragraphs (a)(1)(i), (iii), and (v) by replacing ''drill pipe'' with ''tubular body of any drill pipe (excluding tool joints, bottom-hole tools, and bottom hole assemblies such as heavy-weight pipe or collars), workstring, tubing and associated exterior control lines and any electric-, wire-, and slick-line to be used in the well.'' These revisions make these testing requirements consistent with the shearing requirements of §§ 250.733(a)(1) and 734(a)(1)(ii). This clarification will help ensure that the shear testing applies to the required equipment that needs to be shearable.

Comments Related to Proposed § 250.732(a)(2)(i)—Pressure Integrity Testing Procedures

Summary of comments: A commenter recommended that BSEE remove ''immediately'' and add ''after the shearing is completed and prior to opening the rams'' to provide clarity to the pressure integrity testing.

• *Response:* BSEE agrees with the commenter and has revised this paragraph to reflect the commenter's recommendation, except that we have used the phrase ''prior to opening the component.'' BSEE revised this paragraph to help ensure that the testing is done in one continuous action to better simulate sealing after shearing in real world well control applications.

Comments Related to Proposed § 250.732(a)(2)(ii)—Lab 30 Minute vs 5 Minute Pressure Hold Time

Summary of comments: Multiple commenters oppose the proposed replacement of the existing requirements in § 250.732(b)(2)(ii) of a 30-minute hold time for a verification pressure test with the proposed § 250.732(a)(2)(ii) a 5-minute hold time. The commenters asserted that a 30-minute test is an established practice according to various standards organizations, and therefore the commenters see no reason for the change. The commenters also asserted that BSEE does not provide any analysis or data to support this change and should make any data available.

• *Response:* BSEE does not agree that holding a constant pressure for 30 minutes is necessary to demonstrate sealing capabilities. Based on BSEE experience since the promulgation of the 2016 WCR and a review of longstanding historical data demonstrating successful application of 5 minute hold time testing, BSEE concluded that 30 minute testing is unnecessary. BSEE is unaware of standards referencing a standardized 30-minute lab test pressure holding time for BOP shearing verification. However, BSEE is aware of an industry standard, API 16TR1, *Shear Ram Performance Test Protocol,* that includes field performance testing and specifies a 5 minute pressure hold time after shearing pipe. BSEE reviewed the publicly available incident data on the BSEE website to try to identify any past incidents involving failure of equipment after successfully sealing in a well, but was unable to identify any such incidents. BSEE is also unaware of any data showing lab failures during the hold times between the 30-minute and 5-minute intervals. BSEE also reviewed permits issued prior to 2010 to verify the historic lab shear and seal data hold times. Of the permits reviewed, pressure hold times did not indicate any failures after the 5-minute mark. BSEE uses this 5 minute testing data to verify that the component will provide a seal when activated.

Comments Related to Proposed § 250.732—BAVOs

Summary of comments: A commenter expressed concerns about the removal of the BAVO and MIA report. A commenter recommended that in the absence of the BAVO and MIA report requirements, it is critical that BSEE ensure strict compliance with all third-party certification requirements, including the BOP equipment capability verifications required by § 250.731.

• *Response:* BSEE agrees with the commenter that it is important to ensure compliance with independent third-party certification and verification requirements. In final § 250.731(c), BSEE requires certifications by an independent third party, in lieu of a BAVO, that include verification, for a subsea BOP, a BOP in an HPHT environment as defined in § 250.804(b), or a surface BOP on a floating facility, that the BOP has not been compromised or damaged from previous service. BSEE expects full compliance with these certification requirements, regardless of who is performing the certification. The requirements of § 250.731 adequately cover the substance of the matters previously addressed in the MIA report, and BSEE expects that independent third parties will capably perform the same functions previously assigned to BAVOs, as they have since promulgation of the 2016 WCR.

Summary of comments: Multiple commenters oppose the proposed revisions to remove the BAVO, and recommend that the companies that operators use to assess blowout preventers should continue to be BSEE-certified. The commenters assert that this is important to ensure that reviews of important equipment are objective and standardized through the use of BSEE-certification of third-parties.

• *Response:* BSEE disagrees that BSEE needs to certify the parties used to assess blowout preventers. BSEE is maintaining rigorous qualification requirements for independent third parties that ensure their professional qualification and independence. The independent third party must be a technical classification society, or a licensed professional engineering firm, or a registered professional engineer capable of providing the required certifications and verifications. If BSEE becomes aware of any performance issues with an independent third party, BSEE has options for addressing the issues (*e.g.,* verifications through the permitting process).

Comments Related to Proposed § 250.732—MIA Report Content

Summary of comments: A commenter suggested that specific items in the MIA report are not redundant of other requirements and should be included in the regulations (*e.g.,* existing §§ 250.732(d)(5), 250.732(d)(8), 250.732(d)(9), 250.732(d)(11), and 250.732(d)(13)).

• *Response:* BSEE disagrees with the suggested changes. The MIA report content is not only redundant of § 250.731, but also of other independent third-party reviews, certifications, and verifications required in §§ 250.734, 250.738, and 250.739, as well as personnel operational requirements in existing § 250.710, *What instructions must be given to personnel engaged in well operations?* among others. It is not necessary to retain the identified elements of the MIA report.

What are the requirements for a surface BOP stack? (§ 250.733)

This section of the existing regulations describes the capability, type, and number of BOPs required when an operator uses a surface BOP stack for drilling or for conducting operations. This section also describes the requirements for the risers and BOP stack when a surface BOP is used on a floating production facility.

Summary of Proposed Revisions

BSEE proposed to revise paragraph (a)(1) by removing the reference to an extended time for compliance with exterior control line shearing requirements under the 2016 WCR, which has elapsed and no longer warrants reference in the regulations. BSEE also proposed to remove the requirement to have an alternative cutting device used for shearing electric-, wire-, or slick-line if your blind shear rams are unable to cut and seal under maximum anticipated surface pressure (MASP).

BSEE also proposed to revise paragraph (b)(1) by extending the compliance date from April 29, 2019, to April 29, 2021, to correspond with the same requirements for subsea BOP stacks. This revision would align the dual shear ram requirements for surface BOPs installed on floating facilities and subsea BOPs. Aligning these dates will reduce confusion between the different effective dates of the similar requirements for surface BOPs used on floating facilities and subsea BOPs.

BSEE proposed to add new paragraph (e) to clarify the minimum requirements of a surface BOP system for well-completion, workover, and decommissioning operations where estimated well pressures are low. The provisions in this proposed paragraph were inadvertently removed from the regulations through the 2016 WCR, and are consolidated from §§ 250.516, 250.616, and 250.1706 of the regulations as they existed before the 2016 WCR. BSEE proposed minor revisions to the original language to conform to the applicable operations covered under revised Subpart G and to update cross-referenced citations.

Summary of Final Rule Revisions

BSEE received and considered comments on the proposed revisions and includes in the final rule most of the proposed language without change, except for the following revisions. BSEE is revising paragraph (a)(1) by adding: ''Prior to April 29, 2021, if your blind shear rams are unable to cut any electric-, wire-, or slick-line under MASP as defined for the operation and seal the wellbore, you must use an alternative cutting device capable of shearing the lines before closing the BOP. This device must be available on the rig floor during operations that require their use.'' BSEE is retaining the alternative cutting device requirements, similar to those found in existing regulations, based on comments. As many commenters stated, BSEE is aware that not all OEMs currently offer wireline cutting capability for all BOP sizes and rated working pressures. This addition is necessary to ensure that a device capable of cutting wire is available to help ensure sealing efficiency. BSEE is limiting this requirement to the window prior to April 29, 2021, because, after that point, shear rams must be capable of shearing wire. Since the publication of the proposed rule, BSEE has discussed these shearing requirements with relevant OEMs and has determined that the technology currently exists, but is not yet available for commercial off-the-shelf use.

BSEE is also revising paragraph (b)(1) to clarify that, after April 29, 2021, operators must follow the BOP requirements in § 250.734(a)(1) for new floating production facilities installed with a surface BOP. These revisions are based on comments seeking clarity. Since the publication of the 2016 WCR, including in the comments for this rulemaking, stakeholders have expressed confusion about the requirements in this section that reference § 250.734 regarding dual shear rams, which do not take effect until 2021. BSEE is making the compliance date of April 29, 2021 the same for §§ 250.733(b)(1) and 250.734(a)(1) to

avoid confusion. This will apply only to new floating production facilities with a surface BOP, and the expected number of those types of facilities is minimal. The intent of the proposed rule was for the requirements to apply to new facilities installed after 2021. These regulations do not apply to existing facilities, even if they are redeployed at another location because of several issues, including, but not limited to, clearance and weight issues.

BSEE is revising proposed paragraph (e)(4) to clarify that the drill string should include the drill pipe, work string, or tubing, depending on the operation. Based on BSEE's review of the proposed rule and submitted comments, this clarification will help ensure the set of pipe rams can seal around drill pipe, work string, or tubing. When conducting well completions, workover, and decommissioning operations, there are many types of equipment that are run in the hole through the BOP. This requirement reflects longstanding and current BSEE practice. This revision does not change or affect an operator's burden, as it is currently reflected in operational practice and does not add new equipment required for shear testing. The revision simply clarifies current, longstanding BSEE practice.

Summary of Comments

Comments Related to Proposed § 250.733—Compliance Dates

Summary of comments: A commenter suggests that it would be preferable to apply the April 2019 deadline for surface BOPs to both subsea and surface BOPs.

• *Response:* BSEE disagrees that the compliance dates for subsea BOP dual shear ram requirements should be 2019, because there would not be sufficient time to install and implement the required equipment modifications. BSEE understands that there is potential confusion about the compliance date applicable to this section's reference to the dual shear ram requirements of § 250.734, because those requirements do not take effect until 2021. Therefore, BSEE is making the compliance dates of April 29, 2021 the same for §§ 250.733(b)(1) and 250.734(a)(1) to avoid confusion. This requirement only applies to newly installed floating production facilities that use a surface BOP.

Comments Related to Proposed § 250.733(e)—5K Systems

Summary of comments: A commenter asserted that there are differences and confusion between the regulations pertaining to 5,000 psi (5K) systems and API Standard 53. The commenter recommended that BSEE align those regulations with API Standard 53 to avoid confusion.

• *Response:* BSEE agrees that there are differences between the regulations and API Standard 53; furthermore, BSEE does not agree with using the API Standard 53 options for stack arrangements for 5K systems. Paragraph (e) applies to well-completion, workover, and decommissioning operations.

Comments Related to Proposed § 250.733(b)(1)—Floating Facilities

Summary of comments: Multiple commenters assert that paragraph (b)(1) is applicable only to new floating production facilities.

• *Response:* BSEE agrees with the commenters and has revised proposed paragraph (b)(1) to clarify its applicability only to new floating production facilities installed after April 29, 2021, that use a surface BOP.

Comments Related to Proposed § 250.733(a)(1)—Alternative Cutting Device

Summary of comments: Multiple commenters oppose removing the alternative cutting device requirement, as there are no qualified OEM blind shear rams for certain BOPs. Commenters assert that the alternative cutting device is considered necessary to meet the requirement and considered part of the BOP system; therefore, BSEE must allow the alternative cutting device. A commenter also suggested that BSEE should allow the use of the alternative cutting device prior to April 29, 2021, and, after this date, require that the shearing rams be capable of shearing the wire.

• *Response:* BSEE agrees with the commenters and has added back in the provisions related to the alternative cutting device to paragraph (a)(1). BSEE is aware that not all OEMs currently offer wireline cutting capability for all BOP sizes and rated working pressures. As encouraged by Congress [31] to ensure that offshore operations promote safety and protect the environment in a technically feasible manner, this addition is necessary to ensure that a device capable of cutting wire is available to ensure sealing efficiency. Consistent with an option discussed in the proposed rule to extend the compliance date, BSEE is limiting the timeframe for allowing the alternative cutting device. The cutting device may only be used until April 29, 2021, after which the shear rams must be capable of shearing wire.

Comments Related to Proposed §§ 250.733 and 250.734—Dual Blind Shear Rams

Summary of comments: Multiple commenters recommended that BSEE require dual blind shear rams. The commenters assert that blind shear rams provide an extra layer of safety because they are designed to be capable of sealing and shearing the drill pipe during active drilling.

• *Response:* BSEE disagrees with the recommendation to require dual blind shear rams. Other shearing rams have other shearing utility besides shearing the listed components in §§ 250.733 and 250.734 (*e.g.,* the casing shear ram is still necessary to shear casing, which the BSR cannot shear). The current regulations provide the operators flexibility for how they utilize the BOP system and components for operations, while still requiring all critical shearing capabilities. This final rule does not change the requirement for operators to utilize dual shear rams by 2021, and does not require both shear rams to seal.

What are the requirements for a subsea BOP system? (§ 250.734)

This section of the existing regulations identifies the requirements of a subsea BOP system used for drilling or to conduct operations. The section describes the requirements for subsea BOP system capabilities, as well as the functionality, type, and quantity of required equipment (*e.g.,* BOPs, pod control systems, accumulator capacity, ROVs, autoshear and deadman, acoustic control system, and management and operating protocols). This section also describes the actions that an operator must take if it suspends operations to repair the subsea BOP system.

Summary of Proposed Revisions

BSEE proposed to revise paragraph (a)(1)(ii) by providing that a ''combination of the'' shear rams must be capable of shearing all the items specified in the paragraph. This revision would have aligned the functionality of the BOP system with API Standard 53 and proposed § 250.730(a). BSEE explained that certain casing shears still have difficulty shearing electric-, wire-, or slick-line, while certain blind shear rams have difficulties shearing larger casing sizes. This proposed revision would have provided the operators flexibility in designing the BOP system and components for operations while still ensuring all critical shearing capabilities. BSEE further proposed to revise paragraph

[31] See n. 10, supra.

(a)(1)(ii) by removing references to the extended compliance dates for certain shearing requirements under the 2016 WCR, which have passed and no longer warrant reference in the regulations.

BSEE proposed to revise the accumulator requirements in paragraph (a)(3) to better align with API Standard 53. BSEE also proposed to remove the reference to the subsea location of the accumulator capacity. BSEE understands that the accumulator system works together with the surface and subsea accumulator capacity to achieve full functionality, and BSEE proposed that it would be unnecessary for this provision to identify only subsea requirements when the entire system is covered under API Standard 53.

BSEE proposed to revise paragraph (a)(3)(i) by clarifying that the accumulator capacity must be sufficient to close each required shear ram, ram locks, and one pipe ram and to disconnect the LMRP. During a well control event, the most critical functions would be to close the BOP components and seal the well.

BSEE proposed to revise paragraph (a)(3)(ii) to clarify that the accumulator capacity must have the capability to perform the ROV functions within the required times specified in API Standard 53 using the ROVs or flying leads. These revisions were proposed to better align this section with API Standard 53, and to account for technological advancements in ROV capabilities to meet the appropriate BOP closing times.

BSEE proposed to revise paragraph (a)(3)(iii) by removing the word ''dedicated'' before bottles, thus allowing bottles to be shared among emergency and secondary control system functions to secure the wellbore. This revision would further align the accumulator capacity requirements with API Standard 53, account for the appropriate number of accumulator bottles on the subsea BOP stack, help ensure that the regulatory requirements do not exceed the operational or mechanical design limits of the wellhead and BOP systems, and help minimize risks associated with approaching those design limits.

BSEE also proposed to revise paragraph (a)(4) by removing the word ''opening'' and adding references to the ROV function response times contained in API Standard 53. After publication of the 2016 WCR, the API Standard 53 committee clarified that standard's definition of ''operate,'' with respect to critical functions, included only the ''close'' function and not the ''open'' function. Removal of the ROV ''open'' function could limit the ability for well intervention after the well has already been secured. However, it would not affect or decrease the ROV's ability to close the required components for well control purposes. During a well control event, the most critical functions would be to close the BOP components and seal the well.

BSEE also proposed to revise paragraph (a)(4) by requiring the ROV to function the appropriate BOP component within the required response time contained in API Standard 53. BSEE proposed to revise this paragraph not only to better align it with API Standard 53, but also to account for recent technological advancements in ROV capabilities to meet the appropriate BOP closing times. BSEE is aware that operators currently use high flow rate ROVs to meet the BOP component closing times of API Standard 53.

BSEE proposed to incorporate the latest edition (*i.e.,* the 2nd edition) of API RP 17H in proposed paragraph (a)(4). BSEE explained that there is a conflict between the ANSI/API RP 17H 1st edition, as incorporated by reference in the 2016 WCR, and the API Standard 53 ROV requirements. The 2nd edition of API RP 17H eliminates the conflict with API Standard 53. By incorporating by reference the 2nd edition of API RP 17H, BSEE would ensure that the appropriate methods are utilized to comply with the API Standard 53 ROV closure timeframe of 45 seconds.

BSEE proposed to revise paragraph (a)(6)(iv) by clarifying that the autoshear/deadman functions must be able to close, at a minimum, two shear rams in sequence, but do not need to operate every emergency function. Closing two shear rams in sequence may not be advantageous for certain Emergency Disconnect Sequence (EDS) functions, as discussed in the proposed rule (83 FR 22140).

BSEE proposed to revise paragraph (a)(16) by removing references to the centering mechanism and the ability to mitigate compression of the pipe between the shear rams in paragraphs (a)(16)(i) and (ii), respectively. Many of the shear ram designs have improved the shearing capabilities to help ensure the shearing is conducted on the appropriate shearing area of the shear blades.

BSEE proposed to revise paragraph (b)(1) by replacing the BAVO references with references to an independent third party.

BSEE also proposed to revise paragraph (b)(2), redesignate existing paragraph (b)(3) as (b)(4), and add new paragraph (b)(3) in order to include provisions for testing the applicable BOP or LMRP upon relatch of the BOP or LMRP to the well. BSEE proposed these revisions to codify longstanding BSEE policy and to clarify testing requirements when an operator has returned to the well location and relatched the BOP or LMRP to the well. These tests would help confirm that the BOP or LMRP is properly functional prior to resuming operations after the BOP or LMRP is removed.

Summary of Final Rule Revisions

BSEE received and considered comments on the proposed revisions and includes most of the proposed language in the final rule without change, except for the following revisions.

BSEE is not finalizing the proposed revisions to paragraph (a)(1)(ii) and is keeping many of the existing requirements, except for the references to the now-past compliance date from the 2016 WCR. This change from the proposed rule is based on BSEE's consideration of comments received and on BSEE's understanding concerning the importance of shearing redundancy. It is also based on BSEE's recognition that the proposed language would have permitted reliance on a ''combination'' of shear rams, which would have created some potential ambiguity regarding the number of rams subject to this shearing requirement.

BSEE revised final paragraph (a)(3)(iii) by removing the extended compliance date and clarifying that the accumulator bottles for autoshear and deadman must be located subsea. Based on comments received, BSEE is removing the existing compliance date of April 29, 2021, for this provision because an extension of time is no longer necessary due to the current operational abilities of the accumulator systems. The autoshear/deadman systems are functions not controlled by surface personnel and are essentially considered failsafe. The bottles need to be located subsea to ensure there is enough fluid and pressure to operate the associated respective functions. BSEE revised final paragraph (a)(4) by clarifying that the operator must have the ROV intervention capability to close the identified BOP components. This revision is based on comments received and will help ensure that the BOP components can be properly functioned, if necessary, through the use of an ROV hot stab. BSEE emphasizes that the response times are a critical function of the ROV capabilities; BSEE does not want to limit the options available to function the required BOP components. The use of flying leads, a Subsea Accumulator Module (SAM) unit, or a

high flow ROV can all meet the required component closing time. This revision is consistent with a BSEE Q and A posted on BSEE's website at *https://www.bsee.gov/guidance-and-regulations/regulations/well-control-rule.*

BSEE also revised paragraph (a)(6)(iv) by adding ''and an EDS mode'' after ''functions.'' This revision is based on BSEE's consideration of comments and is intended to clarify that an EDS mode must be able to shear in an emergency situation. This is also consistent with guidance provided in the BSEE Q and As posted on BSEE's website at *https://www.bsee.gov/guidance-and-regulations/regulations/well-control-rule.*

Based on consideration of comments, BSEE is revising paragraph (a)(6)(v) to retain a modified version of the existing requirement that the sequencing must allow a sufficient delay when closing two shear rams in order to provide maximum sealing efficiency. Due to the various BOP configurations across industry, BSEE wants to provide clarity about how the BOP systems should function properly to achieve necessary shearing and sealing during a well control event.

Based on consideration of comments received, BSEE is revising paragraph (a)(16)(i) to preserve a modified version of the existing requirement for operators to have the capability to position the entire pipe completely within the area of the shearing blade. This capability cannot be another ram BOP or annular preventer, but these may be used during a planned shear. BSEE recognizes that the technology exists to help ensure the pipe is positioned within the shear surface to optimize shearing capabilities. BSEE agrees with some commenters that, even though this technology exists, the proposed rule's wholesale removal of the positioning requirement did not specifically require the use of such technology. BSEE is restoring the requirement to have the capability to position the pipe within the shearing blade; however, BSEE does not require this to be achieved with a separate mechanism and allows use of the shear ram. As encouraged by Congress [32] to ensure that offshore operations promote safety and protect the environment in a technically feasible manner, BSEE does not want to limit the use of improved technological advancements in shear blade designs. BSEE retained the compliance date of May 1, 2023, associated with the original centering mechanism requirement.

BSEE is also revising paragraph (b)(1) to require operators to submit a revised permit with a written statement from an independent third party documenting the BOP system repairs and certifying that the previous certification, required in § 250.731(c), remains valid. This revision is necessary for consistency with similar requirements and revisions based on BSEE's consideration of comments received on proposed § 250.720. This revision will provide BSEE with additional assurance that the related equipment is fit for service upon relatch of the BOP to the well, and will reflect current BSEE practice. The type of information required within this new submittal is similar to the type of information operators submit with their original required BSEE permits. This revision helps provide assurance that there is a current certification of the BOP and provides consistent documentation of recertification. BSEE includes the proposed language for paragraphs (b)(2) and (3) in the final rule without change.

Summary of Comments

Comments Related to Proposed § 250.734—(Dual Shear Rams)

Summary of comments: Numerous commenters opposed the proposed elimination of the existing requirement that both shear rams be capable of shearing certain equipment in the hole and the proposal to replace that requirement with a requirement that a combination of shear rams be capable of shearing the equipment. The commenters asserted that this proposed change would weaken the regulations and negatively impact safety because it would not provide for a fully redundant shear ram as a backup. The commenters also asserted that the proposed revision would not account for situations in which one of the shear rams malfunctions. One of these commenters requested an explanation from BSEE as to why requiring only one shear ram to seal under MASP is acceptable. Another commenter suggested that the regulations should prescribe a minimum design basis capability for shear rams, along with a clear date for compliance.

• *Response:* BSEE agrees with the comments about the utility of redundant shear rams and is revising the proposed requirement in § 250.734(a)(1)(ii) that a ''combination of the shear rams must be capable of . . .'' to preserve in the final rule the existing requirement that ''[b]oth shear rams must be capable of . . . .'' This revision will keep that portion of paragraph (a)(1)(ii) as it is in the existing regulations. BSEE's analysis is set forth in further detail above at Section III.B.3. BSEE may consider possible revisions to this provision in future rulemakings.

Comments Related to Proposed § 250.734(a)(3)(iii)—Compliance Date for Shared Accumulator Bottles

Summary of comments: A commenter questioned whether the reference to the April 29, 2021, date is necessary if there is no longer a requirement to have dedicated bottles in the accumulator system.

• *Response:* BSEE agrees with the commenter and removed the reference to the compliance date of April 29, 2021 from final § 250.734(a)(3)(iii). BSEE is removing the compliance date because no extension of time is necessary due to the current operational capabilities of the accumulator systems.

Comments Related to Proposed § 250.734(a)(6)(v)—Shearing Risk Assessment

Summary of comments: A commenter suggested that a risk assessment should be performed to ensure the fish of the sheared tubular is clear of the blind ram while it is trying to close. For example, the commenter asserted, if the drill pipe was in compression and the sequence was casing shear ram (CSR) then BSR, the BSR would not be closing on an open hole due to fact that it must be located above the CSR. The commenter also requested clarification that, for emergency functions, no additional steps can be taken (such as lifting the drill pipe, hanging off on pipe rams, etc.).

• *Response:* BSEE does not agree with the suggestion that a risk assessment should be required for shearing procedures. However, an operator may use a risk assessment to help identify the actions by personnel required in the well control plan in accordance with § 250.710, *What instructions must be given to personnel engaged in well operations?* The regulations also require that the well control plan contain specific procedures regarding how operators would seal the wellbore and shear pipe, including what to do when non-shearables are located across a BSR.

Summary of comments: A commenter suggested adding a requirement that a single shear ram, or a combination of shear rams, must be capable of performing the shearing tasks.

• *Response:* BSEE does not agree with the suggested revision. BSEE is keeping the existing provision in § 250.734(a)(1)(ii) that requires both shear rams to be capable of shearing the specified components. The suggested

[32] See n. 10, supra.

revisions would not support a fully redundant shear ram in the event one shear ram is unable to function. BSEE may evaluate revisions to this provision in future rulemakings.

Comments Related to Proposed § 250.734—Centering Pipe While Shearing

Summary of comments: Several commenters supported removing the requirement to have a centering mechanism to center the drill pipe prior to shearing. Those same commenters, however, disagreed with the need for prescriptive design requirements for the shear ram, since those requirements are already adequately addressed in ANSI/API Spec. 16A 4th Edition—*Specification for Drill-through Equipment.*

• *Response:* BSEE disagrees in part and agrees in part. BSEE is retaining the requirement that operators have the capability to position the pipe within the shearing blade; however, BSEE does not require this to be achieved with a separate mechanism and will allow this capability to be established with the shear ram. BSEE recognizes that the technology exists to help ensure the pipe is positioned within the shear surface to optimize shearing capabilities. The proposed rule, however, did not specifically require the use of such centering technology. As encouraged by Congress [33] to ensure that offshore operations promote safety and protect the environment in a technically feasible manner, BSEE agrees with the importance of such capabilities, but does not want to limit the use of improved technological advancements in shear blade designs. For further analysis, see Section III.B.2. BSEE currently incorporates ANSI/API Spec. 16A, Third edition in § 250.198.

Summary of comments: Numerous commenters disagree with eliminating the requirement for a drill pipe centering mechanism. These commenters cite numerous reasons for why they disagree, including that the need for a centering mechanism was a lesson learned from the *Deepwater Horizon* investigation, and that the existing shear rams that do not use newer technology would not be able to center the drill pipe. One of these commenters suggests that using the newer shearing blades that can center a pipe should be a baseline requirement, and that a specific timeframe for compliance should be established. The commenters also question whether the agency has sufficient experience with implementing the centering mechanism requirement of the 2016 WCR, because that requirement is not currently in effect. One commenter agrees that a centering mechanism is not necessary, but asserts that there should be a requirement for the capability to shear the tubular in any position in the wellbore.

• *Response:* BSEE agrees with the comments about the importance of requiring pipe centering capabilities, and is retaining the requirement that operators have the capability to position the pipe within the shearing blade. However, BSEE will not find it necessary for this to be achieved with a separate mechanism and will allow this capability to be established with the shear ram (*e.g.,* shear ram blade design). BSEE recognizes the technology exists to help ensure the pipe is positioned within the shear surface to optimize shearing capabilities. The proposed rule, however, did not specifically require the use of such centering technology. As encouraged by Congress [34] to ensure that offshore operations promote safety and protect the environment in a technically feasible manner, BSEE agrees with the importance of such capabilities, but does not want to limit the use of improved technological advancements in shear blade designs. For further analysis, see Section III.B.2.

Comments Related to Proposed § 250.734—Emergency Functions—EDS, Autoshear/Deadman

Summary of comments: One commenter asserts that the justification for eliminating the requirement for the Emergency Disconnect Sequence (EDS) system to be capable of closing two shear rams in sequence is inadequate because the proposed revisions would not sufficiently address how shear ram closure will be assured when an EDS occurs.

• *Response:* BSEE has revised paragraph (a)(6)(iv) by adding ''and an EDS mode'' after ''functions'' to provide clarity about how the BOP systems should function properly to achieve necessary shearing and sealing. This revision is based on BSEE's consideration of comments and is intended to clarify that an EDS mode must be able to shear in an emergency situation. BSEE wants to ensure optimal shearing and sealing functionality during a well control event. Depending on the rig operations, operators develop different EDS modes that would function different BOP components at appropriate times. The selection of the EDS mode and the specific sequencing of emergency functions should be developed by the operator based on safety considerations and an operational risk assessment. The EDS mode is a separate type of emergency function from the autoshear/deadman. EDS is a function that is manually initiated and operated by rig personnel and involves a controlled disconnect.

Summary of comments: Multiple commenters support the requirement that the autoshear/deadman systems close, at a minimum, two shear rams in sequence. A commenter proposed to add that: The sequence should allow a sufficient delay to complete the shearing function before sealing and that a risk assessment should be performed to ensure no conditions exist where the sealing rams would be expected to shear after the non-sealing ram shears, and no additional procedures, such as lifting the drill pipe, can be performed for emergency systems.

• *Response:* BSEE has revised paragraph (a)(6)(v) to retain a modified version of the existing requirement that the sequencing must allow a sufficient delay when closing two shear rams in order to provide maximum sealing efficiency. Due to the various BOP configurations across industry, BSEE wants to provide clarity about how the BOP systems should function properly to achieve necessary shearing and sealing during a well control event. BSEE wants to ensure optimal shearing and sealing functionality during a well control event. Depending upon the rig operations, operators develop different EDS modes that would function different BOP components at appropriate times. The selection of the EDS mode and the specific sequencing of emergency functions should be developed by the operator based on safety considerations and an operational risk assessment. The EDS mode is a separate type of emergency function from the autoshear/deadman. EDS is a function that is manually initiated and operated by rig personnel and involves a controlled disconnect. Operators may use a risk assessment to help identify the actions required of personnel in the well control plan in accordance with § 250.710. The well control plan contains specific procedures about how operators would seal the wellbore and shear pipe, including what to do when non-shearables are located across a BSR.

Comments Related to Proposed § 250.734—Pipe Compression

Summary of comments: Several commenters identified a potential pipe compression issue when functioning the shear rams. Commenters asserted that pipe compression could compromise

[33] See n. 10, supra.

[34] See n. 10, supra.

the proper functioning of the BOP, and a commenter adds that a better understanding of dynamic fluid conditions inside the BOP is needed in order to improve shearing and sealing capabilities. Another commenter asserted that drill pipe compression along with a sequence of casing shear ram then blind shear ram would preclude the blind shear ram from closing on an open hole, and that operators must have the ability to mitigate compression of the pipe stub between the shearing rams when both shear rams are closed. The commenters question whether there have been sufficient technological advances in BOP and shear ram design in the two years since the adoption of the 2016 WCR, and the validity of the assumption that there will be industry-wide adoption of the new technologies if they exist.

• *Response:* As a general matter, BSEE agrees that understanding the dynamic fluid condition inside the BOP is an important research area. BSEE is requiring in § 250.734(a)(16)(i) of the final rule the capability to position the pipe within the shearing blade, which will help mitigate the concerns about the ability to shear pipe due to compression. BSEE recognizes that the technology exists to help ensure the pipe is positioned within the shear surface to optimize shearing capabilities. BSEE is retaining the requirement to utilize such technology, but allowing for different technologies to meet this requirement.

Comments Related to Proposed § 250.734—Retesting Deadman

Summary of comments: Multiple commenters disagreed with the requirement to retest the deadman system when the system has not been repaired or affected by a suspension of operations. The commenters asserted that retesting the deadman subsea after a successful surface certification is not necessary every time the BOP or LMRP is latched to the wellhead, and that the previous test is sufficient to demonstrate the system's proper functioning when the system has not been modified. The commenters assert that testing the deadman system in such situations presents unnecessary risks.

• *Response:* BSEE disagrees. When the functional system is disconnected, it is important to ensure that the emergency systems are completely functional upon reconnection of that system. BSEE has determined that this requires retesting upon relatch.

Summary of comments: One commenter is concerned with allowing operators to conduct the deadman test at a low psi, so long as operators end the test with an acceptable psi, because allowing such a test procedure would place a significant amount of trust in industry self-regulation.

• *Response:* BSEE is allowing the use of a 1,000 psi test for the initial deadman test to verify functionality of the system. BSEE will still require operators to fully pressure test the components used within the deadman system according to § 250.737(d)(4). BSEE will oversee and enforce compliance with these testing requirements and will not rely on industry self-regulation.

Comments Related to Proposed § 250.734(a)(4)—ROV Intervention

Summary of comments: Numerous commenters supported removing the open function requirement from the ROV panel. However, the commenters also requested clarity regarding whether the timing requirements could be met by using only an ROV or by using a flying lead. These commenters suggested aligning the timing requirements with those in API Standard 53 and prior references in the rule with respect to ROV capability.

• *Response:* BSEE is revising this section to clarify that operators must have the capability to perform the required function in the response times outlined in API Standard 53. This can be accomplished with a flying lead or SAM unit, or the ROV. This clarification is based on a BSEE Q and A related to the 2016 WCR. BSEE agrees that the response times are the critical function of the ROV capabilities. BSEE has not mandated a high capacity ROV, but rather that the ROV hot stabs would accept the high flow via flying leads.

Summary of comments: Some commenters expressed concern about the reference to compliance with API RP 17H 2nd Edition, since API Standard 53 already covers the same requirement and the relevant receptacles are not materially different from those addressed in ANSI/API RP 17H 1st Edition.

• *Response:* BSEE disagrees with the assertion that BSEE should only reference API Standard 53. API Standard 53 does not contain all of the same information or the same level of specificity covered under API RP 17H.

Summary of comments: One commenter opposed removing the requirement that ROVs be capable of opening each shear ram, ram lock, or pipe ram, since the ability to temporarily open the ram or lock may be necessary for well control intervention. The commenter also disagreed with relying on API Standard 53 because industry standards can be weakened, whereas standards established by the agency and set in regulations can be more stringent.

• *Response:* As more thoroughly described in the preamble to the proposed rule, the most critical ROV functions would be to close the BOP components and seal the well for well control purposes. This regulatory revision does not limit the operator's ability to include the open function on the ROV panel. With respect to the comments regarding reliance on industry standards, BSEE incorporates a specific edition of a standard; when a standard is updated by the standards organization, BSEE evaluates the updated edition and would only incorporate the updated edition as appropriate. In other words, BSEE only incorporates into its regulations (through public rulemaking) those standards that it has determined to be adequate and appropriate, and the regulatory force and content of those incorporated standards can only be altered through subsequent rulemaking. BSEE also utilizes industry standards to establish foundational requirements which it can supplement.

Comments Related to Proposed § 250.734—Accumulator Systems and Capacity

Summary of comments: A commenter supported BSEE's proposed revisions to allow sharing of bottles among emergency and secondary control system functions to secure a wellbore. The commenter recommended that BSEE reference the API Spec. 16D, *Specification for Control Systems for Drilling Well Control Equipment and Control Systems for Diverter Equipment,* Second Edition, incorporated by reference in § 250.198 related to controls systems, and clarify whether sharing bottles would be a sufficiently redundant system to allow for emergency use.

• *Response:* BSEE agrees with the commenter generally about the use of API Spec. 16D related to control systems; however, BSEE disagrees that a reference to API Spec. 16D is necessary in this section. BSEE already incorporates API Spec. 16D and API Standard 53, and requires sufficient accumulator volume for the emergency operations. The accumulator requirements are covered under § 250.735.

Summary of comments: A commenter asserted that BSEE's proposed revisions to the accumulator requirements in § 250.734(a)(3) would reduce safety and severely weaken the ability of the subsea BOP system to function in the

event of a lost connection to the surface rig. The commenter further asserted that BSEE does not explain how removing the reference to the subsea location of accumulator capacity would ensure that the accumulator system could adequately function if there is a loss of the power fluid connection to the surface, and that BSEE therefore must continue to require that the necessary accumulator capacity be located subsea. The commenter recommended that BSEE should retain the requirement in § 250.734(a)(3)(iii) for dedicated bottles.

• *Response:* BSEE agrees with the commenter and has revised the language in final § 250.734(a)(3)(iii) to clarify that the accumulator capacity for autoshear/deadman must be located subsea. The autoshear/deadman systems are considered failsafe systems that function automatically in emergency situations and do not require surface personnel action to function. Consistent with the current requirements, the accumulator bottles that function those systems need to be located subsea to ensure there is enough fluid and pressure to operate the associated functions. This is a clarification to ensure there is no confusion about where the required fluid and pressure must reside to operate the autoshear/deadman emergency functions. Autoshear/deadman are separate triggers to operate the same equipment and would not be functioned together. Each emergency function has different criteria that must be met before it will automatically function.

Comments Related to Proposed § 250.734—Accumulators and Industry Standards

Summary of comments: Multiple commenters asserted that BSEE should explain why allowing operators to simply use industry standards, which do not necessarily require accumulators, is justified.

• *Response:* BSEE disagrees with the commenters. BSEE incorporates industry standards, not all of which include accumulator specifications, into the regulations as required by the NTTAA. Before incorporating standards, BSEE thoroughly evaluates them for adequacy and appropriateness. BSEE also supplements those standards with its own regulatory requirements related to operations and equipment, as we do in the case of accumulators.

Comments Related to Proposed § 250.734—Centering Pipe While Shearing

Summary of comments: A commenter asserted that this section refers to the use of ''newer shearing blades'' which can center pipe as justification for the removal of requirements to verify that testing is performed on the outermost edges of the shearing blades of the shear ram positioning mechanism. The commenter asserted that this assumes that these newer blades, which are not clearly defined, are used universally. Multiple commenters recommended that BSEE should clarify that the newer shearing blades that can center pipe are required and that BSEE should give a specific time frame for operators to comply.

• *Response:* BSEE generally agrees with the commenters and has retained (with modifications) provisions in § 250.734(a)(16)(i) that require operators to have the capability to position the entire pipe completely within the area of the shearing blade. This capability can be achieved by a separate mechanism or by ram design. As encouraged by Congress [35] to ensure that offshore operations promote safety and protect the environment in a technically feasible manner, BSEE agrees with the importance of positioning capabilities, but does not want to limit the technology that can be used to meet those requirements.

What associated systems and related equipment must all BOP systems include? (§ 250.735)

This section of the existing regulations details the associated systems and related equipment that all BOP systems must include. The required items include an accumulator system; an automatic backup to the primary accumulator-charging system; at least two full BOP control stations; choke, kill, and fill-up lines; and locking devices.

Summary of Proposed Revisions

BSEE proposed to revise paragraph (a) by clarifying that the accumulator system must have the fluid volume capacity and appropriate pre-charge pressures in accordance with API Standard 53. These proposed revisions would provide consistency with API Standard 53 and conform to the other proposed accumulator system revisions in § 250.734.

Summary of Final Rule Revisions

BSEE received and considered comments on the proposed revisions and includes the proposed language in the final rule without change.

[35] See n. 10, supra.

Summary of Comments

Comments Related to § 250.735(g)(2)(i)—Remotely Operated Locking Devices

Summary of comments: A commenter suggested that BSEE remove the requirements for remotely operated locking devices on surface BOP blind shear rams that are required by April 29, 2019. The commenter asserted that, while these types of devices are necessary by design for subsea BOPs, due to the inability to manually access the rams and engage locking devices, manual access is not an issue on surface BOPs and the manual locking devices that have been successfully utilized for decades are sufficient to allow securing of these surface rams when necessary. The commenter asserted that there are multiple surface BOP sizes and ratings that would require these modifications and expressed concerns about space issues to accommodate the modified locking systems, depending on the rig size and type being utilized.

• *Response:* BSEE did not propose or discuss changes to this provision in the proposed rule and as such would not be in a position to make the suggested changes in this final rule. Regardless, BSEE disagrees with the suggestion about removing the remotely locking device requirement for surface BOP blind shear rams. BSEE's position is that a manual lock would require rig personnel to enter a potentially hazardous area and that a remotely locking device would help limit personnel exposure to the potentially hazardous area, if a shearing event is necessary.

Summary of comments: A commenter requested clarification in paragraph (g)(2) that a pilot-operated check valve is considered a remotely operated locking device. The commenter suggested that the rule should be modified to read as follows: ''(2) For surface BOPs: (i) Remotely operated locking devices (*i.e.,* pilot operated check valve) must be installed on blind shear rams no later than April 29, 2021. . . .''

• *Response:* BSEE did not propose or discuss changes to this provision in the proposed rule, and as such would not be in a position to make the suggested changes in this final rule. Regardless, BSEE does not want to limit the types of devices (*e.g.,* pilot operated check valve) that can be used for locking. Operators should contact the appropriate BSEE District Manager if there are any questions about the specified use of this type of equipment.

What are the requirements for choke manifolds, kelly-type valves inside BOPs, and drill string safety valves? (§ 250.736)

This section of the existing regulations describes the requirements for the installation, use, and capability of choke manifolds, BOP systems, valves, pipes, and flexible hoses appropriate for the working pressure and temperature and operating conditions.

Summary of Proposed Revisions

BSEE proposed to revise paragraph (d)(5) by including equipment requirements for the safety valve when running casing with a subsea BOP. This revision would specify that the safety valve must be available on the rig floor if the length of casing being run exceeds the water depth, which would result in the casing being across the BOP stack and the rig floor prior to crossing over to the drill pipe running string. This revision would provide clarity and consistency throughout BSEE permitting and minimize the number of alternate procedure or equipment requests submitted to BSEE.

Summary of Final Rule Revisions

BSEE received a few comments in general support of the proposed revisions to this section and is including the proposed language in the final rule without change.

What are the BOP system testing requirements? (§ 250.737)

This section of the existing regulations details the pressure test frequency, procedures, and duration for BOP systems. This section also contains additional testing requirements, including compliance with API Standard 53, using water to test a surface BOP system, stump testing a subsea BOP system, performing an initial subsea BOP test, alternating testing pods between control stations, as well as pressure and function tests of various components.

Summary of Proposed Revisions

BSEE solicited comments in the proposed rule ''on whether the BOP testing interval should be 7 days, 14 days, or 21 days for all types of operations including drilling, completions, workovers, and decommissioning,'' as well as ''on the specific cost and operational implications of each testing interval.'' [36] BSEE proposed to revise paragraph (b) to clarify the BOP system pressure testing requirements. These proposed revisions included clarification that the test rams and non-sealing shear rams do not need to be pressure tested, because the non-sealing shear rams are not pressure holding components and the test ram is an inverted ram that is not utilized for well control purposes. BSEE also proposed to revise paragraph (b)(2) to reflect the current BSEE policy for conducting the high-pressure test for specific components. For example, some of the proposed revisions included specific procedures and testing parameters for initial equipment pressure testing, as well as provisions for subsequent pressure testing on the same equipment.

In the proposed rule, BSEE proposed to revise paragraphs (d)(2)(ii) and (d)(3)(iii) by removing the requirement to submit test results to BSEE where BSEE is unable to witness testing. These proposed revisions would significantly reduce the number of submittals to BSEE and minimize the associated burden for BSEE to review those submittals. If BSEE is unable to witness the testing, BSEE may access the testing documentation upon request, in accordance with §§ 250.740, 250.741, and 250.746.

BSEE proposed to revise paragraph (d)(3)(iv) by removing ''test and[.]'' BSEE would remove this term to minimize confusion regarding verification and testing. In this instance, verification of closure qualifies as testing the ROV functions. The purpose of the stump test is to help ensure the BOP components and control systems can function properly before being utilized on a well.

BSEE proposed to revise paragraph (d)(3)(v) to clarify that pressure testing of each ram and annular on the stump test is only required once. This revision would help ensure that the testing of BOP components during stump testing would limit unnecessarily duplicative pressure testing of each ram or annular. It is unnecessary to pressure test a ram or annular multiple times during stump testing if that component has already been successfully pressure tested, verifying proper functionality.

BSEE proposed to revise paragraph (d)(4)(i) to clarify that the initial subsea BOP test on the seafloor would need to begin ''within 30 days of the stump test.'' BSEE receives many questions about the timing of the initial subsea test and, as written, the regulation was ambiguous regarding exactly what needed to occur within the 30 days. BSEE proposed this revision to clarify that the testing must begin within 30 days of the stump test. BSEE wants to ensure that the time between the stump testing and the initial subsea test is minimal to help confirm that all of the BOP components can properly function upon installation on the well.

BSEE proposed to revise paragraph (d)(4)(iii) to include annulars in the pressure testing requirements of paragraphs (b) and (c) of this section. This proposed revision would not alter the current testing requirements for annulars and would provide clarity for where to find them.

BSEE proposed to revise paragraph (d)(4)(v) to clarify the initial subsea pressure testing requirements to confirm closure of the selected ram through an ROV hot stab. This revision would require the operator to confirm closure through a 1,000 psi pressure test held for 5 minutes. This proposed revision would codify BSEE policy for pressure testing the selected ram through the ROV hot stabs. BSEE has concluded that testing to higher pressures is not necessary for this circumstance because the intended purpose of this test is to verify operability of the ROV hot stab to close the selected ram. Selected rams must be pressure tested according to other regularly required pressure testing intervals and prior to commencing well operations.

BSEE proposed to remove existing paragraph (d)(4)(vi) because the testing requirements of the selected ram would now be covered under proposed paragraph (d)(4)(v).

BSEE also proposed to revise paragraph (d)(5) by clarifying the alternating testing schedules of control stations and pods. These proposed revisions help ensure that operators develop a testing schedule that provides for alternating testing between the control stations, and also between the pods for subsea BOPs. The intended result of alternating the testing is to ensure that each control station, and each pod for subsea, can properly function all required BOP components. BSEE proposed to revise paragraph (d)(12)(iv) by clarifying that, during the deadman test on the seafloor, operators are not required to indicate the discharge pressure of the subsea accumulator throughout the entire test. These revisions would require that the remaining pressure be documented at the end of the test, to help verify the proper accumulator settings required to function the specific critical BOP components.

BSEE proposed to revise paragraph (d)(12)(vi) to clarify the pressure testing requirements of the 2016 WCR, and to confirm closure of the BSR(s) during the autoshear/deadman and EDS testing. This proposed revision would require confirmation of closure through a 1,000 psi pressure test held for 5 minutes.

[36] 83 FR 22143 (May 11, 2018).

Testing to higher pressures is not necessary for this circumstance because the BSR(s) will be pressure tested according to other regularly required pressure testing intervals and prior to commencing well operations.

BSEE proposed to add paragraph (d)(13) setting forth exceptions from the requirements for pressure testing the choke and kill side outlet valves. This proposed addition would codify BSEE policy and provide consistency for permitting throughout the Regions and Districts without meaningfully reducing safety or environmental protection.

Summary of Final Rule Revisions

BSEE received and considered comments on the proposed revisions and includes most of the proposed language in the final rule without change, except for the following revisions. Based on comments received, BSEE is redesignating existing paragraph (a)(4) as (a)(5) and adding new paragraph (a)(4) to allow the use of a 21-day BOP pressure testing frequency, in lieu of meeting the schedule established in paragraph (a)(2), if certain criteria are met and BSEE approves an operator's 21-day BOP testing frequency request. BSEE is requiring operators to demonstrate, in the 21-day BOP testing frequency request, that they have developed a BOP health monitoring plan that includes certain system capabilities. BSEE is requiring the BOP health monitoring plan to include condition monitoring tools that are able to provide continuous surveillance of sensor readings from the BOP control system, real-time condition analysis and displays, functional pressure signal analysis, and historical sensor data. The plan also must include failure propagation analysis and a failure tracking and resolution system to identify recurring problems. BSEE is also requiring the operators to submit quarterly reports of the data collected to the BSEE Regional Supervisor, District Field Operations.

BSEE is revising paragraph (b)(3) by adding ''or APM'' after APD. This addition is based on BSEE's further analysis of the proposed rule and provides clarification. This revision codifies longstanding BSEE practice of identifying the applicable operational permit that is used for specific types of operations.

Based on comments received, BSEE is revising paragraph (c) to clarify that the use of a digital recorder is an acceptable method for documenting the duration of pressure tests. This revision is only a minor clarification. BSEE already allows the use of a digital recorder on subsea BOP tests and this revision codifies current practice.

BSEE is revising paragraph (d)(10) to address the 21-day BOP pressure testing option in new paragraph (a)(4). If BSEE approves an operator's request to use a 21-day BOP test frequency in accordance with paragraph (a)(4), then BSEE will allow the operator to function test its shear ram(s) BOPs every 21 days in accordance with the terms of that approval.

BSEE is also making minor corresponding revisions to paragraph (d)(13)(i) to remove the reference to the 14-day BOP testing and to clarify that the specified procedure applies to BOP testing, irrespective of the BOP testing frequency.

Summary of Comments

Comments Related to § 250.737(a)(2)—21-Day BOP Testing Frequency

Summary of comments: BSEE received multiple comments supporting and opposing any changes to the BOP testing frequency, as discussed in sections III and IV of this preamble. However, a commenter recommended that BSEE allow a 21-day testing frequency if additional requirements were put in place to help provide assurances of BOP functionality, equivalent performance, and operational risk as under a 14-day BOP testing frequency. The commenter recommended that BSEE require condition monitoring tools, failure propagation analysis, and a failure tracking and resolution system. In addition, the commenter suggested that if BSEE allowed a 21-day BOP testing frequency, it should require the operator to collect lifecycle data related to the reliability of performance of functioned components, determine whether there is a relationship between usage and deterioration, and understand the impact of testing frequency on reliability. In addition, a commenter asserted that the proposed rule did not identify to which technologies BSEE was referring with regard to possible revisions to BOP system testing requirements, or under what circumstances or based on what information BSEE might amend or restructure § 250.737.

• *Response:* BSEE agrees with the commenter's recommendations about allowing a 21-day BOP testing frequency if there are additional requirements to help provide assurance of equivalent performance and operational risk when compared to a 14-day BOP testing frequency. In the final rule, BSEE is allowing the use of a 21-day BOP testing frequency. However, before an operator can use this option, it must submit a request to BSEE for approval to use a 21-day BOP testing frequency. In the 21-day BOP testing frequency request, BSEE is requiring the operator to develop a BOP health monitoring plan that includes the use of condition monitoring tools capable of providing continuous surveillance of sensor readings from the BOP control system, real-time condition analysis and displays, functional pressure signal analysis, and trending capabilities of the sensor data. The plan must include failure propagation analysis and a failure tracking and resolution system to identify recurring problems. BSEE is also requiring operators to submit quarterly reports of the data collected to the BSEE Regional Supervisor, District Field Operations. BSEE will review this data to help ensure compliance with the requirements of the regulations and help evaluate the effectiveness and appropriateness of the 21-day testing frequency. BSEE disagrees with the assertion that it did not identify clearly enough the types of actions it was considering. The proposed rule solicited comments on a number of issues related to this topic, along with context for the solicitation (*see* 83 FR 22143) and BSEE's final rule is based on its analysis of the input received in response to that solicitation and other elements of the record. Further analysis of BSEE's action on this issue is found at Sections III.B.5 and IV.C of this preamble.

Comments Related to Proposed § 250.737(b)—BOP Testing Validity

Summary of comments: Multiple commenters recommended that BSEE align the regulations with the testing requirements of API Standard 53 and allow the use of alternative pressure testing systems that can determine test validity in less than 5 minutes. The commenters requested that BSEE clarify the statement in paragraph (b) that states ''. . . test must hold pressure long enough to demonstrate the tested component(s) holds the required pressure.''

• *Response:* BSEE disagrees with the recommendation that BSEE should allow the use of systems that can test in less than 5 minutes. More research and consistency is necessary before BSEE will be in a position to allow pressure testing systems that demonstrate test validity in less than 5 minutes. BSEE also disagrees with the commenters' request to clarify that the test must hold pressure long enough to demonstrate the tested component(s) holds the required pressure, because more research and consistency is necessary before BSEE

will be in a position to validate alternative timeframes.

Comments Related to Proposed § 250.737(d)—Verification of ROV Intervention Functions

Summary of comments: Multiple commenters recommended that any additional installed ROV intervention functions must be verified per the equipment owner's maintenance program, but not to exceed once per year.

• *Response:* BSEE disagrees with this recommendation. BSEE wants to ensure that operators verify all ROV hot stabs prior to commencing operations on each well.

Comments Related to Proposed § 250.737(d)(2) and (3)—Review of Testing Results

Summary of comments: Multiple commenters opposed the proposed removal of the requirement that the operator must provide the initial test results to the District Manager if BSEE cannot witness testing. The commenters expressed concerns with removing the real-time supervision of the methods used to conduct inspections of well control system components, asserting that the change would allow too much discretion to operators, and would remove a safeguard that prevents inadequate testing, thus reducing safety.

• *Response:* BSEE disagrees with the assertion that the removal of the requirement to provide the initial test results to BSEE, when BSEE is unable to witness testing, reduces safety. BSEE reviews the test results during routine inspections of facilities. The operator is still required to make the results available to BSEE upon request for verification. BSEE also retains the option for BSEE to witness the testing.

Comments Related to Proposed § 250.737(d)(3)(iv)—Testing of ROV Panels During Stump Testing

Summary of comments: A commenter asserted that, since BSEE proposed that BOP ROV panels should not be required to have open functions, BSEE should remove the requirement to test systems that currently have open functions for rams on the ROV panels. The commenter was concerned that operators with systems that already have open functions for rams will remove them so they do not have to test.

• *Response:* BSEE disagrees with the comment. The referenced testing requirement is applicable to the stump test, which is performed before the BOP is installed. The stump test is used to verify the functionality of the ROV components while on the surface, before the equipment is run subsea and latched onto the well. BSEE wants to ensure that the equipment, as configured, is operational before it is run subsea.

Comments Related to Proposed § 250.737(d)(4)(v)—Verifying Closure of Rams Through ROV Hot Stabs

Summary of comments: A commenter asserted that although the proposed method for confirming closure of the rams may be a valid method of verifying closure, there are other methods that should be approved, such as position indicators, and a combination of parameters such as volume, time, and a pressure spike at the end of travel. The commenter asserted that the pressure of 1,000 psi seems completely arbitrary and had been specifically rejected by BSEE in the alternate procedure/departures section of the August 17, 2016 WCR presentation in Houston, Texas.

• *Response:* BSEE disagrees with the recommendation to accept use of the identified methods to confirm closure of the rams. More research and data is necessary to fully evaluate those methods and BSEE may include those methods in future rulemakings, depending on future findings. BSEE is allowing the use of 1,000 psi pressure for the ROV test because that is sufficient to verify functionality of the system. The BOP system and each BOP component are still required to be fully pressure tested according to § 250.737(b).

Comments Related to Proposed § 250.737(d)(5)(ii)—Testing of Remote Panels

Summary of comments: Multiple commenters recommended that BSEE revise the regulations to allow additional alignment between the proposed rule and API Standard 53, Section 7.6.5.1.4, which states, ''[i]f installed, remote panels where all BOP functions are not included (*e.g.* lifeboat panels, etc.) shall be function tested in accordance with the equipment owner's procedures.'' The commenters asserted that the inclusion of the phrase ''in accordance with the equipment owner's procedures'' in the regulations would allow the operator to conduct the test with the BOP on-deck and would not alter the effectiveness or intent of the proposed BSEE text.

• *Response:* BSEE disagrees with the comment. Operators must function test the remote panels upon the initial BOP test to ensure functionality with the complete installed system. On-deck testing alone is not sufficient.

Comments Related to Proposed § 250.737(d)(3)(v)—Stump Test Procedures

Summary of comments: Multiple commenters expressed concerns with the proposed revisions to § 250.737(d)(3)(v) that stated ''pressure testing of each ram and annular component is only required once.'' The commenters further expressed concerns with BSEE's proposed rationale to eliminate ''unnecessarily duplicative pressure testing'' and to limit the risk of component wear. Section 250.737(c) requires repeat testing if a pressure test under § 250.737(b) and (c) is not successful. The commenters asserted that the proposed revision to § 250.737(d)(3)(v) does not appear to take into account the possibility of a failed test and the need for a repeat test.

The commenters further asserted that the Department also proposed to weaken § 250.737(d)(5)(i)(A) and (B) by reducing BOP control station testing from weekly to every other week and that this change would cut in half the BOP control station testing frequency.

• *Response:* BSEE disagrees with the assertion that the proposed revisions would weaken the regulations. Paragraph (d)(3)(v) applies to the stump testing which is conducted prior to the subsea BOP stack being latched onto the well. The stump test is the main opportunity to identify and correct issues with the stack before deployment. There is additional required testing once the BOP stack is installed, plus regularly scheduled testing during operations while the BOP is latched onto the well. Section 250.737(c) requires a successful pressure test of the required components and applies to paragraph (d). Accordingly, paragraph (c) states that ''If the equipment does not hold the required pressure during a test, you must correct the problem and retest the affected component(s).''

Comments Related to Proposed § 250.737(d)(12)(iv)—Deadman Test Procedures

Summary of comments: A commenter disagreed with the proposed changes to the deadman system test procedures. The commenter expressed concerns with the proposed revision that would only require operators to record starting and stopping pressure to determine deadman closing efficiency.

• *Response:* BSEE disagrees that there is any basis for concern. In paragraph (d)(12)(iv) testing is used to verify that there is sufficient accumulator capacity for the required BOP deadman functions. Documenting the final pressure on the subsea accumulator

after a deadman test is sufficient to verify that the subsea accumulation system can deliver the necessary fluid volume to execute this emergency operation. This verification demonstrates the system is adequately deployed in the application on the well for safe operation.

Comments Related to Proposed § 250.737(d)(12)(vi)—Deadman Test Procedures

Summary of comments: A commenter asserted that BSEE's proposed revision to paragraph (d)(12)(vi) would place a significant amount of trust in industry self-regulation because the revision seems to allow for operators to conduct the deadman test at low pounds per square inch (psi) during the test, as long as operators complete the test with an acceptable psi. The commenter recommended that BSEE provide justification for the revisions.

• *Response:* BSEE is allowing the use of a 1,000 psi test for the initial deadman test because that is sufficient to verify functionality of the system. The components utilized within the deadman system are still required to be fully pressure tested according to § 250.737(d)(4). BSEE will oversee compliance with and enforcement of these testing requirements and will not rely on industry self-regulation.

What must I do in certain situations involving BOP equipment or systems? (§ 250.738)

This section of the existing regulations describes actions that operators must take when certain situations occur with BOP systems, such as if the BOP equipment does not hold the required pressure during a test or if the BOP control station or pod does not function properly.

Summary of Proposed Revisions

BSEE proposed to revise paragraphs (b), (i), (m), and (o) by replacing the references to BAVOs with references to an independent third party throughout.

BSEE proposed to revise paragraph (f) to clarify the testing requirements implemented by the 2016 WCR necessary to verify the integrity of the affected casing ram or casing shear ram and connections. This proposed revision would codify BSEE policy to allow the pressure testing to test the pressure of the BOP component above this ram, as specified in the approved permit.

BSEE also proposed to revise paragraph (m) to replace the term ''well-control equipment'' with ''circulating or ancillary equipment.'' This revision would eliminate confusion arising from the use of conflicting terms that may have different meanings throughout the regulations.

Summary of Final Rule Revisions

BSEE received and considered comments on the proposed revisions and generally includes the proposed language in the final rule without change, except for the following revisions. BSEE is reversing the order of existing paragraphs (b)(3) and (b)(4), and redesignating them appropriately. This change was necessary to avoid confusion about the process for submitting and then getting BSEE approval and reflects the logical order for the process. BSEE is revising final paragraph (b)(3) with conforming edits to §§ 250.720 and 250.734, to require operators to submit a revised permit instead of a report. The revised permit must include a written statement from an independent third party documenting the BOP repairs, replacement, or reconfiguration and certifying that the previous certification under § 250.731(c) remains valid. This revision is necessary to be consistent with the independent third-party certification comments on proposed § 250.720 and BSEE's final approach to that provision. This revision will provide BSEE with additional assurance that the relevant BOP system is fit for service upon relatch and reflects current BSEE practice. The independent third-party certification contains the same type of information operators submit with their original required BSEE permits. This revision provides assurance that there is a current certification of the BOP and provides consistent documentation of recertification.

BSEE removes the language ''with the new, repaired, or reconfigured BOP.'' from existing paragraph (b)(3); redesignated by this final rule as paragraph (b)(4) because they are redundant to the updated introductory language for paragraph (b).

Summary of Comments

Comments Related to Proposed § 250.738(f)—Shell Test for Casing Rams

Summary of comments: Multiple commenters agreed with the intent of this revision, but requested that BSEE clarify the timing and location of the test.

• *Response:* BSEE disagrees that the timing and location of the shell test needs to be clarified. The regulations state that the operator must conduct the shell test before running casing.

Comments Related to § 250.738—Riser Gas Handler Systems

Summary of comments: A commenter recommended requiring the use of a riser gas handler system for all rigs with marine risers. The commenter asserted that requiring the use of riser gas handler systems would safely manage gas in the marine riser, prevent future incidents like *Deepwater Horizon,* and prevent environmental damage.

• *Response:* BSEE disagrees with the recommendation to require the use of a riser gas handler system on all wells. Operators are currently allowed to use riser gas handler systems pursuant to this section. However, it is beyond the scope of this rulemaking to require it for all rigs with marine risers. BSEE may evaluate the use of riser gas handler systems for possible inclusion in future rulemakings.

Comments Related to Proposed § 250.738(b)—Reverification of BOP System

Summary of comments: A commenter recommended that BSEE should consider requiring a report from an independent third party if operations are interrupted due to the events listed in § 250.720(a)(1). The commenter asserted that the events listed in § 250.720(a)(1) would invalidate a verification submitted under §§ 250.732(c) and 250.731(d) and that consideration should be given to including or moving these requirements to § 250.738, as well.

• *Response:* BSEE agrees with the commenter, in part, and added a requirement for submitting a revised permit with a written statement from an independent third party certifying that the previous certification under § 250.731(c) remains valid. BSEE also made corresponding edits to similar requirements in §§ 250.734 and 250.738. These revisions help ensure that the BOP remains fit for service at the same location.

What are the BOP maintenance and inspection requirements? (§ 250.739)

This section of the existing regulations details the maintenance and inspection requirements for BOPs. The requirements include: Meeting or exceeding minimum thresholds for maintenance and inspection; a complete breakdown and physical inspection of the BOP every 5 years; a visual inspection of the surface BOP system on a daily basis; and training of all personnel who maintain, inspect, or repair BOPs.

Summary of Proposed Revisions

BSEE proposed to revise paragraph (b) by replacing ''complete breakdown and detailed physical inspection'' with a ''major, detailed inspection,'' identifying examples of well control system components, replacing references to the BAVO with references to an independent third party, and replacing the requirement to have a BAVO present during each inspection with a requirement for an independent third party to review inspection results.

BSEE proposed replacing ''complete breakdown and detailed physical inspection'' with a ''major, detailed inspection'' to correct the industry misconception, prevalent since the promulgation of the 2016 WCR, that each component of the BOP must be dismantled to its smallest possible part. This was never the intent behind this provision of the 2016 WCR and the proposed revisions would clarify BSEE's positions on the 2016 WCR requirement and resolve perceived ambiguities, without substantively altering the inspection requirement.

BSEE also proposed to remove the requirement for the BAVO to be present during each inspection and replace it with a requirement that an independent third party review the inspections results. BSEE expects the independent third party to review the documentation of the inspections to help ensure that the appropriate entities accurately and appropriately complete the activities. The proposed revisions would ease the logistical and economic burdens derived from the 2016 WCR requirement to have the BAVO onsite at all times during all inspections.

Summary of Final Rule Revisions

BSEE received and considered comments on these provisions of the proposed rule and includes the proposed language in the final rule without change. BSEE received comments in general support and opposition to the proposed changes, in addition to the following comments.

Summary of Comments

Comments Related to Proposed § 250.739—BOP Complete Breakdown Versus Major Detailed Inspection

Summary of comments: Multiple commenters asserted that the proposed rule would make a number of provisions more confusing. For example, one proposed revision to § 250.739 replaces the requirement for regular ''complete breakdowns and detailed physical inspections'' with a requirement for ''major, detailed inspections.'' The commenters asserted that changing this phrase makes the associated requirements less specific, adds ambiguity to otherwise clear language, and leaves some testing requirements open for interpretation, which cannot ensure the safety and environmental protection provided by BOPs. The commenters suggested that BSEE should be more specific in its proposed regulation in explaining how far the BOP must be broken down to meet an acceptable BOP ''major, detailed'' 5-year inspection.

• *Response:* BSEE disagrees with the assertion that the proposed language adds ambiguity regarding what is required for the 5 year inspection. This revision is designed to provide clarity and eliminate misconceptions regarding the existing inspection requirement, not to substantively alter that requirement. BSEE expects this 5-year inspection to be conducted in the same manner, whether it is called a complete breakdown and detailed physical inspection or a major detailed inspection. This revision is consistent with the guidance posted on the BSEE website at *https://www.bsee.gov/guidance-and-regulations/regulations/well-control-rule.* As discussed in the proposed rule, BSEE used the term ''major detailed inspection'' to correct the industry misconception prevalent since the promulgation of the 2016 WCR that each BOP component must be dismantled to its smallest possible part. This was never the intent behind this provision of the 2016 WCR. These revisions clarify BSEE's position on the 2016 WCR requirements and resolve perceived ambiguities, without substantively altering the inspection requirement.

Summary of comments: Multiple commenters supported the proposed clarification to the rule. The commenters asserted that the proposed language codifies clarification previously given by BSEE regarding the intent of the phrase ''complete breakdown'' in the current regulation and also ensures that proven industry practice to phase recertification as part of a continuous maintenance and inspection program is acceptable. The commenters also asserted that this approach is consistent with the requirements of API Standard 53 and that BSEE appropriately retained the requirement that inspections be documented and reviewed by an independent third party.

• *Response:* BSEE agrees with the commenter and no changes are necessary.

Comments Related to Proposed § 250.739—BAVO Present During Inspections

Summary of comments: Multiple commenters asserted that BSEE proposed to weaken the rule by eliminating the requirement for a BAVO to be physically present at the 5-year BOP inspection and by proposing an inadequate substitute of having a third-party inspector read industry's inspection report after-the-fact before compiling its own report. The commenters asserted that if a third-party inspector is not physically present at the 5-year BOP inspection, that person would not have the opportunity to physically inspect the equipment, collect independent data and photos, or make recommendations for repairs/replacements before the BOP is returned to service or rebuilt. The commenters further asserted that any report prepared by a third-party absent the opportunity to participate in the actual inspection would have little value and would come much too late in the process to effect real change/improvement.

• *Response:* BSEE disagrees with the assertions that having an independent third party reviewing the documents, instead of being physically present for the inspections, is inadequate. BSEE requires the independent third party to review the documentation of the inspections and compile a detailed inspection report. These independent third party responsibilities help ensure that the appropriate entities accurately and appropriately complete the inspection activities, as well as identify any necessary corrective actions. The independent third party document review allows the comparison of the design data with the current status of the equipment. The intent of the major inspection is to verify that the well control system components are fit for service and within design tolerances to be utilized for specific well conditions. These goals can be verified during a data review and do not require the independent third party to be physically present during the major inspection to make that determination. Because the inspection may be performed in phased intervals, as provided in the 2016 WCR, having a BAVO or third party present during the inspection would not be practical or logistically feasible. For example, in the situation where the rig is arriving on the OCS from overseas, the independent third party would not be present during any maintenance and inspections, and the independent third party review of the major inspections results would correspond to the certifications and verifications required

by §§ 250.731 and 250.732, without being present during the inspections.

What are the coiled tubing and snubbing requirements? (§ 250.750)

This is a new section in which BSEE proposed to consolidate coiled tubing and snubbing operational requirements.

Summary of Proposed Revisions

The content of this proposed section was moved from current §§ 250.616 and 250.1706, both titled *Coiled tubing and snubbing operations* and removed and reserved both in this final rule. BSEE proposed this section to consolidate some of the minimum BOP system component requirements for coiled tubing and snubbing operations. BSEE proposed minor revisions to the original language to conform to the applicable operations covered under Subpart G. BSEE also proposed to add a paragraph (d) to conform snubbing unit testing with updated requirements.

Summary of Final Rule Revisions

BSEE did not receive any comments specific to this section and only received one comment asking how the proposed requirements of a different section apply to coiled tubing operations. Based on BSEE's review and continued analysis of the proposed rule and the single comment applicable to coiled tubing, BSEE is making administrative and technical revisions by modifying the proposed undesignated center heading and separating out the coiled tubing and snubbing requirements to create separate sections only applicable to snubbing operations. To avoid confusion between coiled tubing and snubbing requirements in this final rule, BSEE is separating their respective requirements into different sections. The coiled tubing requirements are addressed under new §§ 250.750, *What are the coiled tubing requirements?* and 250.751, *Coiled tubing testing requirements.* The requirements for snubbing operations, which were proposed as § 250.750 paragraphs (b), (c), and (d), were revised and moved to new § 250.760, *What are the snubbing requirements?* in the final rule. BSEE is also including minor clarifications to the proposed text to more accurately reflect BSEE's longstanding coiled tubing practices. BSEE is removing ''with the production tree in place'' proposed in paragraph (a) because coiled tubing requirements apply to any well operation that uses coiled tubing. BSEE is also adding ''follow the applicable requirements of this subpart . . .'' to final §§ 250.750(a) and 250.760(a) to align with the Q and A guidance on the BSEE website at *https://www.bsee.gov/guidance-and-regulations/regulations/well-control-rule.* Many regulations contained in Subpart G are applicable to coiled tubing operations, such as, but not limited to, the items listed in the relevant Q and A on the BSEE website at *https://www.bsee.gov/guidance-and-regulations/regulations/well-control-rule.*

In § 250.750, BSEE is adding a new paragraph (b) to clarify that BSEE considers all coiled tubing operations to be non-routine. BSEE is making this clarification based on our review of the proposed rule and a review of the comments associated with the definition of routine operations in § 250.601, *Definitions.* This clarification also codifies longstanding BSEE policy that considers operations with a coiled tubing unit to be non-routine and require a permit. This addition helps clarify the approval process for use of coiled tubing for workovers.

Coiled Tubing Testing Requirements (§ 250.751)

This is a new section in which BSEE proposed to consolidate coiled tubing and snubbing operational requirements.

Summary of Proposed Revisions

BSEE proposed to add this section to codify current BSEE policy regarding the coiled tubing testing and recording requirements. In this addition, BSEE proposed to reintroduce language similar to provisions that were inadvertently removed from the regulations through the 2016 WCR, consolidating elements from §§ 250.617 and 250.1707 of the regulations as they existed before the 2016 WCR. Both sections are currently reserved. BSEE proposed revisions to the original language to conform to the applicable requirements of Subpart G. For example, in the proposed rule, this section would not include the former provisions regarding testing of the coiled tubing connector, because the proposal would instead state that operators ''must test the coiled tubing unit in accordance with § 250.737 paragraphs (a), (b), (c), (d)(9), and (d)(10).'' Section 250.737 requires testing of the system when installed and provides testing criteria. As proposed, identifying the connector testing in this section is not necessary because it is already covered by the testing requirements of § 250.737.

Summary of Final Rule Revisions

BSEE did not receive any comments specific to this section. BSEE is making minor revisions to better reflect changes to the undesignated center heading that applies only to coiled tubing. As previously stated in the final rule discussion under § 250.750, based on BSEE's review of the proposed rule, BSEE is revising this new section and separating out the snubbing requirements, creating a separate section applicable only to snubbing operations under final § 250.760.

What are the snubbing requirements? (§ 250.760)

Summary of Proposed Revisions

BSEE did not propose to add this new section, however the content was included in proposed § 250.750.

Summary of Final Rule Revisions

BSEE is adding this new section and undesignated center heading to clarify the snubbing requirements. To avoid confusion between coiled tubing and snubbing requirements in this final rule, BSEE is separating their respective requirements into different sections and relocating the proposed snubbing requirements under this new section. The content of this section is being moved from proposed § 250.750(b), (c), and (d), with minor conforming revisions to reflect the separation of coiled tubing requirements and the applicability only to snubbing operations and equipment. These changes are administrative and non-substantive. BSEE did not receive comments on the relevant language from proposed § 250.750 and is finalizing it as described.

Subpart Q—Decommissioning Activities

What are the general requirements for decommissioning? (§ 250.1703)

This section of the existing regulations details decommissioning requirements, including getting District Manager approval, permanently plugging all wells, removing all platforms and facilities, decommissioning all pipelines, and clearing the seafloor of obstructions.

Summary of Proposed Revisions

BSEE proposed to revise paragraph (b) to clarify that only packers or bridge plugs used as mechanical barriers are required to comply with ANSI/API Spec. 11D1. BSEE proposed this revision to codify BSEE's policy to ensure that the required mechanical barriers in a well are held to a higher standard than other common packers or bridge plugs used for various well specific conditions and completions design. Furthermore, BSEE is aware that certain packers and bridge plugs cannot meet the specifications of ANSI/API

Spec. 11D1. This revision would reduce the number of alternate equipment requests submitted to BSEE. BSEE also proposed to add that operators must have two independent barriers, one being mechanical, in the exposed center wellbore (*e.g.,* this could be the tubing or casing depending on the well configuration) prior to removing the tree or well control equipment. BSEE proposed this addition to codify BSEE policy, align the well decommissioning requirements with similar requirements from §§ 250.720(a) and 250.1712(g), and to help ensure the well is properly secured before removal of the tree or well control equipment.

Summary of Final Rule Revisions

BSEE received no substantive comments on these provisions of the proposed rule, however BSEE did receive comments on similar mechanical barrier requirements in §§ 250.518 and 250.619. Based on its consideration of the comments, BSEE is revising paragraph (b) to clarify that only the required mechanical barrier must be ANSI/API Spec. 11D1 qualified. This revision is consistent with the similar requirements in final §§ 250.518 and 250.619 and BSEE's implementation of the mechanical barrier requirements finalized in the 2016 WCR.

What decommissioning applications and reports must I submit and when must I submit them? (§ 250.1704)

This section of the existing regulations provides a table that identifies the required decommissioning applications and subsequent reports, as well as the deadlines for when to submit them.

Summary of Proposed Revisions

BSEE proposed to revise paragraph (g) by shifting the requirements for submittal of the site clearance verification activity information to an Application for Permit to Modify (APM). The site clearance verification activity information will be removed from the end of operations report (EOR). BSEE proposed these revisions to better reflect current practice and limit redundant reporting.

BSEE also proposed to revise paragraph (h) by adding the submittal of the decommissioning activity information, upon completion, to the EOR. BSEE proposed these revisions to better reflect current practice and limit redundant reporting.

Summary of Final Rule Revisions

BSEE received and considered comments on the proposed revisions and includes the proposed language in the final rule without change.

Summary of Comments

Comments Related to Proposed § 250.1704—Plug and Abandonment Plans

Summary of comments: One commenter suggested that plugging and abandonment plans should be based on risk acceptance and planned on a well-by-well basis. The commenter also recommended the use of a DNV Recommended Practice.

• *Response:* BSEE disagrees with the suggestion that plugging and abandonment activities should be based on risk. BSEE does not consider a risk assessment by itself sufficient for determination of all plugging and abandonment operations. Plugging and abandonment operations are currently conducted on a well specific basis as approved within the applicable BSEE permits. BSEE will review the identified DNV Recommended Practice for possible inclusion in future rulemakings, as appropriate.

Coiled Tubing and Snubbing Operations (§ 250.1706)

Summary of Proposed Revisions

BSEE proposed to remove and reserve this section. BSEE proposed to move the content of this existing regulation to proposed § 250.750. BSEE proposed these revisions to help eliminate inconsistencies between similar requirements spread throughout different regulatory subparts by consolidating those requirements into Subpart G, which is applicable to drilling, completions, workovers, and decommissioning operations.

Summary of Final Rule Revisions

BSEE received no substantive comments on these provisions of the proposed rule and will remove and reserve this section in the final rule.

Must I notify BSEE before I begin well plugging operations? (§ 250.1713)

Summary of Proposed Revisions

BSEE proposed to remove and reserve this section. Based upon BSEE experience with the implementation of the 2016 WCR, BSEE determined that the submittal of the information required by this section is redundant with similar rig movement notification information required under § 250.712, *What rig unit movements must I report?*

Summary of Final Rule Revisions

BSEE received no substantive comments on these provisions of the proposed rule and will remove and reserve this section in the final rule.

To what depth must I remove wellheads and casings? (§ 250.1716)

This section of the existing regulations establishes the minimum depth below the mud line for removal of all wellheads and casings, unless an alternate depth is approved by the District Manager.

Summary of Proposed Revisions

BSEE proposed to revise paragraph (b)(3) by changing the water depth criteria for when BSEE may approve an alternate depth for removal of the wellhead or casing from 800 meters to 1,000 feet. At depths greater than 1,000 feet, there is little risk of obstruction to other users of the OCS or its waters or contact with other equipment, and little risk of safety or environmental issues from removal to an alternate depth.

Summary of Final Rule Revisions

BSEE received comments in general support of the proposed revisions to this section and is including the proposed language in the final rule without change.

If I install a subsea protective device, what requirements must I meet? (§ 250.1722)

This section of the existing regulations states that if a subsea protective device is installed, then it must be done in a manner that allows fishing gear to pass over the obstruction without damage to the obstruction, the protective device, or the fishing gear.

Summary of Proposed Revisions

BSEE proposed to revise paragraph (d) to direct the submittal of the trawl test report to the EOR rather than an APM. This proposed revision would not affect the substance of the reporting requirement or the information BSEE receives, only the mechanism through which it is received.

Summary of Final Rule Revisions

BSEE received no substantive comments on these provisions of the proposed rule and includes the proposed language in the final rule without change.

VI. Procedural Matters

Regulatory Planning and Review (Executive Orders (E.O.) 12866, 13563, and 13771)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) within the OMB will review all significant rules. This action is an economically significant regulatory

action that was submitted to OMB for review as it would have a positive annual effect on the economy of $100 million or more. BSEE coordinated development of an economic analysis to assess the anticipated costs and potential benefits of the final rule. The significant positive economic effect on the economy is the result of the estimated cost savings of this rule. BSEE estimates the amendments in this rulemaking would save the regulated industry $152 million annually over ten years (discounted at 7 percent).

Details on the estimated cost savings of this rule can be found in the rule's regulatory impact analysis. The cost savings for this final rule are due to regulatory clarifications, reduction in paperwork burdens, adoption of industry standards, and migration to performance-based standards for select provisions.

This rule revises regulatory provisions in 30 CFR part 250, subparts D, E, F, G, and Q. BSEE has reassessed a number of the provisions in the (1014–AA11) 2016 WCR and revises some provisions to reflect performance-based standards rather than prescriptive requirements. Other revisions reduce or eliminate parts of the paperwork burden, without impacting the current levels of safety and environmental protection. BSEE sought the best available data and information to analyze the economic impact of these changes. The Regulatory Impact Analysis (RIA) for this rulemaking can be found in the *https://www.regulations.gov/* docket (Docket ID: BSEE–2018–0002). The Final RIA (FRIA) indicates that the estimated overall cost savings to the industry over the next 10 years would exceed $1.5 billion in nominal dollars.

BSEE revised certain provisions of the 2016 WCR to support the goals of the Administration's regulatory reform initiatives, while ensuring safety and environmental protection. BSEE has received additional information since the publication of the 2016 WCR and revisited several of the compliance cost assumptions in the economic analysis for the 2016 final rule. The modifications to the BSEE compliance cost estimates in the 2016 WCR analysis are primarily because that analysis:

(1.) Underestimated the cost for revising permits or reporting certain operations to the District Manager (§§ 250.428 and 250.722), and

(2.) Underestimated both the number of subsea BOPs that would require modifications and the cost of those modifications under the 1014–AA11 regulations (§ 250.734).

The revisions to existing ram and accumulator requirements for subsea BOPs (§ 250.734) yield cost savings of $369 million (nominal $). The changes to § 250.734 better align the shear ram provisions with API Standard 53 and revise the accumulator capacity requirements for subsea BOP stacks.

With changes to § 250.737, BSEE is allowing operators to move to a 21-day BOP testing interval upon satisfaction of certain conditions. These changes align the testing interval with industry and global standards and help avoid premature wear and tear on critical components. BSEE expects operators using subsea BOPs to seek to move to a 21-day interval, realizing a cost savings of $919 million (nominal $) over 10-years. The changes to this provision represent the single largest cost savings in the rule.

This rule will reduce the regulatory burden on industry, while maintaining worker safety and environmental protection. BSEE is providing industry flexibility, when practical, to meet the safety or equipment standards, rather than specifying the compliance method. For example, BSEE will eliminate the requirement that operators resubmit an APD in the event of planned mud losses or inadequate cement jobs. Instead, BSEE will allow the operator to outline remedial actions to these scenarios in contingency plans included in the original BSEE-approved APD. This revision will not change the operational responses to these events, and therefore reduces the paperwork burden and expensive operational downtime without affecting operational risks. Other changes remove BOP stack certification requirements regarding design specifications and equipment conditions and replace the BAVO requirements for BOP systems and system components with independent third party requirements. The previous provisions were either duplicative or required a more burdensome certification process than reasonably necessary. The changes to the certification processes do not affect worker safety and the environment.

The revisions to final § 250.734 better define the BOP components functionality requirements, revise the requirements for ROV capability and functionality, and amend accumulator capacity requirements for subsea BOP stacks. This revision to the accumulator requirements increases operator flexibility to utilize the appropriate accumulator capacity to perform the necessary emergency functions. Through the implementation of the WCR, BSEE was able to better evaluate the effects of the WCR accumulator requirements on subsea BOP space and weight limitations. After reevaluating the API 53 standards, BSEE agrees that certain prescriptive requirements in the current regulations are unnecessary. The regulatory text revisions to § 250.734 align BSEE regulations with the performance standards in API Standard 53, ensuring the subsea accumulator capacity is sufficient to actuate the BOP ram functions necessary to seal the well. This performance standard meets the intent of the 1014–AA11 WCR without the prescriptive and unnecessarily burdensome requirements.

The § 250.737 paragraph (d)(5) amendments allow operators to alternate BOP tests between the two control stations rather than testing from both control stations on each test. The rule returns the regulations to pre-2016 WCR regulatory language in order to prevent the additional wear and tear on the BOP components. This change aligns BSEE regulations with the industry testing standards.

BSEE's estimate of the net total, annualized and discounted regulatory cost savings can be found in the following table.

TOTAL 10-YEAR ESTIMATED COST SAVINGS ASSOCIATED WITH AMENDMENTS TO SUBPARTS D, E, F, G, AND Q

Year	Undiscounted	Discounted at 3%	Discounted at 7%
Total	$1,543,093,357	$1,309,246,758	$1,067,468,876
Annualized	154,309,336	153,483,661	*151,983,553

*The annualized cost savings assuming the rule is effective in 2019 and discounted over an infinite time horizon, would be $60,996,080 at a 7% discount rate (using 2016$).

This rule reduces the burden imposed on industry, while ensuring continued safety and environmental protection. Additional information on the compliance costs, savings, and benefits

can be found in the FRIA posted in the docket.

This rule revises multiple provisions in the current regulations to implement performance-based provisions based upon reasonably obtainable safety, technical, economic, and other information. Other redundant or unnecessary reporting requirements are also being eliminated. BSEE is providing industry flexibility, when practical, to meet the safety or equipment standards, rather than specifying the compliance method. Based on a consideration of the qualitative and quantitative safety and environmental factors related to the rule, BSEE's assessment is that it is consistent with the policies of the applicable E.O.s and the OCSLA.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Executive Order 13771 requires Federal agencies to take proactive measures to reduce the costs associated with complying with Federal regulations. This rule is an E.O. 13771 deregulatory action.

Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires agencies to analyze the economic impact of regulations when a significant economic impact on a substantial number of small entities is likely and to consider regulatory alternatives that will achieve the agency's goals, while minimizing the burden on small entities. In addition, the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601 note, requires agencies to produce compliance guidance for small entities if the rule has a significant economic impact. For the reasons explained in this analysis, BSEE believes the rule may have a significant economic impact and, therefore, a Regulatory Flexibility Analysis (RFA) for the rule is required by the Regulatory Flexibility Act. The RFA, which assesses the impact of this rule on small entities, can be found in the FRIA within the docket for this rulemaking.

As defined by the Small Business Administration (SBA), a small entity is one that is ''independently owned and operated and which is not dominant in its field of operation.'' What characterizes a small business varies from industry to industry in order to properly reflect industry size differences. This rule affects lease operators that are conducting OCS drilling or well operations. BSEE's analysis shows this includes about 69 companies with active drilling or well operations. Of the 69 companies, 21 (30 percent) are large and 48 (70 percent) are small. Entities affected by this rule are classified primarily under North American Industry Classification System (NAICS) codes 211120 (Crude Petroleum Extraction), 211130 (Natural Gas Extraction), and 213111 (Drilling Oil and Gas Wells). The rule indirectly impacts OCS drilling contractors that are classified under NAICS code 21311, however this analysis focuses on the OCS oil and gas lessees and operators to which the rule's provisions will apply directly. For NAICS codes 211120 and 211130, SBA defines a small company as having fewer than 1,251 employees.

BSEE considers that a rule will have an impact on a ''substantial number of small entities'' when the total number of small entities impacted by the rule is equal to or exceeds 10 percent of the relevant universe of small entities in a given industry. BSEE's analysis shows that there are 48 small companies with active operations on the OCS and all of these companies could be impacted by the rule if conducting drilling or well operations. Therefore, BSEE expects that the rule would affect a substantial number of small entities.

Large companies are responsible for the majority of activity in deepwater, where subsea BOPs are used with floating MODUs. BSEE's first-order estimate for the rule's small entity cost savings is proportional to the number of drilling rigs being operated or contracted by small companies (circa October 2017).

This rule is a deregulatory action; BSEE has evaluated possible costs and benefits and has estimated that there is an overall associated cost savings. BSEE has estimated the annualized cost savings by regulatory provision and then allocated those savings to small or large entities based on drilling/well activity (circa October, 2017; activity breakouts can be found in the RFA). The changes to §§ 250.423, 250.734, and 250.737(d)(5) would only apply to subsea BOPs and would yield cost savings that sum to $47,421,114. All remaining changes apply to all well operations or subsea/surface BOPs and yield cost savings that sum to $106,888,221. Using the share of small and large companies subject to each suite of provisions, we estimate that small companies would realize 25 percent of the cost savings from this rule and large companies 75 percent. The allocation is displayed in the following table.

COST SAVINGS BY OPERATOR SIZE

[Undiscounted annualized $]

Provision	Small companies		Large companies		Total cost savings
	Percent of operators	Cost savings	Percent of operators	Cost savings	
Subsea BOP Provisions	12	$5,578,955	88	$41,842,160	$47,421,114
All Other Provisions	30	32,315,044	70	74,573,178	106,888,221
Total		*37,893,998		**116,415,337	154,309,336

* (25% of Total).
** (75% of Total).

This rule:

a. Will have a positive economic effect on the economy of $100 million or more. The cost savings will not materially affect the economy nationally or in any local area.

b. Will not cause a major increase in costs or prices for consumers; individual industries; Federal, State, Tribal, or local governments; or regions of the nation. This rule will have positive effects on OCS operators and is not anticipated to negatively impact oil, gas, and sulfur production or the cost of fuels for consumers.

c. Will not have significant or adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

This rule is a major rule because it will have an annual effect on the economy of $100 million or more in at least one year of the 10-year period analyzed. The requirements apply to all entities operating on the OCS regardless of company designation as a small business. For more information on the small business impacts, see the RFA in the FRIA. 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 to the Regional Small Business Regulatory Fairness Board. 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 BSEE, call 1–888–REG–FAIR (1–888–734–3247).

Unfunded Mandates Reform Act of 1995

This final rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The final rule will not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings Implication Assessment (E.O. 12630)

Under the criteria in E.O. 12630, this final rule does not have significant takings implications. The rule is not a governmental action capable of interference with constitutionally protected property rights. A Takings Implication Assessment is not required.

Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this final rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule will not substantially and directly affect the relationship between the Federal and State governments. To the extent that State and local governments have a role in OCS activities, this rule will not affect that role. A federalism summary impact statement is not required.

The BSEE has the authority to regulate offshore oil and gas drilling, completion, workover, and decommissioning operations. State governments do not have authority over offshore drilling, completion, workover, and decommissioning operations on the OCS. None of the changes in this rule will affect areas that are under the jurisdiction of the States. It will not change the way that the States and the Federal government interact, or the way that States interact with private companies.

Civil Justice Reform (E.O. 12988)

This final rule complies with the requirements of E.O. 12988. Specifically, this rule:

(1) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(2) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (E.O. 13175)

BSEE is committed to regular and meaningful consultation and collaboration with tribes on policy decisions that have tribal implications. Under the criteria in E.O. 13175 and the Department's Policy on Consultation with Indian Tribes (S.O. 3317, Amendment 2, dated December 31, 2013), we have evaluated this final rule and determined that it has no substantial direct effects on federally recognized Indian tribes.

National Technology Transfer and Advancement Act (NTTAA)

BSEE complies with the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 3701 *et seq.*) requirement that an agency ''use standards developed or adopted by voluntary consensus standards bodies rather than government-unique standards, except where inconsistent with applicable law or otherwise impractical.'' (OMB Circular A–119 at p. 13). BSEE also complies with the OFR regulations governing incorporation by reference. (*See,* 1 CFR part 51.) Those regulations specify the process for updating an incorporated standard at § 51.11(a), including seeking approval by OFR for a change to a standard incorporated by reference in a final rule.

Paperwork Reduction Act (PRA) of 1995

This final rule contains collections of information that will be submitted to OMB for review and approval under the PRA, 44 U.S.C. 3501 *et seq.* As part of its continuing effort to reduce paperwork and burdens on respondents, BSEE invites the public and other Federal agencies to comment on any aspect of the reporting and recordkeeping burden. If you wish to comment on the information collection (IC) aspects of this final rule, you may send your comments directly to OMB and send a copy of your comments to the Regulations and Standards Branch (see the **ADDRESSES** section of this final rule). Please reference 30 CFR 250, subpart G, Blowout Preventer Systems and Well Control, 1014–0028, in your comments. To see a copy of the information collection request submitted to OMB, go to *http://www.reginfo.gov* (select Information Collection Review, Currently Under Review); or you may obtain a copy of the supporting statement for the collection of information by contacting the Bureau's Information Collection Clearance Officer at (703) 787–1607.

The PRA provides that 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 is required to make a decision concerning the collection of information contained in these regulations 30–60 days after publication of this document in the **Federal Register**.

The public may comment, at any time, on the accuracy of the IC burden in this rule and may submit any comments to DOI/BSEE; ATTN: Regulations and Standards Branch; VAE–ORP; 45600 Woodland Road, Sterling, VA 20166; email *kye.mason@bsee.gov,* or fax (703) 787–1093.

The title of the collection of information for this rule is 30 CFR part 250, Blowout Preventer Systems and Well Control Revisions (Final Rulemaking). The final regulations concern BOP system requirements and maintaining well control, among others, and the information is used in BSEE's efforts to regulate oil and gas operations on the OCS to protect life and the environment, conserve natural resources, and prevent waste.

Potential respondents comprise Federal OCS oil, gas, and sulphur operators and lessees. Responses to this collection of information are mandatory, or are required to obtain or retain a benefit; they are also submitted on occasion, daily and weekly (during drilling operations), monthly, quarterly, biennially, and as a result of situations encountered, depending upon the requirement. The IC does not include questions of a sensitive nature. The BSEE will protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and DOI implementing regulations (43 CFR part 2), 30 CFR part 252, *OCS Oil and Gas Information Program,* and 30 CFR 250.197, *Data and information to be made available to the public or for limited inspection.*

This final rule will increase BSEE's IC inventory by +87,744 annual hour burdens; as well as increase annual non-hour costs burdens by $10,918,000 for Independent Third Party (ITP) costs. BSEE-Approved Verification Organization (BAVO); is being replaced with ITP. In connection with the original WCR, BSEE assumed hour burdens in place of non-hour costs associated with BAVO submissions; however, in this final rule, we are capturing non-hour costs associated with hiring ITPs. Below is a list of the current OMB Control Numbers affected by this final rulemaking and their associated increases/decreases in hour burdens and non-hour costs:

- Applications for Permits to Drill (APD–1014–0025, expiration 4/30/20) will increase annual burden by +14,523 hours annually (−69 hours due to this rulemaking, and +14,592 due to re-estimating the annual number of response) and increase +$3,999,000 annual non-hour costs for ITP;
- Applications for Permits to Modify (APM–1014–0026, expiration 7/31/20) will decrease annual burden by −33 hours (+277 hours due to this rulemaking, and −310 hours due to re-estimating the annual number of responses) and increase +$6,138,000 annual non-hour costs for ITP;
- Subpart A (1014–0022, expiration 2/28/21), BSEE is not making any changes to hour-burden or non-hour costs;
- Subpart B (1014–0024, expiration 10/31/21), BSEE is not making any changes to hour-burden or non-hour costs;
- Subpart D (1014–0018, expiration 3/31/2021) will increase the annual burden by +40 hours (+40 due to this rulemaking) and increase +$16,000 annual non-hour costs for ITP;
- Subpart G (1014–0028, expiration 07/31/19) will increase annual burden by +73,214 hours (+4,048 hours is due to this rulemaking and +69,166 hours due to re-estimating the annual number of responses) and increase +$765,000 annual non-hour costs for ITP.

The following is a brief explanation of how the final regulatory changes will affect the various subpart hour burdens:

Application for Permit To Drill (APD) 1014–0025

§ 250.414(c)(2) is new and will allow operators the option to submit the required justification and documentation for a proposed alternative safe drilling margin for BSEE approval at an earlier date prior to the APD. This will increase the annual burden hour by 15 hours.

§ 250.428 removes the requirement to resubmit an APD in the event of planned mud losses, or remedial actions for inadequate cement jobs, if these circumstances are addressed in the original approved APD. Reductions will be shown during the renewal process (see Discussion of Final Rule Requirements above).

§ 250.724(b) will eliminate the requirement to submit certification that you have a real-time monitoring plan that meets the criteria listed. This will decrease the annual hour burden by 109 hours (see Discussion of Final Rule Requirements above).

§ 250.731 will add Independent Third Party costs, increasing the non-hour cost burdens by $31,000 per submission (see Discussion of Final Rule Requirements above). During this rulemaking it was discovered that BSEE had underestimated the number of responses/submittals. We are increasing that by 128 submittals annually, which in turn increase the annual hour burden by 14,592 hours.

§ 250.738(b) requires operators submit a revised permit with a written statement from an independent third party documenting the repairs, replacement, or reconfiguration and certifying that the previous certification in § 250.731(c) remains valid. This will increase the annual hour burden by 25 hours (see Discussion of Final Rule Requirements above).

Application for Permit To Modify (APM) 1014–0026

§ 250.724(b) will eliminate the requirement to submit certification that you have a real-time monitoring plan that meets the criteria listed. This will decrease the annual hour burden by 125 hours (see Discussion of Final Rule Requirements above).

§ 250.731 will add Independent Third Party costs, increasing the non-hour cost burdens by $31,000 per submission (total of $6,138,000 annual non-hour costs) (see Discussion of Final Rule Requirements above). During this rulemaking it was discovered that BSEE had overestimated the number of responses/submittals. We are decreasing that by 62 responses; which in turn decrease the annual hour burden by 310 hours.

§ 250.750(a)(4) requires operators that plan to conduct operations without downhole check valves, describe alternate procedures and equipment in Form BSEE–0124, APM, and have it approved by the District Manager. The responses/burden associated with § 250.616 (245 approvals × .75 hour = 184 annual hour burdens) and § 250.1706 (503 requests × .25 hour = 126 annual hour burdens) are being relocated to 250.750(a)(4) (for a total of 748 requests × 1 hour); increasing the annual hour burden by 438 hours (see Discussion of Final Rule Requirements above).

§ 250.1722(d) will direct the submittal of the trawl test report to the End of Operations Report (EOR) rather than an APM; and will decrease the annual hour burden by 36 hours (see Discussion of Final Rule Requirements above).

Subpart A 1014–0022

§ 250.115 is the regulatory text from § 250.198 but moved and relocated to § 250.115. This burden will remain the same and is covered under § 250.141 (see Discussion of Final Rule Requirements above).

§ 250.423 is rewording the requirement in a manner that will reduce the number of alternative procedure or equipment requests under § 250.141. Reductions will be shown during the renewal process (see Discussion of Final Rule Requirements above).

Subpart B 1014–0024

§ 250.292(p) will require less information to be submitted in the DWOP. Reductions will be shown during the renewal process (see Discussion of Final Rule Requirements above).

Subpart D 1014–0018

§ 250.427(b) will revise the requirement to include a notification to BSEE District Manager. BSEE is also clarifying that the District Manager must review and approve proposed remedial actions. This will increase the annual hour burden by 40 hours (see Discussion of Final Rule Requirements above).

§ 250.462(e)(1) will add Independent Third Party costs increasing the non-hour cost burdens by $8,000 per notification (total of $16,000 annual non-hour costs) (see Discussion of Final Rule Requirements above).

§ 250.1722 will direct the submittal of the trawl test report to the End of Operations Report (EOR) rather than an APM. Burden hours associated with Subpart Q are already covered under EOR reporting. Any reductions/increases will be shown during the renewal process (see Discussion of Final Rule Requirements above).

Subpart G 1014–0028

§ 250.720(a)(3) will require operators submit a revised permit with a written statement from an independent third party certifying that the previous certification remains valid and to request and receive District Manager approval before resuming operations after unlatching the BOP or LMRP. This will increase the annual hour burden by 13 hours (see Discussion of Final Rule Requirements above).

§ 250.720(d) was proposed but had been inadvertently omitted from the information collection. The requirement is new and will require operators to identify and make available for BSEE inspection, specified equipment used solely for intervention operations. This will increase the annual hour burden by 10 hours (see Discussion of Final Rule Requirements above).

§ 250.722(a)(2) will require operators to document successful pressure test in the Well Activity Report (WAR). This will increase the annual hour burden by 150 hours (see Discussion of Final Rule Requirements above).

§ 250.730(c)(2) will increase the annual hour burden by 5 hours. Based on comments received BSEE is clarifying how to request an extension to the failure analysis timeframe. Furthermore, they must submit an extension request to the Chief, Office of Offshore Regulatory Programs, detailing how the investigation and analysis will get completed to BSEE for approval (see Discussion of Final Rule Requirements above).

New § 250.732(a) will add Independent Third Party costs, increasing the non-hour cost burdens by $5,100 per verification (total increase is $765,000 annual non-hour costs) (see Discussion of Final Rule Requirements above).

Old § 250.732(a) will eliminate the requirement to request and submit for approval all relevant information to become a BAVO. This will decrease the annual hour burden by 700 hours (see Discussion of Final Rule Requirements above).

New § 250.732(d) requires operators to make all documentation that demonstrates compliance with the requirements of this section available to BSEE upon request; increasing the annual hour burden by 40 hours (see Discussion of Final Rule Requirements above).

Old § 250.732(d) will eliminate the submission of Mechanical Integrity Assessment Reports; decreasing the annual hour burden by 900 hours (see Discussion of Final Rule Requirements above).

§ 250.737(a)(4) and (d)(10) (test frequency for function test shear rams) will increase the annual hour burden by 75 hours. BSEE is requiring operators that wish to request approval for a 21-day BOP testing frequency, demonstrate the development of a BOP health monitoring plan (including, but not limited to, information/requirements such as condition monitoring tool; failure propagation analysis; a failure tracking and resolution system that includes detailed failure reports and identification of recurring problems). In addition, this will increase annual hour burdens by 100 hours to submit quarterly reports of the data collected with the health monitoring plan to the BSEE Regional Supervisor, District Field Operations (see Discussion of Final Rule Requirements above).

§ 250.737(d)(5) will allow for alternating tests between two control stations. This will increase the annual hour burden by 25 hours (see Discussion of Final Rule Requirements above).

§ 250.751 will include the coiled tubing testing and recording requirements that were inadvertently removed in the original Well Control Rule. This will increase the annual hour burden by 3,630 hours (see Discussion of Final Rule Requirements above).

Once this rule becomes effective, BSEE will use the current OMB control numbers for the affected subparts discussed and will have their information collection burdens adjusted accordingly through the renewal process.

National Environmental Policy Act of 1969 (NEPA)

BSEE has prepared a final environmental assessment (EA) that concludes that this final rule will not have a significant impact on the quality of the human environment under the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). The final EA supports the issuance of a Finding of No Significant Impact (FONSI) for the rule, therefore the preparation of an environmental impact statement pursuant to NEPA is not required. A copy of the final EA and FONSI can be viewed at *www.regulations.gov* (use the keyword/ID ''BSEE–2018–0002'').

Data Quality Act

In developing this rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554, app. C, sec. 515, 114 Stat. 2763, 2763A–153–154).

Effects on the Nation's Energy Supply (E.O. 13211)

This final rule is not a significant energy action under the definition in E.O. 13211. Although the rule is a significant regulatory action under E.O. 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. A Statement of Energy Effects is not required.

Severability

If a court holds any provisions of this final rule or their applicability to any persons or circumstances invalid, the remainder of the provisions and their applicability to other people or circumstances will not be affected.

List of Subjects in 30 CFR Part 250

Administrative practice and procedure, Continental shelf, Continental Shelf—mineral resources, Continental Shelf—rights-of-way, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Oil and gas exploration, Penalties, Pipelines, Reporting and recordkeeping requirements, Sulfur.

Joseph R. Balash,

Assistant Secretary—Land and Minerals Management, U.S. Department of the Interior.

For the reasons stated in the preamble, the Bureau of Safety and Environmental Enforcement (BSEE) amends 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULFUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

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

Authority: 30 U.S.C. 1751, 31 U.S.C. 9701, 33 U.S.C. 1321(j)(1)(C), 43 U.S.C. 1334.

Subpart A—General

■ 2. Add § 250.115 to read as follows:

§ 250.115 What are the procedures for, and effects of, incorporation of documents by reference in this part?

For the documents incorporated by reference in this part:

(a) Incorporation by reference of a document is limited to the edition of the document, or the specific edition and supplement or addendum, that is cited in § 250.198. Future amendments or revisions of the incorporated document are not included. BSEE will publish any changes to the incorporation of the document in the **Federal Register** and amend § 250.198 as appropriate.

(b) BSEE may make a rule amending the incorporation of a document effective without prior opportunity for public comment when BSEE determines:

(1) That the revisions to the document result in safety improvements or represent new industry standard technology and do not impose undue costs on the affected parties; and

(2) BSEE meets the requirements for making a rule immediately effective under 5 U.S.C. 553.

(c) The effect of incorporation by reference of a document into the regulations in this part is that the incorporated document is a requirement. When a section in this part refers to an incorporated document, you are responsible for complying with the provisions of that entire document, except to the extent that the section that refers to the document provides otherwise. When a section in this part refers to a part of an incorporated document, you are responsible for complying with that part of the document as provided in that section.

(d) Under §§ 250.141 and 250.142, you may comply with a later edition of a specific document incorporated by reference, provided:

(1) You show that complying with the later edition provides a degree of protection, safety, or performance equal to or better than would be achieved by compliance with the listed edition; and

(2) You obtain prior written approval for alternative compliance from the authorized BSEE official.

■ 3. Revise § 250.198 to read as follows:

§ 250.198 Documents incorporated by reference.

Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All incorporated material is available for inspection at the Houston BSEE office at 1919 Smith Street Suite 14042, Houston, Texas 77002 and is available from the sources indicated in this section. It is also available for inspection at the National Archives and Records Administration (NARA). To make an appointment to inspect incorporated material at the Houston BSEE office, call 1–844–259–4779. 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.*

(a) American Concrete Institute (ACI), ACI Standards, 38800 Country Club Drive, Farmington Hills, MI 48331–3439: *http://www.concrete.org;* phone: 248–848–3700:

(1) ACI Standard 318–95, Building Code Requirements for Reinforced Concrete, 1995; incorporated by reference at § 250.901.

(2) ACI 318R–95, Commentary on Building Code Requirements for Reinforced Concrete, 1995; incorporated by reference at § 250.901.

(3) ACI 357R–84, Guide for the Design and Construction of Fixed Offshore Concrete Structures, 1984; reapproved 1997, incorporated by reference at § 250.901.

(b) American Gas Association (AGA Reports), 400 North Capitol Street NW, Suite 450, Washington, DC 20001, *http://www.aga.org;* phone: 202–824–7000;

(1) AGA Report No. 7—Measurement of Natural Gas by Turbine Meters; Revised February 2006; incorporated by reference at § 250.1203(b);

(2) AGA Report No. 9—Measurement of Gas by Multipath Ultrasonic Meters; Second Edition, April 2007; incorporated by reference at § 250.1203(b);

(3) AGA Report No. 10—Speed of Sound in Natural Gas and Other Related Hydrocarbon Gases; Copyright 2003; incorporated by reference at § 250.1203(b).

(c) American Institute of Steel Construction, Inc. (AISC), AISC Standards, One East Wacker Drive, Suite 700, Chicago, IL 60601–1802; *http://www.aisc.org;* phone: 312–670–2400:

(1) ANSI/AISC 360–05, Specification for Structural Steel Buildings, incorporated by reference at § 250.901.

(2) [Reserved]

(d) American National Standards Institute (ANSI), *http.www./webstore.ansi.org/;* phone: 212–642–4900:

(1) ANSI/ASME B 16.5–2003, Pipe Flanges and Flanged Fittings, incorporated by reference at § 250.1002;

(2) ANSI/ASME B 31.8–2003, Gas Transmission and Distribution Piping Systems, incorporated by reference at § 250.1002;

(3) ANSI Z88.2–1992, American National Standard for Respiratory Protection, incorporated by reference at § 250.490.

(e) American Petroleum Institute (API), API Recommended Practices (RP), Specs, Standards, Manual of Petroleum Measurement Standards (MPMS) chapters, 1220 L Street, NW, Washington, DC 20005–4070; *http://www.api.org;* phone: 202–682–8000:

(1) API 510, Pressure Vessel Inspection Code: In-Service Inspection, Rating, Repair, and Alteration, Tenth Edition, May 2014; Addendum 1, May 2017; incorporated by reference at §§ 250.851(a) and 250.1629(b);

(2) API 570, Piping Inspection Code: In-service Inspection, Rating, Repair, and Alteration of Piping Systems, Fourth Edition, February 2016; Addendum 1, May 2017; incorporated by reference at § 250.841(b).

(3) API Bulletin 2INT–DG, Interim Guidance for Design of Offshore Structures for Hurricane Conditions, May 2007; incorporated by reference at § 250.901;

(4) API Bulletin 2INT–EX, Interim Guidance for Assessment of Existing Offshore Structures for Hurricane Conditions, May 2007; incorporated by reference at § 250.901;

(5) API Bulletin 2INT–MET, Interim Guidance on Hurricane Conditions in the Gulf of Mexico, May 2007; incorporated by reference at § 250.901;

(6) API Bulletin 92L, Drilling Ahead Safely with Lost Circulation in the Gulf of Mexico, First Edition, August 2015; incorporated by reference at § 250.427(b);

(7) API MPMS Chapter 1—Vocabulary, Second Edition, July 1994; incorporated by reference at § 250.1201;

(8) API MPMS Chapter 2—Tank Calibration, Section 2A—Measurement and Calibration of Upright Cylindrical Tanks by the Manual Tank Strapping Method, First Edition, February 1995; reaffirmed February 2007; incorporated by reference at § 250.1202;

(9) API MPMS Chapter 2—Tank Calibration, Section 2B—Calibration of Upright Cylindrical Tanks Using the Optical Reference Line Method, First Edition, March 1989; reaffirmed, December 2007; incorporated by reference at § 250.1202;

(10) API MPMS Chapter 3—Tank Gauging, Section 1A—Standard Practice for the Manual Gauging of Petroleum and Petroleum Products, Second Edition, August 2005; incorporated by reference at § 250.1202;

(11) API MPMS Chapter 3—Tank Gauging, Section 1B—Standard Practice for Level Measurement of Liquid Hydrocarbons in Stationary Tanks by Automatic Tank Gauging, Second Edition, June 2001; reaffirmed, October

2006; incorporated by reference at § 250.1202;

(12) API MPMS Chapter 4—Proving Systems, Section 1—Introduction, Third Edition, February 2005; incorporated by reference at § 250.1202;

(13) API MPMS Chapter 4—Proving Systems, Section 2—Displacement Provers, Third Edition, September 2003; incorporated by reference at § 250.1202;

(14) API MPMS Chapter 4—Proving Systems, Section 4—Tank Provers, Second Edition, May 1998, reaffirmed November 2005; incorporated by reference at § 250.1202;

(15) API MPMS Chapter 4—Proving Systems, Section 5—Master-Meter Provers, Second Edition, May 2000, reaffirmed, August 2005; incorporated by reference at § 250.1202;

(16) API MPMS Chapter 4—Proving Systems, Section 6—Pulse Interpolation, Second Edition, May 1999; reaffirmed 2003; incorporated by reference at § 250.1202;

(17) API MPMS Chapter 4—Proving Systems, Section 7—Field Standard Test Measures, Second Edition, December 1998; reaffirmed 2003; incorporated by reference at § 250.1202;

(18) API MPMS Chapter 4—Proving Systems, Section 8—Operation of Proving Systems; First Edition, reaffirmed March 2007; incorporated by reference at § 250.1202(a), (f), and (g);

(19) API MPMS Chapter 5—Metering, Section 1—General Considerations for Measurement by Meters, Fourth Edition, September 2005; incorporated by reference at § 250.1202;

(20) API MPMS Chapter 5—Metering, Section 2—Measurement of Liquid Hydrocarbons by Displacement Meters, Third Edition, September 2005; incorporated by reference at § 250.1202;

(21) API MPMS Chapter 5—Metering, Section 3—Measurement of Liquid Hydrocarbons by Turbine Meters, Fifth Edition, September 2005; incorporated by reference at § 250.1202;

(22) API MPMS Chapter 5—Metering, Section 4—Accessory Equipment for Liquid Meters, Fourth Edition, September 2005; incorporated by reference at § 250.1202;

(23) API MPMS Chapter 5—Metering, Section 5—Fidelity and Security of Flow Measurement Pulsed-Data Transmission Systems, Second Edition, August 2005; incorporated by reference at § 250.1202;

(24) API MPMS Chapter 5—Metering, Section 6—Measurement of Liquid Hydrocarbons by Coriolis Meters; First Edition, reaffirmed, March 2008; incorporated by reference at § 250.1202(a);

(25) API MPMS Chapter 5—Metering, Section 8—Measurement of Liquid Hydrocarbons by Ultrasonic Flow Meters Using Transit Time Technology; First Edition, February 2005; incorporated by reference at § 250.1202(a);

(26) API MPMS Chapter 6—Metering Assemblies, Section 1—Lease Automatic Custody Transfer (LACT) Systems, Second Edition, May 1991; reaffirmed, April 2007; incorporated by reference at § 250.1202;

(27) API MPMS Chapter 6—Metering Assemblies, Section 6—Pipeline Metering Systems, Second Edition, May 1991; reaffirmed, February 2007; incorporated by reference at § 250.1202;

(28) API MPMS Chapter 6—Metering Assemblies, Section 7—Metering Viscous Hydrocarbons, Second Edition, May 1991; reaffirmed, April 2007; incorporated by reference at § 250.1202;

(29) API MPMS Chapter 7—Temperature Determination, First Edition, June 2001; reaffirmed, March 2007; incorporated by reference at § 250.1202;

(30) API MPMS Chapter 8—Sampling, Section 1—Standard Practice for Manual Sampling of Petroleum and Petroleum Products, Third Edition, October 1995; reaffirmed, March 2006; incorporated by reference at § 250.1202;

(31) API MPMS Chapter 8—Sampling, Section 2—Standard Practice for Automatic Sampling of Liquid Petroleum and Petroleum Products, Second Edition, October 1995; reaffirmed, June 2005; incorporated by reference at § 250.1202;

(32) API MPMS Chapter 9—Density Determination, Section 1—Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method, Second Edition, December 2002; reaffirmed October 2005; incorporated by reference at § 250.1202(a) and (l);

(33) API MPMS Chapter 9—Density Determination, Section 2—Standard Test Method for Density or Relative Density of Light Hydrocarbons by Pressure Hydrometer, Second Edition, March 2003; incorporated by reference at § 250.1202;

(34) API MPMS Chapter 10—Sediment and Water, Section 1—Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method, Third Edition, November 2007; incorporated by reference at § 250.1202;

(35) API MPMS Chapter 10—Sediment and Water, Section 2—Standard Test Method for Water in Crude Oil by Distillation, Second Edition, November 2007; incorporated by reference at § 250.1202;

(36) API MPMS Chapter 10—Sediment and Water, Section 3—Standard Test Method for Water and Sediment in Crude Oil by the Centrifuge Method (Laboratory Procedure), Third Edition, May 2008; incorporated by reference at § 250.1202;

(37) API MPMS Chapter 10—Sediment and Water, Section 4—Determination of Water and/or Sediment in Crude Oil by the Centrifuge Method (Field Procedure), Third Edition, December 1999; incorporated by reference at § 250.1202;

(38) API MPMS Chapter 10—Sediment and Water, Section 9—Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration, Second Edition, December 2002; reaffirmed 2005; incorporated by reference at § 250.1202;

(39) API MPMS Chapter 11.1—Volume Correction Factors, Volume 1, Table 5A—Generalized Crude Oils and JP–4 Correction of Observed API Gravity to API Gravity at 60 °F, and Table 6A—Generalized Crude Oils and JP–4 Correction of Volume to 60 °F Against API Gravity at 60 °F, API Standard 2540, First Edition, August 1980; reaffirmed March 1997; incorporated by reference at § 250.1202;

(40) API MPMS Chapter 11.2.2—Compressibility Factors for Hydrocarbons: 0.350–0.637 Relative Density (60 °F/60 °F) and −50 °F to 140 °F Metering Temperature, Second Edition, October 1986; reaffirmed: December 2007; incorporated by reference at § 250.1202;

(41) API MPMS Chapter 11—Physical Properties Data, Section 1—Temperature and Pressure Volume Correction Factors for Generalized Crude Oils, Refined Products, and Lubricating Oils; May 2004 (incorporating Addendum 1, September 2007); incorporated by reference at § 250.1202(a), (g), and (l);

(42) API MPMS Chapter 11—Physical Properties Data, Addendum to Section 2, Part 2—Compressibility Factors for Hydrocarbons, Correlation of Vapor Pressure for Commercial Natural Gas Liquids, First Edition, December 1994; reaffirmed, December 2002; incorporated by reference at § 250.1202;

(43) API MPMS Chapter 12—Calculation of Petroleum Quantities, Section 2—Calculation of Petroleum Quantities Using Dynamic Measurement Methods and Volumetric Correction Factors, Part 1—Introduction, Second Edition, May 1995; reaffirmed March 2002; incorporated by reference at § 250.1202;

(44) API MPMS Chapter 12—Calculation of Petroleum Quantities, Section 2—Calculation of Petroleum

Quantities Using Dynamic Measurement Methods and Volumetric Correction Factors, Part 2—Measurement Tickets, Third Edition, June 2003; incorporated by reference at § 250.1202;

(45) API MPMS Chapter 12—Calculation of Petroleum Quantities, Section 2—Calculation of Petroleum Quantities Using Dynamic Measurement Methods and Volumetric Correction Factors, Part 3—Proving Reports; First Edition, reaffirmed 2009; incorporated by reference at § 250.1202(a) and (g);

(46) API MPMS Chapter 12—Calculation of Petroleum Quantities, Section 2—Calculation of Petroleum Quantities Using Dynamic Measurement Methods and Volumetric Correction Factors, Part 4—Calculation of Base Prover Volumes by the Waterdraw Method, First Edition, December 1997; reaffirmed, 2009; incorporated by reference at § 250.1202(a), (f), and (g);

(47) API MPMS Chapter 14—Natural Gas Fluids Measurement, Section 3—Concentric, Square-Edged Orifice Meters, Part 1—General Equations and Uncertainty Guidelines, Third Edition, September 1990; reaffirmed, January 2003; incorporated by reference at § 250.1203;

(48) API MPMS Chapter 14—Natural Gas Fluids Measurement, Section 3—Concentric, Square-Edged Orifice Meters, Part 2—Specification and Installation Requirements, Fourth Edition, April 2000; reaffirmed March 2006; incorporated by reference at § 250.1203;

(49) API MPMS Chapter 14—Natural Gas Fluids Measurement, Section 3—Concentric, Square-Edged Orifice Meters; Part 3—Natural Gas Applications; Third Edition, August 1992; Errata March 1994, reaffirmed, February 2009; incorporated by reference at § 250.1203;

(50) API MPMS Chapter 14.5/GPA Standard 2172–09; Calculation of Gross Heating Value, Relative Density, Compressibility and Theoretical Hydrocarbon Liquid Content for Natural Gas Mixtures for Custody Transfer; Third Edition, January 2009; incorporated by reference at § 250.1203;

(51) API MPMS Chapter 14—Natural Gas Fluids Measurement, Section 6—Continuous Density Measurement, Second Edition, April 1991; reaffirmed, February 2006; incorporated by reference at § 250.1203;

(52) API MPMS Chapter 14—Natural Gas Fluids Measurement, Section 8—Liquefied Petroleum Gas Measurement, Second Edition, July 1997; reaffirmed, March 2006; incorporated by reference at § 250.1203;

(53) API MPMS Chapter 20—Section 1—Allocation Measurement, First Edition, September 1993; reaffirmed October 2006; incorporated by reference at § 250.1202;

(54) API MPMS Chapter 21—Flow Measurement Using Electronic Metering Systems, Section 1—Electronic Gas Measurement, First Edition, August 1993; reaffirmed, July 2005; incorporated by reference at § 250.1203;

(55) API MPMS Chapter 21—Flow Measurement Using Electronic Metering Systems, Section 2—Electronic Liquid Volume Measurement Using Positive Displacement and Turbine Meters; First Edition, June 1998; incorporated by reference at § 250.1202(a);

(56) API MPMS Chapter 21—Flow Measurement Using Electronic Metering Systems, Addendum to Section 2—Flow Measurement Using Electronic Metering Systems, Inferred Mass; First Edition, reaffirmed February 2006; incorporated by reference at § 250.1202(a);

(57) API RP 2A–WSD, Recommended Practice for Planning, Designing and Constructing Fixed Offshore Platforms—Working Stress Design, Twenty-first Edition, December 2000; Errata and Supplement 1, December 2002; Errata and Supplement 2, September 2005; Errata and Supplement 3, October 2007; incorporated by reference at §§ 250.901, 250.908, 250.919, and 250.920;

(58) API RP 2D, Operation and Maintenance of Offshore Cranes, Sixth Edition, May 2007; incorporated by reference at § 250.108;

(59) API RP 2FPS, RP for Planning, Designing, and Constructing Floating Production Systems; First Edition, March 2001; incorporated by reference at § 250.901;

(60) API RP 2I, In-Service Inspection of Mooring Hardware for Floating Structures; Third Edition, April 2008; incorporated by reference at § 250.901(a) and (d);

(61) ANSI/API RP 2N, Third Edition, ''Recommended Practice for Planning, Designing, and Constructing Structures and Pipelines for Arctic Conditions'', Third Edition, April 2015; incorporated by reference at § 250.470(g);

(62) API RP 2RD, Recommended Practice for Design of Risers for Floating Production Systems (FPSs) and Tension-Leg Platforms (TLPs), First Edition, June 1998; reaffirmed, May 2006, Errata, June 2009; incorporated by reference at §§ 250.733, 250.800(c), 250.901(a), (d), and 250.1002(b);

(63) API RP 2SK, Design and Analysis of Stationkeeping Systems for Floating Structures, Third Edition, October 2005, Addendum, May 2008, reaffirmed June 2015; incorporated by reference at §§ 250.800(c) and 250.901(a) and (d);

(64) API RP 2SM, Recommended Practice for Design, Manufacture, Installation, and Maintenance of Synthetic Fiber Ropes for Offshore Mooring, First Edition, March 2001, Addendum, May 2007; incorporated by reference at §§ 250.800(c) and 250.901(a) and (d);

(65) API RP 2T, Recommended Practice for Planning, Designing, and Constructing Tension Leg Platforms, Second Edition, August 1997; incorporated by reference at § 250.901(a) and (d);

(66) ANSI/API RP 14B, Design, Installation, Operation, Test, and Redress of Subsurface Safety Valve Systems, Sixth Edition, September 2015; incorporated by reference at §§ 250.802(b), 250.803(a), 250.814(d), 250.828(c), and 250.880(c);

(67) API RP 14C, Recommended Practice for Analysis, Design, Installation, and Testing of Basic Surface Safety Systems for Offshore Production Platforms, Seventh Edition, March 2001, reaffirmed: March 2007; incorporated by reference at §§ 250.125(a), 250.292(j), 250.841(a), 250.842(a), 250.850, 250.852(a), 250.855, 250.856(a), 250.858(a), 250.862(e), 250.865(a), 250.867(a), 250.869(a) through (c), 250.872(a), 250.873(a), 250.874(a), 250.880(b) and (c), 250.1002(d), 250.1004(b), 250.1628(c) and (d), 250.1629(b), and 250.1630(a);

(68) API RP 14E, Recommended Practice for Design and Installation of Offshore Production Platform Piping Systems, Fifth Edition, October 1991; reaffirmed, January 2013; incorporated by reference at §§ 250.841(b), 250.842(a), and 250.1628(b) and (d);

(69) API RP 14F, Recommended Practice for Design, Installation, and Maintenance of Electrical Systems for Fixed and Floating Offshore Petroleum Facilities for Unclassified and Class 1, Division 1 and Division 2 Locations, Upstream Segment, Fifth Edition, July 2008, reaffirmed: April 2013; incorporated by reference at §§ 250.114(c), 250.842(c), 250.862(e), and 250.1629(b);

(70) API RP 14FZ, Recommended Practice for Design, Installation, and Maintenance of Electrical Systems for Fixed and Floating Offshore Petroleum Facilities for Unclassified and Class I, Zone 0, Zone 1 and Zone 2 Locations, Second Edition, May 2013; incorporated by reference at §§ 250.114(c), 250.842(c), 250.862(e), and 250.1629(b);

(71) API RP 14G, Recommended Practice for Fire Prevention and Control on Fixed Open-type Offshore Production Platforms, Fourth Edition, April 2007; Reaffirmed, January 2013; incorporated by reference at

§§ 250.859(a), 250.862(e), 250.880(c), and 250.1629(b);

(72) API RP 14J, Recommended Practice for Design and Hazards Analysis for Offshore Production Facilities, Second Edition, May 2001; reaffirmed: January 2013; incorporated by reference at §§ 250.800(b) and (c), 250.842(c), and 250.901(a) and (d);

(73) API RP 17H, Remotely Operated Tools and Interfaces on Subsea Production Systems, Second Edition, June 2013; Errata, January 2014; incorporated by reference at § 250.734(a);

(74) API RP 65, Recommended Practice for Cementing Shallow Water Flow Zones in Deepwater Wells, First Edition, September 2002; incorporated by reference at § 250.415;

(75) API RP 75, Recommended Practice for Development of a Safety and Environmental Management Program for Offshore Operations and Facilities, Third Edition, May 2004, reaffirmed May 2008; incorporated by reference at §§ 250.1900, 250.1902, 250.1903, 250.1909, 250.1920;

(76) API RP 86, API Recommended Practice for Measurement of Multiphase Flow; First Edition, September 2005; incorporated by reference at §§ 250.1202(a) and 250.1203(b);

(77) API RP 90, Annular Casing Pressure Management for Offshore Wells, First Edition, August 2006; incorporated by reference at § 250.519;

(78) API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, Third Edition, December 2012; Errata January 2014, incorporated by reference at §§ 250.114(a), 250.459, 250.842(a), 250.862(a) and (e), 250.872(a), 250.1628(b) and (d), and 250.1629(b);

(79) API RP 505, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone 2, First Edition, November 1997; reaffirmed, August 2013; incorporated by reference at §§ 250.114(a), 250.459, 250.842(a), 250.862(a) and (e), 250.872(a), 250.1628(b) and (d), and 250.1629(b);

(80) API RP 2556, Recommended Practice for Correcting Gauge Tables for Incrustation, Second Edition, August 1993; reaffirmed November 2003; incorporated by reference at § 250.1202;

(81) API Spec. 2C, Specification for Offshore Pedestal Mounted Cranes, Sixth Edition, March 2004, Effective Date: September 2004; incorporated by reference at § 250.108;

(82) ANSI/API Spec. 6A, Specification for Wellhead and Christmas Tree Equipment, Twentieth Edition, October 2010; Addendum 1, November 2011; Errata 2, November 2011; Addendum 2, November 2012; Addendum 3, March 2013; Errata 3, June 2013; Errata 4, August 2013; Errata 5, November 2013; Errata 6, March 2014; Errata 7, December 2014; Errata 8, February 2016; Addendum 4, June 2016; Errata 9, June 2016; Errata 10, August 2016; incorporated by reference at §§ 250.730, 250.802(a), 250.803(a), 250.833, 250.873(b), 250.874(g), and 250.1002(b);

(83) API Spec. 6AV1, Specification for Verification Test of Wellhead Surface Safety Valves and Underwater Safety Valves for Offshore Service, Second Edition, February 2013; incorporated by reference at §§ 250.802(a), 250.833, 250.873(b), and 250.874(g);

(84) API STD 6AV2, Installation, Maintenance, and Repair of Surface Safety Valves and Underwater Safety Valves Offshore; First Edition, March 2014; Errata 1, August 2014; incorporated by reference at §§ 250.820, 250.834, 250.836, and 250.880(c)

(85) ANSI/API Spec. 6D, Specification for Pipeline Valves, Twenty-third Edition, April 2008; Effective Date: October 1, 2008, Errata 1, June 2008; Errata 2, November 2008; Errata 3, February 2009; Addendum 1, October 2009; Contains API Monogram Annex as Part of U.S. National Adoption; ISO 14313:2007 (Identical), Petroleum and natural gas industries—Pipeline transportation systems—Pipeline valves; incorporated by reference at § 250.1002(b);

(86) ANSI/API Spec. 11D1, Packers and Bridge Plugs, Second Edition, July 2009; incorporated by reference at §§ 250.518, 250.619, and 250.1703;

(87) ANSI/API Spec. 14A, Specification for Subsurface Safety Valve Equipment, Eleventh Edition, October 2005, reaffirmed, June 2012; incorporated by reference at §§ 250.802 and 250.803(a);

(88) ANSI/API Spec. 16A, Specification for Drill-through Equipment, Third Edition, June 2004, reaffirmed August 2010; incorporated by reference at § 250.730;

(89) ANSI/API Spec. 16C, Specification for Choke and Kill Systems, First Edition, January 1993, reaffirmed July 2010; incorporated by reference at § 250.730;

(90) API Spec. 16D, Specification for Control Systems for Drilling Well Control Equipment and Control Systems for Diverter Equipment, Second Edition, July 2004, reaffirmed August 2013; incorporated by reference at § 250.730;

(91) ANSI/API Spec. 17D, Design and Operation of Subsea Production Systems—Subsea Wellhead and Tree Equipment, Second Edition, May 2011; incorporated by reference at § 250.730;

(92) ANSI/API Spec. 17J, Specification for Unbonded Flexible Pipe, Third Edition, July 2008, incorporated by reference at §§ 250.852(e), 250.1002(b), and 250.1007(a).

(93) ANSI/API Spec. Q1, Specification for Quality Management System Requirements for Manufacturing Organizations for the Petroleum and Natural Gas Industry, Ninth Edition, June 2013; Errata, February 2014; Errata 2, March 2014; Addendum 1, June 2016; incorporated by reference at §§ 250.730 and 250.801(b) and (c);

(94) API Standard 53, Blowout Prevention Equipment Systems for Drilling Wells, Fourth Edition, November 2012, Addendum 1, July 2016, incorporated by reference at §§ 250.730, 250.734, 250.735, 250.736, 250.737, and 250.739;

(95) API Standard 65—Part 2, Isolating Potential Flow Zones During Well Construction; Second Edition, December 2010; incorporated by reference at §§ 250.415(f) and 250.420(a);

(96) API Standard 2552, USA Standard Method for Measurement and Calibration of Spheres and Spheroids, First Edition, 1966; reaffirmed, October 2007; incorporated by reference at § 250.1202;

(97) API Standard 2555, Method for Liquid Calibration of Tanks, First Edition, September 1966; reaffirmed March 2002; incorporated by reference at § 250.1202;

(f) American Society of Mechanical Engineers (ASME), 22 Law Drive, P.O. Box 2900, Fairfield, NJ 07007–2900; *http://www.asme.org;* phone: 1–800–843–2763.

(1) 2017 ASME Boiler and Pressure Vessel Code (BPVC), Section I, Rules for Construction of Power Boilers, 2017 Edition, July 1, 2017, incorporated by reference at §§ 250.851(a) and 250.1629(b).

(2) 2017 ASME Boiler and Pressure Vessel Code, Section IV, Rules for Construction of Heating Boilers, 2017 Edition, July 1, 2017, incorporated by reference at §§ 250.851(a) and 250.1629(b).

(3) 2017 ASME Boiler and Pressure Vessel Code, Section VIII, Rules for Construction of Pressure Vessels; Division 1, 2017 Edition; July 1, 2017, incorporated by reference at §§ 250.851(a) and 250.1629(b).

(4) 2017 ASME Boiler and Pressure Vessel Code, Section VIII, Rules for Construction of Pressure Vessels; Division 2: Alternative Rules, 2017 Edition, July 1, 2017, incorporated by

reference at §§ 250.851(a) and 250.1629(b).

(5) 2017 ASME Boiler and Pressure Vessel Code, Section VIII, Rules for Construction of Pressure Vessels; Division 3: Alternative Rules for Construction of High Pressure Vessels, 2017 Edition, July 1, 2017, incorporated by reference at §§ 250.851(a) and 250.1629(b).

(g) American Society for Testing and Materials (ASTM), ASTM Standards, 100 Bar Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959; *http://www.astm.org;* phone: 1–877–909–2786:

(1) ASTM Standard C 33–07, approved December 15, 2007, Standard Specification for Concrete Aggregates; incorporated by reference at § 250.901;

(2) ASTM Standard C 94/C 94M–07, approved January 1, 2007, Standard Specification for Ready-Mixed Concrete; incorporated by reference at § 250.901;

(3) ASTM Standard C 150–07, approved May 1, 2007, Standard Specification for Portland Cement; incorporated by reference at § 250.901;

(4) ASTM Standard C 330–05, approved December 15, 2005, Standard Specification for Lightweight Aggregates for Structural Concrete; incorporated by reference at § 250.901;

(5) ASTM Standard C 595–08, approved January 1, 2008, Standard Specification for Blended Hydraulic Cements; incorporated by reference at § 250.901;

(h) American Welding Society (AWS), AWS Codes, 8669 NW 36 Street, #130, Miami, FL 33126; *http://www.aws.org;*phone: 800–443–9353:

(1) AWS D1.1:2000, Structural Welding Code—Steel, 17th Edition, October 18, 1999; incorporated by reference at § 250.901;

(2) AWS D1.4–98, Structural Welding Code—Reinforcing Steel, 1998 Edition; incorporated by reference at § 250.901;

(3) AWS D3.6M:1999, Specification for Underwater Welding (1999); incorporated by reference at § 250.901.

(i) National Association of Corrosion Engineers (NACE) International, NACE Standards, Park Ten Place, Houston, TX 77084; *http://www.nace.org;* phone: 281–228–6200:

(1) NACE Standard MR0175–2003, Standard Material Requirements, Metals for Sulfide Stress Cracking and Stress Corrosion Cracking Resistance in Sour Oilfield Environments, Revised January 17, 2003; incorporated by reference at §§ 250.490 and 250.901;

(2) NACE Standard RP0176–2003, Standard Recommended Practice, Corrosion Control of Steel Fixed Offshore Structures Associated with Petroleum Production; incorporated by reference at § 250.901.

(j) International Organization for Standardization (ISO), 1, ch. de la Voie-Creuse, CP 56, CH–1211, Geneva 20, Switzerland; *www.iso.org;* phone: 41–22–749–01–11:

(1) ISO/IEC (International Electrotechnical Commission) 17011, Conformity assessment—General requirements for accreditation bodies accrediting conformity assessment bodies, First edition 2004–09–01; Corrected version 2005–02–15; incorporated by reference at §§ 250.1900, 250.1903, 250.1904, and 250.1922.

(2) ISO/IEC 17021–1, Conformity assessment—Requirements for bodies providing audit and certification of management systems—Part 1: Requirements, First Edition, June 2015, incorporated by reference at § 250.730(d).

(3) [Reserved]

(k) Center for Offshore Safety (COS), 1990 Post Oak Blvd., Suite 1370, Houston, TX 77056; *www.centerforoffshoresafety.org;* phone: 832–495–4925.

(1) COS Safety Publication COS–2–01, Qualification and Competence Requirements for Audit Teams and Auditors Performing Third-party SEMS Audits of Deepwater Operations, First Edition, Effective Date October 2012; incorporated by reference at §§ 250.1900, 250.1903, 250.1904, and 250.1921.

(2) COS Safety Publication COS–2–03, Requirements for Third-party SEMS Auditing and Certification of Deepwater Operations, First Edition, Effective Date October 2012; incorporated by reference at §§ 250.1900, 250.1903, 250.1904, and 250.1920.

(3) COS Safety Publication COS–2–04, Requirements for Accreditation of Audit Service Providers Performing SEMS Audits and Certification of Deepwater Operations, First Edition, Effective Date October 2012; incorporated by reference at §§ 250.1900, 250.1903, 250.1904, and 250.1922.

Subpart B—Plans and Information

■ 4. Amend § 250.292 by revising paragraph (p) to read as follows:

§ 250.292 What must the DWOP contain?

* * * * *

(p) If you propose to use a pipeline free standing hybrid riser (FSHR) on a permanent installation that utilizes a buoyancy air can suspended from the top of the riser, you must provide the following information in your DWOP in the discussions required by paragraphs (f) and (g) of this section:

(1) A detailed description and drawings of the FSHR, buoy, and the associated connection system;

(2) Detailed information regarding the system used to connect the FSHR to the buoyancy air can, and associated redundancies; and

(3) Descriptions of your monitoring system and monitoring plan to monitor the pipeline FSHR and the associated connection system for fatigue, stress, and any other abnormal condition (*e.g.,* corrosion) that may negatively impact the riser system's integrity.

* * * * *

Subpart D—Oil and Gas Drilling Operations

■ 5. Amend § 250.413 by revising paragraph (g) to read as follows:

§ 250.413 What must my description of well drilling design criteria address?

* * * * *

(g) A single plot containing curves for estimated pore pressures, formation fracture gradients, proposed drilling fluid weights (surface and downhole), planned safe drilling margin, and casing setting depths in true vertical measurements;

* * * * *

■ 6. Amend § 250.414 by revising paragraphs (c)(2) and (c)(3) to read as follows:

§ 250.414 What must my drilling prognosis include?

* * * * *

(c) * * *

(2) In lieu of meeting the criteria in paragraph (c)(1)(ii) of this section, you may use an equivalent downhole mud weight as specified in your APD, provided that you submit adequate documentation (such as risk modeling data, off-set well data, analog data, seismic data) to justify the alternative equivalent downhole mud weight. You may submit such justification in advance of your full APD, and BSEE may consider such justification for approval when submitted. Any such approval will be contingent upon your confirmation in the APD that your plans and the information underlying your approved justification have not changed.

(3) When determining the pore pressure and lowest estimated fracture gradient for a specific interval, you must consider related off-set and analogous well behavior observations, if available.

* * * * *

■ 7. Amend § 250.420 by revising paragraph (a)(6) to read as follows:

§ 250.420 What well casing and cementing requirements must I meet?

* * * * *

(a) * * *

(6) Provide adequate centralization consistent with the guidelines of API Standard 65—Part 2 (as incorporated by reference in § 250.198); and

* * * * *

■ 8. Amend § 250.421 by revising paragraphs (c), (d), (e), and (f) to read as follows:

§ 250.421 What are the casing and cementing requirements by type of casing string?

* * * * *

Casing type	Casing requirements	Cementing requirements
*	*	*
(c) Surface	Design casing and select setting depths based on relevant engineering and geologic factors. These factors include the presence or absence of hydrocarbons, potential hazards, and water depths.	Use enough cement to fill the calculated annular space to at least 200 feet measured depth (MD) inside the conductor casing. When geologic conditions such as near-surface fractures and faulting exist, you must use enough cement to fill the calculated annular space to the mudline.
(d) Intermediate	Design casing and select setting depth based on anticipated or encountered geologic characteristics or wellbore conditions.	Use enough cement to cover and isolate all hydrocarbon-bearing zones and isolate abnormal pressure intervals from normal pressure intervals in the well. As a minimum, you must cement the annular space 500 feet MD above the casing shoe and 500 feet MD above each zone to be isolated.
(e) Production	Design casing and select setting depth based on anticipated or encountered geologic characteristics or wellbore conditions.	Use enough cement to cover or isolate all hydrocarbon-bearing zones above the shoe. As a minimum, you must cement the annular space at least 500 feet MD above the casing shoe and 500 feet MD above the uppermost hydrocarbon-bearing zone.
(f) Liners	If you use a liner as surface casing, you must set the top of the liner at least 200 feet MD above the previous casing/liner shoe.. If you use a liner as an intermediate string below a surface string or production casing below an intermediate string, you must set the top of the liner at least 100 feet MD above the previous casing shoe. You may not use a liner as conductor casing. A subsea well casing string whose top is above the mudline and that has been cemented back to the mudline will not be considered a liner.	Same as cementing requirements for specific casing types. For example, a liner used as intermediate casing must be cemented according to the cementing requirements for intermediate casing.

■ 9. Amend § 250.423 by revising paragraphs (a) and (b) to read as follows:

§ 250.423 What are the requirements for casing and liner installation?

* * * * *

(a) You must ensure that the latching mechanisms or lock down mechanisms are engaged upon successfully installing the casing string.

(b) If you run a liner that has a latching mechanism or lock down mechanism, you must ensure that the latching mechanisms or lock down mechanisms are engaged upon successfully installing the liner.

* * * * *

■ 10. Amend § 250.427 by revising paragraph (b) to read as follows:

§ 250.427 What are the requirements for pressure integrity tests?

* * * * *

(b) While drilling, you must maintain the safe drilling margin identified in § 250.414. When you cannot maintain the safe drilling margin, you must:

(1) Suspend drilling operations and submit proposed remedial actions to the District Manager. The District Manager must review and approve your proposed remedial actions, which may include limited drilling through a lost circulation zone; or

(2) Notify the District Manager and take further action in accordance with API Bulletin 92L (as incorporated by reference in § 250.198), if appropriate. You must submit a revised permit documenting any responsive actions taken.

■ 11. Amend § 250.428 by revising paragraphs (c) and (d) to read as follows:

§ 250.428 What must I do in certain cementing and casing situations?

* * * * *

If you encounter the following situation:	Then you must . . .
* * *	* * * *
(c) Have indication of inadequate cement job (such as unplanned lost returns, no cement returns to mudline or expected height, cement channeling, or failure of equipment),	(1) Locate the top of cement by: (i) Running a temperature survey; (ii) Running a cement evaluation log; (iii) Using tracers in the cement and logging them prior to drill out; or (iv) Using a combination of these techniques. (2) Determine if your cement job is inadequate. If your cement job is determined to be inadequate, refer to paragraph (d) of this section. (3) If your cement job is determined to be adequate, report the results to the District Manager in your submitted WAR.
(d) Inadequate cement job, ...	Comply with § 250.428(c)(1) and take remedial actions. The District Manager must review and approve all remedial actions either through a previously approved contingency plan within the permit or remedial actions included in a revised permit before you may take them, unless immediate actions must be taken to ensure the safety of the crew or to prevent a well-control event. If you complete any immediate action to ensure the safety of the crew or to prevent a well-control event, submit a description of the action to the District Manager when that action is complete. Any changes to the well program, that are not included in the approved permit, will require submittal of a certification by a professional engineer (PE) certifying that they have reviewed and approved the proposed changes. You must also meet any other requirements of the District Manager for remedial actions.
* * *	* * * *

■ 12. Amend § 250.433 by revising paragraph (b) to read as follows:

§ 250.433 What are the diverter actuation and testing requirements?

* * * * *

(b) For floating drilling operations with a subsea BOP stack, you must actuate the diverter system within 7 days after the previous actuation. For subsequent testing, you may partially actuate the diverter element and a flow test is not required.

* * * * *

■ 13. Amend § 250.461 by revising paragraph (b) to read as follows:

§ 250.461 What are the requirements for directional and inclination surveys?

* * * * *

(b) *Survey requirements for a directional well.* You must conduct directional surveys on each directional well and digitally record the results. Surveys must give both inclination and azimuth at intervals not to exceed 500 feet during the normal course of drilling. Intervals during angle-changing portions of the hole may not exceed 180 feet.

* * * * *

■ 14. Amend § 250.462 by revising paragraphs (b) introductory text, (e)(1)(ii), (e)(2)(i), (e)(3), and (e)(4) to read as follows:

§ 250.462 What are the source control, containment, and collocated equipment requirements?

* * * * *

(b) You must have access to and the ability to deploy Source Control and Containment Equipment (SCCE) and all other necessary supporting and collocated equipment to regain control of the well. SCCE means the capping stack, cap-and-flow system, containment dome, and/or other subsea and surface devices, equipment, and vessels, which have the collective purpose to control a spill source and stop the flow of fluids into the environment or to contain fluids escaping into the environment based on the determinations outlined in paragraph (a) of this section. This SCCE, supporting equipment, and collocated equipment may include, but is not limited to, the following:

* * * * *

(e) * * *

Equipment	Requirements, you must:	Additional information
(1) * * *		
	(ii) Pressure test pressure containing critical components on a bi-annual basis, but not later than 210 days from the last pressure test. All pressure testing must be witnessed by BSEE (if available) and an independent third party.	Pressure containing critical components are those components that will experience wellbore pressure during a shut-in. These components include, but are not limited to: All blind rams, wellhead connectors, and outlet valves.
* *	* * *	* *
(2) Production safety systems used for flow and capture operations.	(i) Meet or exceed the requirements set forth in Subpart H, excluding required equipment that would be installed below the wellhead or that is not applicable to the cap and flow system.	
* *	* * *	* *
(3) Subsea utility equipment, ...	Have all equipment utilized solely for containment operations available for inspection at all times.	Subsea utility equipment includes, but is not limited to: Hydraulic power sources, debris removal, and hydrate control equipment.

Equipment	Requirements, you must:	Additional information
(4) Collocated equipment designated by the operator in the Regional Containment Demonstration (RCD) or Well Containment Plan (WCP),	Have equipment available for inspection at all times.	Collocated equipment includes, but is not limited to, dispersant injection equipment and other subsea control equipment.

Subpart E—Oil and Gas Well-Completion Operations

■ 15. Amend § 250.518 by revising paragraph (e)(1) and adding new paragraph (g) to read as follows:

§ 250.518 Tubing and wellhead equipment.

* * * * *

(e) * * *

(1) The uppermost permanently installed packer and all permanently installed bridge plugs qualified as mechanical barriers must comply with ANSI/API Spec. 11D1 (as incorporated by reference in § 250.198);

* * * * *

(g) You must have two independent barriers, one being mechanical, in the exposed center wellbore prior to removing the tree and/or well control equipment.

■ 16. Revise § 250.519 to read as follows:

§ 250.519 What are the requirements for casing pressure management?

Once you install your wellhead, you must meet the casing pressure management requirements of API RP 90 (as incorporated by reference in § 250.198) and the requirements of §§ 250.519 through 250.531. If there is a conflict between API RP 90 and the casing pressure requirements of this subpart, you must follow the requirements of this subpart.

■ 17. Revise § 250.522 to read as follows:

§ 250.522 How do I manage the thermal effects caused by initial production on a newly completed or recompleted well?

A newly completed or recompleted well often has thermal casing pressure during initial startup. Bleeding casing pressure during the startup process is considered a normal and necessary operation to manage thermal casing pressure; therefore, you do not need to evaluate these operations as a casing diagnostic test. After 30 days of continuous production, the initial production startup operation is complete and you must perform casing diagnostic testing as required in §§ 250.521 and 250.523.

■ 18. Amend § 250.525 by revising paragraph (d) to read as follows:

§ 250.525 When am I required to take action from my casing diagnostic test?

* * * * *

(d) Any well that has sustained casing pressure (SCP) and is bled down to prevent it from exceeding its MAWOP, except during initial startup operations described in § 250.522;

* * * * *

■ 19. Revise § 250.526 to read as follows:

§ 250.526 What do I submit if my casing diagnostic test requires action?

Within 14 days after you perform a casing diagnostic test requiring action under § 250.525:

You must submit either . . .	to the appropriate . . .	and it must include . . .	You must also . . .
(a) a notification of corrective action; or,	District Manager and copy the Regional Supervisor, Field Operations,	requirements under § 250.527,	submit an Application for Permit to Modify or Corrective Action Plan within 30 days of the diagnostic test.
(b) a casing pressure request,	Regional Supervisor, Field Operations,	requirements under § 250.528.	

■ 20. Amend § 250.530 by revising paragraph (b) to read as follows:

§ 250.530 What if my casing pressure request is denied?

* * * * *

(b) You must submit the casing diagnostic test data to the appropriate Regional Supervisor, Field Operations, within 14 days of completion of the diagnostic test required under § 250.523(e).

Subpart F—Oil and Gas Well-Workover Operations

■ 21. Amend § 250.601 by adding paragraph (m) to the definition of ''routine operations'' to read as follows:

§ 250.601 Definitions.

* * * * *

(m) Acid treatments.

* * * * *

■ 22. Remove and reserve § 250.616

§ 250.616 [Reserved]

■ 23. Amend § 250.619 by revising paragraph (e)(1) and adding new paragraph (g) to read as follows:

§ 250.619 Tubing and wellhead equipment.

* * * * *

(e) * * *

(1) The uppermost permanently installed packer and all permanently installed bridge plugs qualified as mechanical barriers must comply with ANSI/API Spec. 11D1 (as incorporated by reference in § 250.198).

* * * * *

(g) You must have two independent barriers, one being mechanical, in the exposed center wellbore prior to removing the tree and/or well control equipment.

Subpart G—Well Operations and Equipment

■ 24. Amend § 250.712 by adding paragraphs (g) and (h) to read as follows:

§ 250.712 What rig unit movements must I report?

* * * * *

(g) You are not required to report rig unit movements to and from the safe zone during the course of permitted operations.

(h) If a rig unit is already on a well, you are not required to report any additional rig unit movements on that well.

■ 25. Amend § 250.720 by revising paragraph (a)(1) and adding paragraphs (a)(3) and (d) to read as follows:

§ 250.720 When and how must I secure a well?

(a) * * *

(1) The events that would cause you to interrupt operations and notify the District Manager include, but are not limited to, the following:

(i) Evacuation of the rig crew;

(ii) Inability to keep the rig on location;

(iii) Repair to major rig or well-control equipment;

(iv) Observed flow outside the well's casing (*e.g.,* shallow water flow or bubbling); or

(v) Impending National Weather Service-named tropical storm or hurricane.

* * * * *

(3) If you unlatch the BOP or LMRP:

(i) Upon relatch of the BOP, you must test according to § 250.734(b)(2), or

(ii) Upon relatch of the LMRP, you must test according to § 250.734(b)(3); and

(iii) You must submit a revised permit with a written statement from an independent third party certifying that the previous certification under § 250.731(c) remains valid and receive District Manager approval before resuming operations.

* * * * *

(d) You must have the equipment used solely for intervention operations (*e.g.,* tree interface tools) identified, readily available, properly maintained, and available for BSEE inspection upon request. This equipment is required for subsea completed wells with a tree installed, that meet the following conditions:

(1) Have a shut-in tubing pressure that is greater than the hydrostatic pressure of the water column, or

(2) Are not capable of having the annulus monitored.

■ 26. Amend § 250.722 by revising paragraph (a)(2) to read as follows:

§ 250.722 What are the requirements for prolonged operations in a well?

* * * * *

(a) * * *

(2) Report the results of your evaluation to the District Manager and obtain approval of those results before resuming operations. Your report must include calculations that indicate the well's integrity is above the minimum safety factors, if an imaging tool or caliper is used. District Manager approval is not required to resume operations if you conducted a successful pressure test as approved in your permit. You must document the successful pressure test in the WAR.

* * * * *

■ 27. Amend § 250.723 by revising the introductory text and paragraph (c)(3) to read as follows:

§ 250.723 What additional safety measures must I take when I conduct operations on a platform that has producing wells or has other hydrocarbon flow?

You must take the following safety measures when you conduct operations with a rig unit on or jacked-up over a platform with producing wells or that has other hydrocarbon flow:

* * * * *

(c) * * *

(3) A MODU moves within 500 feet of a platform. You may resume production once the MODU is in place, secured, and ready to begin operations.

* * * * *

■ 28. Revise § 250.724 to read as follows:

§ 250.724 What are the real-time monitoring requirements?

(a) When conducting well operations with a subsea BOP or with a surface BOP on a floating facility, or when operating in an high pressure high temperature (HPHT) environment, you must gather and monitor real-time well data using an independent, automatic, and continuous monitoring system capable of recording, storing, and transmitting data regarding the following:

(1) The BOP control system;

(2) The well's active fluid circulating system; and

(3) The well's downhole conditions with the bottom hole assembly tools (if any tools are installed).

(b) You must transmit these data as they are gathered, barring unforeseeable or unpreventable interruptions in transmission, and have the capability to monitor the data, using qualified personnel in accordance with a real-time monitoring plan, as provided in paragraph (c) of this section.

(c) You must develop and implement a real-time monitoring plan. Your real-time monitoring plan, and all real-time monitoring data, must be made available to BSEE upon request. Your real-time monitoring plan must include the following:

(1) A description of your real-time monitoring capabilities, including the types of the data collected;

(2) A description of how your real-time monitoring data will be transmitted during operations, how the data will be labeled and monitored by qualified personnel, and how the data will be stored as required in §§ 250.740 and 250.741;

(3) A description of your procedures for providing BSEE access, upon request, to your real-time monitoring data;

(4) The qualifications of the personnel monitoring the data;

(5) Your procedures for, and methods of, communication between rig personnel and the monitoring personnel; and

(6) Actions to be taken if you lose any real-time monitoring capabilities or communications between rig personnel and monitoring personnel, and a protocol for how you will respond to any significant and/or prolonged interruption of monitoring capabilities or communications, including your protocol for notifying BSEE of any significant and/or prolonged interruptions.

■ 29. Revise § 250.730 to read as follows:

§ 250.730 What are the general requirements for BOP systems and system components?

(a) You must ensure that the BOP system and system components are designed, installed, maintained, inspected, tested, and used properly to ensure well control. The working-pressure rating of each BOP component (excluding annular(s)) must exceed MASP as defined for the operation. For a subsea BOP, the MASP must be determined at the mudline. The BOP system includes the BOP stack, control system, and any other associated system(s) and equipment. The BOP system and individual components must be able to perform their expected functions and be compatible with each other. Your BOP system must be capable of closing and sealing the wellbore in the event of flow due to a kick, including under anticipated flowing conditions for the specific well conditions, without losing ram closure time and sealing integrity due to the corrosiveness, volume, and abrasiveness of any fluids in the wellbore that the BOP system may encounter. Your BOP system must meet the following requirements:

(1) The BOP requirements of API Standard 53 (incorporated by reference in § 250.198) and the requirements of §§ 250.733 through 250.739. If there is a conflict between API Standard 53 and the requirements of this subpart, you must follow the requirements of this subpart.

(2) The provisions of the following industry standards (all incorporated by reference in § 250.198) that apply to BOP systems:

(i) ANSI/API Spec. 6A;

(ii) ANSI/API Spec. 16A;

(iii) ANSI/API Spec. 16C;

(iv) API Spec. 16D; and

(v) ANSI/API Spec. 17D.

(3) For surface and subsea BOPs, the pipe and variable bore rams installed in the BOP stack must be capable of effectively closing and sealing on the tubular body of any drill pipe, workstring, and tubing (excluding tubing with exterior control lines and flat packs) in the hole under MASP, as defined for the operation, at the

proposed regulator settings of the BOP control system.

(4) The current set of approved schematic drawings must be available on the rig and at an onshore location. If you make any modifications to the BOP or control system that will require changes to your BSEE-approved schematic drawings, you must suspend operations until you obtain approval from the District Manager.

(b) You must ensure that the design, fabrication, maintenance, and repair of your BOP system is in accordance with the requirements contained in this part, applicable Original Equipment Manufacturer's (OEM) recommendations unless otherwise directed by BSEE, and recognized engineering practices. The training and qualification of repair and maintenance personnel must meet or exceed applicable OEM training recommendations unless otherwise directed by BSEE.

(c) You must follow the failure reporting procedures contained in API Standard 53, (incorporated by reference in § 250.198), and:

(1) You must provide a written notice of equipment failure to the Chief, Office of Offshore Regulatory Programs (OORP), unless BSEE has designated a third party as provided in paragraph (c)(4) of this section, and the manufacturer of such equipment within 30 days after the discovery and identification of the failure. A failure is any condition that prevents the equipment from meeting the functional specification.

(2) You must ensure that an investigation and a failure analysis are started within 120 days of the failure to determine the cause of the failure, and are completed within 120 days upon starting the investigation and failure analysis. You must also ensure that the results and any corrective action are documented. You must ensure that the analysis report is submitted to the Chief OORP, unless BSEE has designated a third party as provided in paragraph (c)(4) of this section, as well as the manufacturer. If you cannot complete the investigation and analysis within the specified time, you must submit an extension request detailing how you will complete the investigation and analysis to BSEE for approval. You must submit the extension request to the Chief, OORP.

(3) If the equipment manufacturer notifies you that it has changed the design of the equipment that failed or if you have changed operating or repair procedures as a result of a failure, then you must, within 30 days of such changes, report the design change or modified procedures in writing to the Chief OORP, unless BSEE has designated a third party as provided in paragraph (c)(4) of this section.

(4) Submit notices and reports to the Chief, Office of Offshore Regulatory Programs; Bureau of Safety and Environmental Enforcement; 45600 Woodland Road, Sterling, Virginia 20166. BSEE may designate a third party to receive the data and reports on behalf of BSEE. If BSEE designates a third party, you must submit the data and reports to the designated third party.

(d) If you plan to use a BOP stack manufactured after the effective date of this regulation, you must use one manufactured pursuant to an ANSI/API Spec. Q1 (as incorporated by reference in § 250.198) quality management system. Such quality management system must be certified by an entity that meets the requirements of ISO/IEC 17021–1 (as incorporated by reference in § 250.198).

(1) BSEE may consider accepting equipment manufactured under quality assurance programs other than ANSI/API Spec. Q1, provided you submit a request to the Chief, OORP for approval, containing relevant information about the alternative program.

(2) You must submit this request to the Chief, OORP; Bureau of Safety and Environmental Enforcement; 45600 Woodland Road, Sterling, Virginia 20166.

■ 30. Amend § 250.731 by:

■ a. Removing paragraphs (d) and (f);

■ b. Redesignating paragraph (e) as (d); and

■ c. Revising paragraphs (a)(5) and (c) to read as follows:

§ 250.731 What information must I submit for BOP systems and system components?

* * * * *

You must submit:	Including:
(a) * * *	(5) Control system pressure and regulator settings needed to close each ram BOP under MASP as defined for the operation;
* *	* * * * *
(c) Certification by an independent third party,	Verification that: (1) Test data demonstrate the shear ram(s) will shear the drill pipe at the water depth as required in § 250.732; (2) The BOP was designed, tested, and maintained to perform under the maximum environmental and operational conditions anticipated to occur at the well; (3) The accumulator system has sufficient fluid to operate the BOP system without assistance from the charging system; and (4) If using a subsea BOP, a BOP in an HPHT environment as defined in § 250.804(b), or a surface BOP on a floating facility, the BOP has not been compromised or damaged from previous service.
* *	* * * * *

■ 31. Revise § 250.732 to read as follows:

§ 250.732 What are the independent third party requirements for BOP systems and system components?

(a) Prior to beginning any operation requiring the use of any BOP, you must submit verification by an independent third party and supporting documentation as required by this paragraph to the appropriate District Manager and Regional Supervisor.

You must submit verification and documentation related to:	That:
(1) Shear testing,	(i) Demonstrates that the BOP will shear the tubular body of any drill pipe (excluding tool joints, bottom-hole tools, and bottom hole assemblies such as heavy-weight pipe or collars), workstring, tubing and associated exterior control lines and any electric-, wire-, and slick-line to be used in the well; (ii) Demonstrates the use of test protocols and analysis that represent recognized engineering practices for ensuring the repeatability and reproducibility of the tests, and that the testing was performed by a facility that meets generally accepted quality assurance standards; (iii) Provides a reasonable representation of field applications, taking into consideration the physical and mechanical properties of the tubular body of any drill pipe (excluding tool joints, bottom-hole tools, and bottom hole assemblies such as heavy-weight pipe or collars), workstring, tubing and associated exterior control lines and any electric-, wire-, and slick-line to be used in the well; (iv) Ensures testing was performed on the outermost edges of the shearing blades of the shear ram; (v) Demonstrates the shearing capacity of the BOP equipment to the physical and mechanical properties of the tubular body of any drill pipe (excluding tool joints, bottom-hole tools, and bottom hole assemblies such as heavy-weight pipe or collars), workstring, tubing and associated exterior control lines and any electric-, wire-, and slick-line to be used in the well; and (vi) Includes relevant testing results.
(2) Pressure integrity testing for sealing components, and	(i) Shows that testing is conducted after the shearing is completed and prior to opening the component; (ii) Demonstrates that the equipment will seal at the rated working pressures (RWP) of the BOP for 5 minutes; and (iii) Includes all relevant test results.
(3) Calculations	Include shearing and sealing pressures for all pipe to be used in the well including corrections for MASP.

(b) The independent third-party must be a technical classification society, a licensed professional engineering firm, or a registered professional engineer capable of providing the required certifications and verifications.

(c) For wells in an HPHT environment, as defined by § 250.804(b), you must submit verification by an independent third party that it conducted a comprehensive review of the BOP system and related equipment you propose to use. You must provide the independent third party access to any facility associated with the BOP system or related equipment during the review process. You must submit the verifications required by this paragraph (c) to the appropriate District Manager and Regional Supervisor before you begin any operations in an HPHT environment with the proposed equipment.

You must submit:	Including:
(1) Verification that the independent third party conducted a detailed review of the design package to ensure that all critical components and systems meet recognized engineering practices,	
(2) Verification that the designs of individual components and the overall system have been proven in a testing process that demonstrates the performance and reliability of the equipment in a manner that is repeatable and reproducible,	(i) Identification of all reasonable potential modes of failure; and (ii) Evaluation of the design verification tests. The design verification tests must assess the equipment for the identified potential modes of failure.
(3) Verification that the BOP equipment will perform as designed in the temperature, pressure, and environment that will be encountered, and	
(4) Verification that the fabrication, manufacture, and assembly of individual components and the overall system uses recognized engineering practices and quality control and assurance mechanisms.	For the quality control and assurance mechanisms, complete material and quality controls over all contractors, subcontractors, distributors, and suppliers at every stage in the fabrication, manufacture, and assembly process.

(d) You must make all documentation that demonstrates compliance with the requirements of this section available to BSEE upon request.

■ 32. Amend § 250.733 by:

■ a. Revising paragraphs (a)(1) and (b)(1); and

■ b. Adding paragraph (e) to read as follows:

§ 250.733 What are the requirements for a surface BOP stack?

(a) * * *

(1) The blind shear rams must be capable of shearing at any point along the tubular body of any drill pipe (excluding tool joints, bottom-hole tools, and bottom hole assemblies that include heavy-weight pipe or collars), workstring, tubing and associated exterior control lines, and any electric-, wire-, and slick-line that is in the hole and sealing the wellbore after shearing. Prior to April 29, 2021, if your blind shear rams are unable to cut any electric-, wire-, or slick-line under MASP as defined for the operation and seal the wellbore, you must use an alternative cutting device capable of shearing the lines before closing the BOP. This device must be available on the rig floor during operations that require their use.

* * * * *

(b) * * *

(1) On new floating production facilities installed after April 29, 2021, that include a surface BOP, follow the BOP requirements in § 250.734(a)(1).

* * * * *

(e) Additional requirements for surface BOP systems used in well-completion, workover, and decommissioning operations. The minimum BOP system for well-completion, workover, and decommissioning operations must meet the appropriate standards from the following table:

When . . .	The minimum BOP stack must include . . .
(1) The expected pressure is less than 5,000 psi,	Three BOPs consisting of an annular, one set of pipe rams, and one set of blind-shear rams.
(2) The expected pressure is 5,000 psi or greater or you use multiple tubing strings,	Four BOPs consisting of an annular, two sets of pipe rams, and one set of blind-shear rams.
(3) You handle multiple tubing strings simultaneously,	Four BOPs consisting of an annular, one set of pipe rams, one set of dual pipe rams, and one set of blind-shear rams.
(4) You use a tapered drill pipe, work string, or tubing,	At least one set of pipe rams that are capable of sealing around each size of drill pipe, work string, or tubing. If the expected pressure is greater than 5,000 psi, then you must have at least two sets of pipe rams that are capable of sealing around the larger size drill pipe, work string, or tubing. You may substitute one set of variable bore rams for two sets of pipe rams.
(5) You use a surface BOP on a floating facility,	The elements required by § 250.733(b)(1) of this part.

■ 33. Amend § 250.734 by:

■ a. Removing paragraph (a)(6)(vi); and

■ b. Revising paragraphs (a)(1)(ii), (a)(3), (a)(4), (a)(6)(iv), (a)(6)(v), (a)(16), and (b) to read as follows:

§ 250.734 What are the requirements for a subsea BOP system?

(a) * * *

When operating with a subsea BOP system, you must:	Additional requirements
(1) * * *	(ii) Both shear rams must be capable of shearing at any point along the tubular body of any drill pipe (excluding tool joints, bottom-hole tools, and bottom hole assemblies such as heavy-weight pipe or collars), workstring, tubing and associated exterior control lines, appropriate area for the liner or casing landing string, shear sub on subsea test tree, and any electric-, wire-, slick-line in the hole; under MASP. At least one shear ram must be capable of sealing the wellbore after shearing under MASP conditions as defined for the operation. Any non-sealing shear ram(s) must be installed below a sealing shear ram(s).
* * * * * * *	
(3) Have the accumulator capacity, to provide fast closure of the BOP components and to operate all critical functions;	The accumulator capacity must: (i) Close each required shear ram, ram locks, one pipe ram, and disconnect the LMRP. (ii) Have the capability to perform ROV functions within the required times outlined in API Standard 53 with ROV or flying leads. (iii) Have bottles located subsea for the autoshear and deadman (which may be shared between those two systems) to secure the wellbore. These bottles may also be utilized to perform the secondary control system functions (*e.g.,* ROV or acoustic functions). (iv) Perform under MASP conditions as defined for the operation.
(4) * * *	You must have the ROV intervention capability to close each shear ram, ram locks, one pipe ram, and disconnect the LMRP under MASP conditions as defined for the operation. You must be capable of performing these functions in the response times outlined in API Standard 53 (as incorporated by reference in § 250.198). The ROV panels on the BOP and LMRP must be compliant with API RP 17H (as incorporated by reference in § 250.198).
* * * * * * *	
(6) * * *	(iv) Autoshear/deadman functions and an EDS mode must close, at a minimum, two shear rams in sequence and be capable of performing their expected shearing and sealing action under MASP conditions as defined for the operation. (v) Your sequencing must allow a sufficient delay when closing your two shear rams in order to provide maximum sealing efficiency.
* * * * * * *	
(16) Use a BOP system that has the following mechanisms and capabilities;	(i) No later than May 1, 2023, you must have the capability to position the entire pipe completely within the area of the shearing blade. This capability cannot be a separate ram BOP or annular preventer, but you may use those during a planned shear. (ii) If your control pods contain a subsea electronic module with batteries, a mechanism for personnel on the rig to monitor the state of charge of the subsea electronic module batteries in the BOP control pods.

(b) If you suspend operations to make repairs to any part of the subsea BOP system, you must stop operations at a safe downhole location. Before resuming operations you must:

(1) Submit a revised permit with a written statement from an independent third party documenting the repairs and certifying that the previous certification in § 250.731(c) remains valid;

(2) Upon relatch of the BOP, perform an initial subsea BOP test in accordance with § 250.737(d)(4), including deadman in accordance with § 250.737(d)(12)(vi). If repairs take longer than 30 days, once the BOP is on deck, you must test in accordance with the requirements of § 250.737;

(3) Upon relatch of the LMRP, you must test according to the following:

(i) Pressure test riser connector/gasket in accordance with § 250.737(b) and (c);

(ii) Pressure test choke and kill stabs at LMRP/BOP interface in accordance with § 250.737(b) and (c);

(iii) Full function test of both pods and both control panels;

(iv) Verify acoustic pod communication (if equipped); and

(v) Deadman test with pressure test in accordance with § 250.737(d)(12)(vi).

(4) Receive approval from the District Manager.

* * * * *

■ 34. Amend § 250.735 by revising paragraph (a) to read as follows:

§ 250.735 What associated systems and related equipment must all BOP systems include?

* * * * *

(a) An accumulator system (as specified in API Standard 53, incorporated by reference in § 250.198). Your accumulator system must have the fluid volume capacity and appropriate pre-charge pressures in accordance with API Standard 53. If you supply the accumulator regulators by rig air and do not have a secondary source of pneumatic supply, you must equip the regulators with manual overrides or other devices to ensure capability of hydraulic operations if rig air is lost;

* * * * *

■ 35. Amend § 250.736 by revising paragraph (d)(5) to read as follows:

§ 250.736 What are the requirements for choke manifolds, kelly-type valves inside BOPs, and drill string safety valves?

* * * * *

(d) * * *

(5) When running casing, a safety valve in the open position available on the rig floor to fit the casing string being run in the hole. For subsea BOPs, the safety valve must be available on the rig floor if the length of casing being run exceeds the water depth, which would result in the casing being across the BOP stack and the rig floor prior to crossing over to the drill pipe running string;

* * * * *

■ 36. Amend § 250.737 by:

■ a. Redesignating paragraph (a)(4) as (a)(5),

■ b. Adding new paragraph (a)(4),

■ c. Revising paragraphs (b) introductory text, (b)(2), (b)(3), (c), (d)(2)(ii), (d)(3)(iii), (d)(3)(iv), (d)(3)(v), (d)(4)(i), (d)(4)(iii), (d)(4)(v);

■ d. Removing paragraph (d)(4)(vi),

■ e. Revising paragraphs (d)(5), (d)(10), (d)(12)(iv), and (d)(12)(vi); and

■ f. Adding paragraph (d)(13).

The additions and revisions read as follows:

§ 250.737 What are the BOP system testing requirements?

* * * * *

(a) * * *

(4) In lieu of meeting the schedule established in paragraph (a)(2) of this section, you may request that BSEE approve a 21-day BOP testing frequency. To obtain BSEE approval, you must submit a request to the appropriate BSEE Regional Supervisor, District Field Operations. Your request must demonstrate that you have developed a BOP health monitoring plan that includes certain system capabilities. As long as your plan is consistent with recognized engineering and industry practice, BSEE will approve your request if it includes the following:

(i) Condition monitoring tools, including continuous surveillance of sensor readings from the BOP control system, real-time condition analysis and displays, functional pressure signal analysis, historical sensor data;

(ii) Failure propagation analysis;

(iii) A failure tracking and resolution system that includes detailed failure reports and identification of recurring problems; and

(iv) Submission of quarterly reports of the data collected pursuant to paragraphs (a)(4)(i)(iii) to the BSEE Regional Supervisor, District Field Operations.

* * * * *

(b) *Pressure test procedures.* When you pressure test the BOP system, you must conduct a low-pressure test and a high-pressure test for each BOP component (excluding test rams and non-sealing shear rams). You must begin each test by conducting the low-pressure test then transition to the high-pressure test. Each individual pressure test must hold pressure long enough to demonstrate the tested component(s) holds the required pressure. The table in this paragraph (b) outlines your pressure test requirements.

You must conduct a . . .	According to the following procedures . . .
* * * *	* * *
(2) High-pressure test for blind shear ram-type BOPs, ram-type BOPs, the choke manifold, outside of all choke and kill side outlet valves (and annular gas bleed valves for subsea BOP), inside of all choke and kill side outlet valves below uppermost ram, and other BOP components.	(i) The high-pressure test must equal the RWP of the equipment or be 500 psi greater than your calculated MASP, as defined for the operation for the applicable section of hole. Before you may test BOP equipment to the MASP plus 500 psi, the District Manager must have approved those test pressures in your permit. (ii) The blind shear ram (BSR) must be tested to: (A) MASP plus 500 psi for the hole section to which it is exposed; or (B) Full well MASP plus 500 psi on initial latch up and all subsequent BSR pressure tests can be done to the casing/liner test pressure for the applicable hole section. (iii) The choke and kill side outlet valves must be tested to, except as provided in paragraph (d)(13) of this section: (A) MASP plus 500 psi for the hole section to which it is exposed; or (B) Full well MASP plus 500 psi on initial latch up and all subsequent pressure tests can be done to the casing/liner test pressure for the applicable hole section.
(3) High-pressure test for annular-type BOPs, inside of choke or kill valves (and annular gas bleed valves for subsea BOP) above the uppermost ram BOP.	The high pressure test must equal 70 percent of the RWP of the equipment or be 500 psi greater than your calculated MASP, as defined for the operation for the applicable section of hole. Before you may test BOP equipment to the MASP plus 500 psi, the District Manager must have approved those test pressures in your APD or APM.
* * * *	* * *

(c) Duration of pressure test. Each test must hold the required pressure for 5 minutes, which must be recorded on a chart not exceeding 4 hours, or on a digital recorder. However, for surface BOP systems and surface equipment of a subsea BOP system, a 3-minute test duration is acceptable if recorded on a chart not exceeding 4 hours, or on a digital recorder. The recorded test pressures must be within the middle half of the chart range, *i.e.,* cannot be within the lower or upper one-fourth of the chart range. If the equipment does not hold the required pressure during a test, you must correct the problem and retest the affected component(s).

* * * * *

(d) * * *

You must . . .	Additional requirements . . .
* * * *	* * *
(2) * * *	(ii) Contact the District Manager at least 72 hours prior to beginning the initial test to allow BSEE representative(s) to witness testing.
(3) * * *	(iii) Contact the District Manager at least 72 hours prior to beginning the stump test to allow BSEE representative(s) to witness testing. (iv) You must verify closure of all ROV intervention functions on your subsea BOP stack during the stump test. (v) You must follow paragraphs (b) and (c) of this section. Pressure testing of each ram and annular component is only required once.
(4) * * *	(i) You must begin the initial subsea BOP test on the seafloor within 30 days of the stump test.
* * * *	* * *
	(iii) You must pressure test well-control rams and annulars according to paragraphs (b) and (c) of this section.
* * * *	* * *
	(v) You must test and verify closure of at least one set of rams during the initial subsea test through a ROV hot stab. You must confirm closure of the selected ram through the ROV hot stab with a 1,000 psi pressure test for 5 minutes.
(5) Alternate tests between control stations	(i) For two complete BOP control stations you must: (A) Designate a primary and secondary station; (B) Alternate testing between the primary and secondary control stations on a weekly basis; and (C) For a subsea BOP, develop an alternating testing schedule to ensure the primary and secondary control stations will function each pod. (ii) Remote panels where all BOP functions are not included (*e.g.,* life boat panels) must be function-tested upon the initial BOP tests.
* * * *	* * *
(10) * * *	If BSEE approves your request to utilize a 21-day BOP test frequency pursuant to § 250.737(a)(4), you may function test shear ram(s) BOPs every 21 days in accordance with the terms of that approval.
* * * *	* * *
(12) * * *	(iv) Following the deadman system test on the seafloor you must document the final remaining pressure of the subsea accumulator system.
* * * *	* * *
	(vi) You must confirm closure of the BSR(s) with a 1,000 psi pressure test for 5 minutes.
* * * *	* * *
(13) Pressure test the choke and kill side outlet valves	According to paragraph (b) of this section, except as follows: (i) Test the wellbore side of the choke and kill side outlet valves above the uppermost pipe ram to the approved annular test pressure. Choke and kill side outlet valves below the uppermost pipe ram must be tested to MASP plus 500 psi for the applicable hole section. (ii) For the 30 day BSR testing, test the wellbore side of the choke and kill side outlet valves between the upper most pipe ram and the upper most ram, to the casing/liner test pressure or annular test pressure, whichever is greater. (iii) For BOPs with only one choke and kill side outlet valve, you are only required to pressure test the choke and kill side outlet valves from the wellbore side.

* * * * *

■ 37. Amend § 250.738 by revising paragraphs (b) introductory text, (b)(3), (b)(4), (f), (i), (m), and (o) to read as follows:

§ 250.738 What must I do in certain situations involving BOP equipment or systems?

* * * * *

If you encounter the following situation:	Then you must . . .
(b) Need to repair, replace, or reconfigure a surface BOP or subsea BOP system;	
* * * *	* * *
	(3) Submit a revised permit with a written statement from an independent third party documenting the repairs, replacement, or reconfiguration and certifying that the previous certification under § 250.731(c) remains valid. (4) You must receive approval from the District Manager prior to resuming operations.
* * * *	* * *
(f) Plan to install casing rams or casing shear rams in a surface BOP stack;	Before running casing, perform a shell test to the permit approved test pressure of the BOP component above the casing ram/casing shear. If this installation was not included in your approved permit, and changes the BOP configuration approved in the APD or APM, you must notify and receive approval from the District Manager.
* * * *	* * *
(i) You activate any shear ram and pipe or casing is sheared;	Retrieve, physically inspect, and conduct a full pressure test of the BOP stack after the situation is fully controlled. You must submit to the District Manager a report from an independent third party certifying that the BOP is fit to return to service.
* * * *	* * *
(m) Plan to utilize any other circulating or ancillary equipment (*e.g.,* but not limited to, subsea isolation device, subsea accumulator module, or gas handler) that is in addition to the equipment required in this subpart;	Contact the District Manager and request approval in your APD or APM. Your request must include a report from an independent third party on the equipment's design and suitability for its intended use as well as any other information required by the District Manager. The District Manager may impose any conditions regarding the equipment's capabilities, operation, and testing.
* * * *	* * *
(o) You install redundant components for well control in your BOP system that are in addition to the required components of this subpart (*e.g.,* pipe/variable bore rams, shear rams, annular preventers, gas bleed lines, and choke/kill side outlets or lines);	Comply with all testing, maintenance, and inspection requirements in this subpart that are applicable to those well-control components. If any redundant component fails a test, you must submit a report from an independent third party that describes the failure and confirms that there is no impact on the BOP that will make it unfit for well-control purposes. You must submit this report to the District Manager and receive approval before resuming operations. The District Manager may require you to provide additional information as needed to clarify or evaluate your report.
* * * *	* * *

■ 38. Amend § 250.739 by revising paragraph (b) introductory text to read as follows:

§ 250.739 What are the BOP maintenance and inspection requirements?

* * * * *

(b) A major, detailed inspection of the well control system components (including but not limited to riser, BOP, LMRP, and control pods) must be performed every 5 years. This major inspection may be performed in phased intervals. You must track and document all system and component inspection dates. These records must be available on the rig. An independent third party is required to review the inspection results and must compile a detailed report of the inspection results, including descriptions of any problems and how they were corrected. You must make these reports available to BSEE upon request. This major inspection must be performed every 5 years from the following applicable dates, whichever is later:

* * * * *

■ 39. Add an undesignated center and § 250.750 to read as follows:

Coiled Tubing Operations

§ 250.750 What are the coiled tubing requirements?

(a) For coiled tubing operations, you must follow the applicable requirements of this subpart and you must meet the following minimum requirements for the BOP system:

(1) BOP system components must be in the following order from the top down:

BOP system when expected surface pressures are less than or equal to 3,500 psi	BOP system when expected surface pressures are greater than 3,500 psi	BOP system for wells with returns taken through an outlet on the BOP stack
(i) Stripper or annular-type well control component.	Stripper or annular-type well control component.	Stripper or annular-type well control component.
(ii) Hydraulically-operated blind rams.	Hydraulically-operated blind rams	Hydraulically-operated blind rams.
(iii) Hydraulically-operated shear rams.	Hydraulically-operated shear rams	Hydraulically-operated shear rams.
(iv) Kill line inlet	Kill line inlet	Kill line inlet.
(v) Hydraulically-operated two-way slip rams.	Hydraulically-operated two-way slip rams	Hydraulically-operated two-way slip rams.
		Hydraulically-operated pipe rams.
(vi) Hydraulically-operated pipe rams.	Hydraulically-operated pipe rams	A flow tee or cross.
	Hydraulically-operated blind-shear rams. These rams should be located as close to the tree as practical.	Hydraulically-operated pipe rams.
		Hydraulically-operated blind-shear rams on wells with surface pressures >3,500 psi. As an option, the pipe rams can be placed below the blind-shear rams. The blind-shear rams should be located as close to the tree as practical.

(2) You may use a set of hydraulically-operated combination rams for the blind rams and shear rams.

(3) You may use a set of hydraulically-operated combination rams for the hydraulic two-way slip rams and the hydraulically-operated pipe rams.

(4) You must attach a dual check valve assembly to the coiled tubing connector at the downhole end of the coiled tubing string for all coiled tubing operations. If you plan to conduct operations without downhole check valves, you must describe alternate procedures and equipment in Form BSEE–0124, Application for Permit to Modify and have it approved by the District Manager.

(5) You must have a kill line and a separate choke line. You must equip each line with two full-opening valves and at least one of the valves must be remotely controlled. You may use a manual valve instead of the remotely controlled valve on the kill line if you install a check valve between the two full-opening manual valves and the pump or manifold. The valves must have a working pressure rating equal to or greater than the working pressure rating of the connection to which they are attached, and you must install them between the well control stack and the choke or kill line. For operations with expected surface pressures greater than 3,500 psi, the kill line must be connected to a pump or manifold. You must not use the kill line inlet on the BOP stack for taking fluid returns from the wellbore.

(6) You must have a hydraulic-actuating system that provides sufficient accumulator capacity to close-open-close each component in the BOP stack. This cycle must be completed with at least 200 psi above the pre-charge pressure, without assistance from a charging system.

(7) All connections used in the surface BOP system from the tree to the uppermost required ram must be flanged, including the connections between the well control stack and the first full-opening valve on the choke line and the kill line.

(b) BSEE considers all coiled tubing operations to be non-routine.

■ 40. Add § 250.751 to read as follows:

§ 250.751 Coiled tubing testing requirements.

You must test the coiled tubing unit in accordance with § 250.737(a), (b), (c), (d)(9), and (d)(10). You must successfully pressure test the dual check valves to the rated working pressure of the connector, the rated working pressure of the dual check valve, expected surface pressure, or the collapse pressure of the coiled tubing, whichever is less. The test interval for coiled tubing operations must include a 10 minute high-pressure test for the coiled tubing string.

■ 41. Add an undesignated center heading and § 250.760 to read as follows:

Snubbing Operations

§ 250.760 What are the snubbing requirements?

(a) For snubbing operations, you must follow the applicable requirements of this subpart and have the following minimum BOP-system components:

(1) One set of pipe rams hydraulically operated,

(2) Two sets of stripper-type pipe rams hydraulically operated with spacer spool,

(3) An inside BOP or a spring-loaded, back-pressure safety valve in the open position located on the rig floor, and

(4) An essentially full-opening, work-string safety valve in the open position must be maintained on the rig floor at all times and a wrench to fit the work-string safety valve must be readily available.

(5) Proper connections must be readily available for inserting valves in the work string.

(b) Test the snubbing unit in accordance with § 250.737(a), (b), and (c).

Subpart Q—Decommissioning Activities

■ 42. Amend § 250.1703 by revising paragraph (b) to read as follows:

§ 250.1703 What are the general requirements for decommissioning?

* * * * *

(b) Permanently plug all wells. Packers and bridge plugs used as qualified mechanical barriers must comply with ANSI/API Spec. 11D1 (as incorporated by reference in § 250.198). You must have two independent barriers, one being an ANSI/API Spec. 11D1 qualified mechanical barrier, in the exposed center wellbore prior to removing the tree and/or well control equipment;

* * * * *

■ 43. Amend § 250.1704 by adding paragraph (g)(4) and revising paragraph (h)(2) to read as follows:

§ 250.1704 What decommissioning applications and reports must I submit and when must I submit them?

* * * * *

Decommissioning applications and reports	When to submit	Instructions
*	* * *	* * *
(g) * * *	(4) Within 30 days after you complete site clearance verification activities,	Include information required under § 250.1743(a).
(h) * * *	(2) Within 30 days after completion of decommissioning activity,	Include information required under §§ 250.1712 and 250.1721.
*	* * *	* * *

§ 250.1706 [Reserved]

■ 44. Remove and reserve § 250.1706:

§ 250.1713 [Reserved]

■ 45. Remove and reserve § 250.1713:

■ 46. Amend § 250.1716 by revising paragraph (b)(3) to read as follows:

§ 250.1716 To what depth must I remove wellheads and casings?

* * * * *

(b) * * *

(3) The water depth is greater than 1,000 feet.

■ 47. Amend § 250.1722 by revising paragraph (d) introductory text to read as follows:

§ 250.1722 If I install a subsea protective device, what requirements must I meet?

* * * * *

(d) Within 30 days after you complete the trawling test described in paragraph (c) of this section, submit a report to the appropriate District Manager using form BSEE–0125, End of Operations Report (EOR) that includes the following:

* * * * *

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Part III

Federal Reserve System

12 CFR Parts 217, 225, 238, et al.

Prudential Standards for Large Foreign Banking Organizations; Revisions to Proposed Prudential Standards for Large Domestic Bank Holding Companies and Savings and Loan Holding Companies; Proposed Rule

FEDERAL RESERVE SYSTEM

12 CFR Parts 217, 225, 238, and 252

[Regulations Q, Y, LL, and YY; Docket No. R–1658; RIN 7100–AF45]

Prudential Standards for Large Foreign Banking Organizations; Revisions to Proposed Prudential Standards for Large Domestic Bank Holding Companies and Savings and Loan Holding Companies

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Notice of proposed rulemaking with request for public comment.

SUMMARY: The Board is requesting comment on a proposed rule that would revise the framework for applying the enhanced prudential standards applicable to foreign banking organizations under section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, as amended by the Economic Growth, Regulatory Relief, and Consumer Protection Act. The proposal would establish categories that would be used to tailor the stringency of enhanced prudential standards based on the risk profile of a foreign banking organization's operations in the United States. The proposal also would amend certain enhanced prudential standards, including standards relating to liquidity, risk management, stress testing, and single-counterparty credit limits, and would make corresponding changes to reporting forms. The proposal would make clarifying revisions and technical changes to the Board's October 31, 2018, proposal for large U.S. bank holding companies and certain savings and loan holding companies relating to the Board's internal liquidity stress testing requirements and GSIB surcharge rule. Separately, the Board, the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) (together, the agencies) are requesting comment on a proposal to revise the applicability of the agencies' capital and liquidity requirements for foreign banking organizations based on the same categories, and the Board is requesting comment on whether it should impose standardized liquidity requirements on the U.S. branch and agency network of a foreign banking organization, as well as possible approaches for doing so. In addition, the Board and the FDIC are separately requesting comment on a proposal to revise the applicability of the resolution planning requirements applicable to large U.S. banking organizations and foreign banking organizations, using a category approach that is broadly consistent with the one set forth in this proposal.

DATES: Comments on the proposal, including elements of the proposal that would be applied to domestic banking organizations and foreign banking organizations, and other clarifying revisions and technical changes discussed in section II.G of the Supplementary Information Section, must be received by June 21, 2019.

ADDRESSES: You may submit comments, identified by Docket No. R–1658 and RIN 7100–AF45, by any of the following methods:

- *Agency Website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include docket number and RIN 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 sensitive personally identifiable information at the commenter's request. Public comments may also be viewed electronically or in paper form in Room 146, 1709 New York Avenue, Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Constance Horsley, Deputy Associate Director, (202) 452–5239; Elizabeth MacDonald, Manager, (202) 475–6316; Brian Chernoff, Lead Financial Institution Policy Analyst, (202) 452–2952; Mark Handzlik, Lead Financial Institution Policy Analyst, (202) 475–6636, J. Kevin Littler, Lead Financial Institution Policy Analyst, (202) 475–6677; Matthew McQueeney, Senior Financial Institution Policy Analyst II, (202) 452–2942; or Christopher Powell, Senior Financial Policy Analyst II, (202) 452–3442, Division of Banking Supervision and Regulation; or Laurie Schaffer, Associate General Counsel, (202) 452–2272; Benjamin McDonough, Assistant General Counsel (202) 452–2036; Asad Kudiya, Counsel, (202) 475–6358; Jason Shafer, Counsel (202) 728–5811; Mary Watkins, Senior Attorney, (202) 452–3722; or Alyssa O'Connor, Attorney, (202) 452–3886, Legal Division. Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

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I. Introduction

The Board of Governors of the Federal Reserve System (Board) is requesting comment on a proposed rule (the proposal) that would revise the framework for applying enhanced prudential standards to foreign banking organizations with total consolidated assets of $100 billion or more.[1]

[1] Foreign banking organization means a foreign bank that operates a branch, agency, or commercial lending company subsidiary in the United States; controls a bank in the United States; or controls an Edge corporation acquired after March 5, 1987; and any company of which the foreign bank is a subsidiary. *See* 12 CFR 211.21(o); 12 CFR 252.2(k). An agency is place of business of a foreign bank, located in any state, at which credit balances are maintained, checks are paid, money is lent, or, to the extent not prohibited by state or federal law, deposits are accepted from a person or entity that is not a citizen or resident of the United States. A branch is a place of business of a foreign bank, located in any state, at which deposits are received

Specifically, the proposal would revise the thresholds for application of enhanced prudential standards to foreign banking organizations and tailor the stringency of those standards based on the U.S. risk profiles of these firms. The proposal generally would align with the framework the Board proposed for large U.S. bank holding companies and certain savings and loan holding companies on October 31, 2018 (the domestic proposal).[2] The proposal also is consistent with the Board's ongoing efforts to assess the impact of its regulations while exploring alternatives that achieve regulatory objectives and improve upon the regulatory framework's simplicity, transparency, and efficiency.

Under the proposal, a foreign banking organization with $100 billion or more in total consolidated assets and a significant U.S. presence would be subject to Category II, Category III, or Category IV[3] enhanced prudential standards depending on the size of its U.S. operations and the materiality of the same risk-based indicators that were included in the domestic proposal: Cross-jurisdictional activity, nonbank assets, off-balance sheet exposure, and weighted short-term wholesale funding, as discussed below.[4] Foreign banking organizations with $100 billion or more in total consolidated assets that do not meet the thresholds for application of Category II, Category III, or Category IV standards due to their limited U.S. presence would be subject to requirements that largely defer to compliance with similar home-country standards at the consolidated level, with the exception of certain risk-management standards.

A. Background

The financial crisis revealed significant weaknesses in resiliency and risk management in the financial sector, and demonstrated how the failure or distress of large, leveraged, and interconnected financial companies, including foreign banking organizations, could pose a threat to U.S. financial stability. Certain foreign banking organizations with the largest, most complex U.S. subsidiary operations maintained insufficient capital in the United States and were not appropriately positioned to support losses among those operations. Accordingly, these firms were forced to significantly reduce assets in the United States to address capital deficiencies. In addition, the funding models of many foreign banking organizations presented unique vulnerabilities, as they relied on dollar-denominated short-term wholesale funding obtained in the United States to fund their global investment activities. Disruptions in the U.S. wholesale funding market limited the ability of these firms to satisfy liquidity demands, as some of them lacked adequate risk-management practices to account for the liquidity stresses of individual products or business lines, had not adequately accounted for draws from off-balance sheet exposures, or had not adequately planned for a disruption in funding sources. As a result, many experienced significant distress and required unprecedented liquidity support from U.S. and home-country authorities.[5] For example, analysis using Federal Reserve Board data on Term Auction Facility usage in 2008 and 2009 finds that approximately 40 percent of foreign banking organizations borrowed from the facility during the financial crisis. Furthermore, on average, U.S. branches of foreign banking organizations that used the facility funded approximately 10 percent of their assets through the Term Auction Facility during this period.

Section 165 of the Dodd-Frank Act was enacted in response to the financial crisis and directed the Board to establish enhanced prudential standards for foreign banking organizations with total consolidated assets of $50 billion or more.[6] These standards must include enhanced risk-based capital and leverage requirements, liquidity requirements, risk-management requirements, and stress test requirements, among others.[7] These standards also must increase in stringency based on certain statutory considerations in section 165.[8] In applying section 165 to foreign banking organizations, the Dodd-Frank Act also directs the Board to give due regard to the principles of national treatment and equality of competitive opportunity and to take into account the extent to which a foreign banking organization is subject, on a consolidated basis, to home-country standards that are comparable to those applied to financial companies in the United States.[9]

The Board's enhanced prudential standards implement section 165 of the Dodd-Frank Act and strengthen capital, liquidity, risk-management, and other prudential standards for banking organizations.[10] In applying section 165 to foreign banking organizations, the Board has tailored enhanced prudential standards based, in part, on the size and complexity of a foreign banking organization's activities in the United States. The standards applicable to foreign banking organizations with a more limited U.S. presence largely rely on compliance with comparable home-country standards applied at the consolidated foreign parent level. In comparison, a foreign banking organization with a significant U.S. presence is subject to enhanced prudential standards and supervisory expectations that apply to its combined U.S. operations.[11] A foreign banking organization with U.S. non-branch assets of $50 billion or more[12] also must form a U.S. intermediate holding company[13] that must calculate risk-based and leverage capital ratios, create a risk-management structure (including for the management of liquidity risk), and engage in stress testing in a manner comparable to a similarly situated U.S. bank holding company.[14]

The presence of foreign banking organizations in the United States brings competitive and countercyclical benefits to U.S. markets, as these firms serve as an important source of credit to U.S. households and businesses and contribute materially to the strength and liquidity of U.S. financial markets. Post-

and that is not an agency. *See* 12 CFR 211.21(b) and (e).

[2] Prudential Standards for Large Bank Holding Companies and Savings and Loan Holding Companies, 83 FR 61408 (November 29, 2018).

[3] Category I standards would apply only to U.S. global systemically important bank holding companies. *See infra* note 28.

[4] As explained further in this **SUPPLEMENTARY INFORMATION** section, cross-jurisdictional activity would be measured (a) excluding intercompany liabilities; and (b) would allow recognition of financial collateral in calculating intercompany claims.

[5] *See, e.g.,* Goldberg and Skeie, 2011, ''Why did U.S. branches of foreign banks borrow at the discount window during the crisis?'', Liberty Street Economics Blog, Federal Reserve Bank of New York.

[6] 12 U.S.C. 5365.

[7] In addition, the Dodd-Frank Act authorizes the Board to establish additional enhanced prudential standards relating to contingent capital, public disclosures, short-term debt limits, and such other prudential standards as the Board determines appropriate.

[8] *See* 12 U.S.C. 5365(a)(1), (b)(3).

[9] 12 U.S.C. 5365(b)(2).

[10] 12 CFR part 252.

[11] The combined U.S. operations of a foreign banking organization include any U.S. subsidiaries (including any U.S. intermediate holding company, which would reflect on a consolidated basis any U.S. depository institution subsidiaries thereof), U.S. branches, and U.S. agencies.

[12] U.S. non-branch assets are defined in Regulation YY. *See* 12 CFR 252.152(b)(2).

[13] Risk-management and liquidity standards, as well as single-counterparty credit limits, apply to a foreign banking organization at the level of its combined U.S. operations. Capital standards apply to a U.S. intermediate holding company, but they do not apply to U.S. branches and agencies, which are not required to maintain regulatory capital separately from the foreign banks of which they are a part.

[14] 12 CFR 252.153 *et seq.*

crisis financial regulations have resulted in substantial gains in resiliency for individual firms and the financial system as a whole. Foreign banking organizations' U.S. operations have become less fragmented and maintain more capital and liquidity in the United States.[15] In addition, the U.S. operations of foreign banking organizations subject to enhanced prudential standards generally have made significant improvements in risk identification and management, data infrastructure, and controls. These improvements have helped to build a more resilient financial system that is better positioned to provide American consumers, businesses, and communities access to the credit they need, even under challenging economic conditions.

The U.S. operations of foreign banking organizations vary in their complexity and systemic significance, and can present significant risks to U.S. financial stability. As shown in the financial crisis, disproportionate use of dollar-denominated short-term wholesale funding relative to more stable, insured deposits presents significant risks to U.S. financial stability and the safety and soundness of an individual firm; some foreign banking organizations remain heavily reliant on this source of funding. Among all foreign banking organizations with combined U.S. assets[16] of $100 billion or more, short-term wholesale funding is equivalent to approximately 30 percent of their U.S. assets, ranging from 10 percent to as much as 60 percent.[17] U.S. branches of these firms tend to have particularly high reliance on short-term wholesale funding because they generally lack access to retail deposits.

In addition, some foreign banking organizations engage in complex activities through broker-dealers in the United States, which are highly interconnected to U.S. and foreign financial intermediaries. Among foreign banking organizations with combined U.S. assets of $100 billion or more, U.S. broker-dealer subsidiaries comprise approximately 25 percent of these firms' U.S. assets in aggregate, with a range of zero to 50 percent at individual firms.[18] Overall, total nonbank assets, including broker-dealer subsidiaries, in aggregate comprise approximately 25 percent of the combined U.S. assets of these firms, with a range of zero to 70 percent at individual firms.[19] The crisis experience demonstrated that nonbank activities could exacerbate the effects of a banking organization's distress or failure, due to the business and operational complexities associated with these activities.

The U.S. operations of some foreign banking organizations also exhibit greater complexity and face risks due to significant levels of cross-jurisdictional activity and off-balance sheet exposure. Among foreign banking organizations with combined U.S. assets of $100 billion or more, cross-jurisdictional activity (excluding cross-jurisdictional liabilities to non-U.S. affiliates)[20] is equivalent to approximately 30 percent of those assets, ranging from 13 to as much as 81 percent, whereas off-balance sheet exposure is equivalent to approximately 30 percent of those assets, ranging from 10 to as much as 51 percent.[21] As discussed below, both cross-jurisdictional activity and off-balance sheet exposure provide a measure of a banking organization's interconnectedness, as well as other risks.

The Board is proposing to modify the enhanced prudential standards framework applicable to foreign banking organizations in a manner commensurate with the risks such organizations pose to U.S. financial stability, based on the risk-based indicators set forth in this proposal.

B. Considerations in Tailoring Enhanced Prudential Standards for Foreign Banking Organizations

The Board conducts periodic reviews of its rules to update, reduce unnecessary costs associated with, and streamline regulatory requirements based on its supervisory experience and consistent with the effective implementation of its statutory responsibilities. These efforts include assessing the impact of regulations as well as exploring alternative approaches that achieve regulatory objectives while improving the regulatory framework's simplicity, transparency, and efficiency. The proposal is the result of this practice, and reflects amendments to section 165 of the Dodd-Frank Act under the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA).[22]

The proposal would raise the asset size threshold for the application of enhanced prudential standards to foreign banking organizations, consistent with EGRRCPA, and is designed to more precisely address the risks presented by foreign banking organizations to U.S. financial stability in a manner that broadly aligns with the domestic proposal. The proposal builds upon the Board's practice of tailoring enhanced prudential standards applied to foreign banking organizations based on the risk profile of their combined U.S. operations. By applying standards that are broadly consistent with the standards that would apply to U.S. bank holding companies of a similar risk profile under the domestic proposal, this proposal would take into account the principles of national treatment and equality of competitive opportunity between foreign and domestic banking organizations.

The proposal would distinguish the manner in which a foreign banking organization determines its applicable category of capital standards as compared to its applicable category for all other standards. For risk-management standards, liquidity standards, and single-counterparty credit limits, a foreign banking organization would determine the applicable category based on the risk profile of its combined U.S. operations. This approach is consistent with the current enhanced prudential standards framework and recognizes that certain risks are more appropriately regulated across the combined U.S. operations of a foreign banking organization to prevent or mitigate risks to U.S. financial stability. For example, funding vulnerabilities at a U.S. branch can expose a foreign banking organization's other U.S. operations to heightened liquidity risk because their customers and counterparties may not distinguish liquidity stress at one component of the U.S. operations from the liquidity position of another part of the U.S. operations. As a result, liquidity stress among the combined U.S. operations of a foreign banking organization can manifest rapidly and simultaneously, regardless of the source of that risk. Similarly, single-counterparty credit limits that are based on and apply only to one aspect of a foreign banking organization's operations in the United States can create an incentive to

[15] Sources: Consolidated Financial Statements for Holding Companies (FR Y–9C) and Complex Institution Liquidity Monitoring Report (FR 2052a).

[16] *See, infra* note 18.

[17] Source: FR 2052a, as of June 30, 2018.

[18] Sources: Parent Company Only Financial Statements for Large Holding Companies (FR Y–9LP), The Capital and Asset Report for Foreign Banking Organizations (FR Y–7Q), and the Securities Exchange Commission's Financial and Operational Combined Uniform Single Report, as of September 30, 2018.

[19] *Id.*

[20] *See* section II.B.2.a of this **SUPPLEMENTARY INFORMATION** section. In addition, while the proposal would allow recognition of financial collateral in calculating intercompany claims, recognition of financial collateral is not reflected in this analysis.

[21] This analysis was based on data compiled from the FR Y–7Q, as well as information collected from certain foreign banking organizations supervised by the Board as of September 30, 2018.

[22] Public Law 115–174, 132 Stat. 1296 (2018).

concentrate risk elsewhere in the organization's U.S. operations.

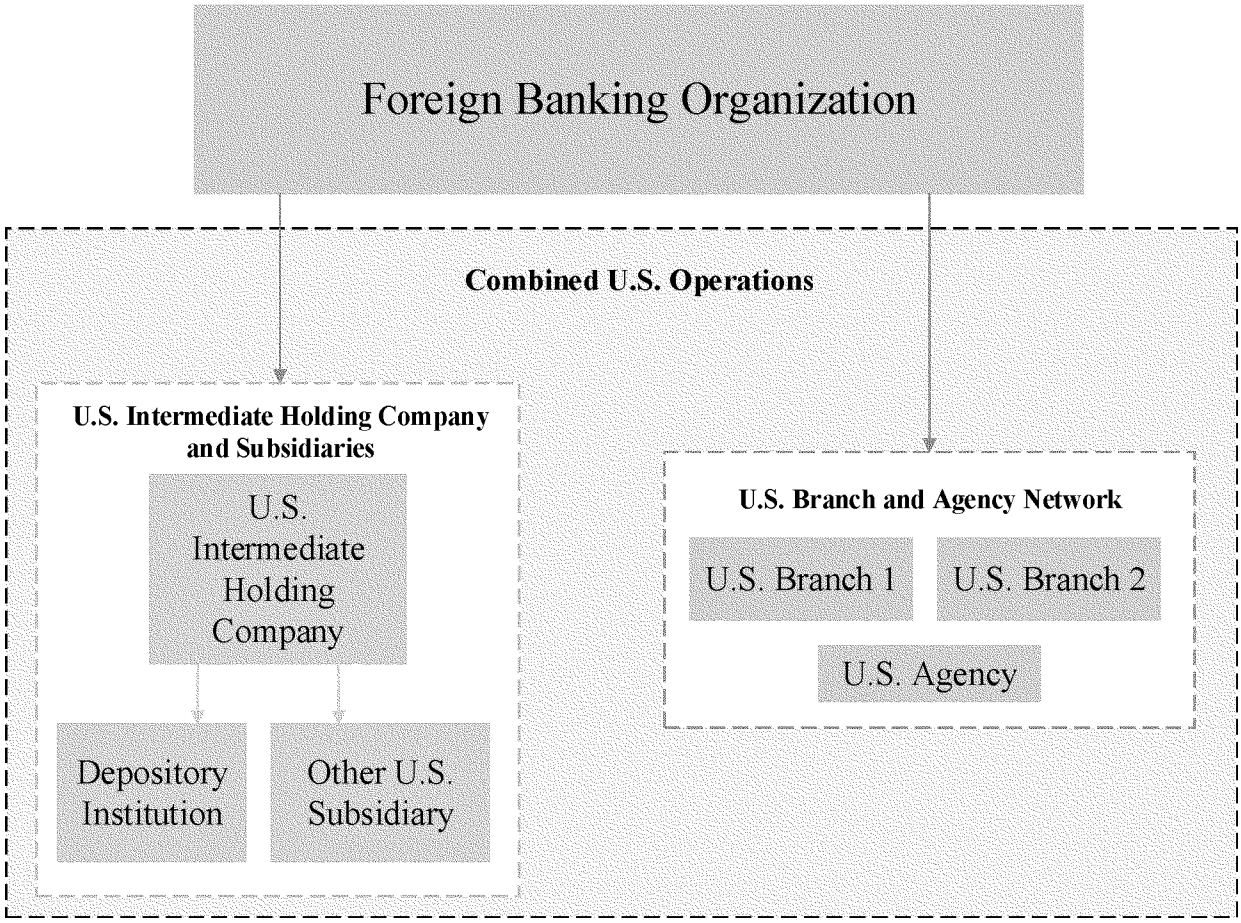
More generally, the tendency of market participants to take a more holistic view of the financial strength and resilience of a foreign banking organization's U.S. operations underscores the importance of applying enhanced prudential standards comprehensively across those operations. Accordingly, consistent with the current enhanced prudential standards framework, the proposal would apply risk-management and liquidity standards, as well as single-counterparty credit limits, to a foreign banking organization at the level of its combined U.S. operations.

For capital standards, a foreign banking organization would determine the applicable category based on the risk profile of its U.S. intermediate holding company, if any,[23] and not the combined U.S. operations of the foreign banking organization.[24] Capital standards under the proposed categories would apply to a foreign banking organization at the U.S. intermediate holding company level. This approach is consistent with the current enhanced prudential standards framework and recognizes that U.S. branches and agencies do not maintain regulatory capital separately from their foreign parents.

The visual below provides a simplified illustration of a how a foreign banking organization may structure its U.S. operations, and depicts the portion of those operations that would comprise its combined U.S. operations for purposes of the proposal.

BILLING CODE 6210–01–P

Illustrative Structure of a Foreign Banking Organization's U.S. Operations



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II. Overview of the Proposal

The proposal would revise the framework for determining the applicability of enhanced prudential standards for foreign banking organizations with total consolidated assets of $100 billion or more, based on the risk profile of their U.S. operations. The proposal broadly aligns with the framework set forth in the domestic proposal,[25] with modifications, for example, to address the fact that foreign banking organizations may operate in the United States directly through U.S. branches and agencies or through subsidiaries. Specifically, the proposal would establish three categories of standards to address risk-management, liquidity, and single-counterparty credit limits for foreign banking organizations

[23] A foreign banking organization with no U.S. intermediate holding company would be subject to requirements that defer largely to compliance with home-country capital standards. Any U.S. bank holding company or depository institution subsidiary of the foreign banking organization would continue to be subject to the generally applicable capital requirements under the agencies' regulatory capital rule.

[24] *See supra* note 9.

[25] *See also* Proposed Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements, 83 FR 66024 (December 21, 2018) (domestic interagency proposal).

with $100 billion or more in total consolidated assets and a significant U.S. presence (*i.e.,* combined U.S. assets of $100 billion or more). The proposal would also establish three categories of capital standards for a U.S. intermediate holding company with total consolidated assets of $100 billion or more, which would apply only to a U.S. intermediate holding company. The requirements under each category would be based on the risk profile of a foreign banking organization's combined U.S. operations or U.S. intermediate holding company, as measured by their size and the materiality of the following risk-based indicators: Cross-jurisdictional activity, nonbank assets, off-balance sheet exposure, and weighted short-term wholesale funding. For foreign banking organizations with $100 billion or more in total consolidated assets and a limited U.S. presence (*i.e.,* less than $100 billion in combined U.S. assets), the proposal would not apply the category framework, and instead would continue to rely largely on compliance with similar home-country standards at the consolidated, foreign-parent level. In addition, foreign banking organizations with $50 billion or more in total consolidated assets would continue to be required to meet U.S. risk management requirements.

The proposal also would implement reporting requirements that are necessary to accommodate the use of the risk-based indicators for the combined U.S. operations of a foreign banking organization, and make certain technical amendments to the Board's enhanced prudential standards framework related to the organization of the framework, certain clarifying revisions, and the removal of outdated transitional provisions.

Concurrently with this proposal, the agencies separately are seeking comment on a proposal that would amend the agencies' capital and liquidity requirements to introduce consistent categories for tailoring those standards based on the risk profile of foreign banking organizations' U.S. operations (the interagency foreign banking organization capital and liquidity proposal). As part of that proposal, the Board is requesting comment on, but is not proposing, whether it should impose standardized liquidity requirements to address the liquidity risks of the U.S. branches and agencies of a foreign banking organization with significant U.S. operations, as well as potential approaches to do so. In addition, the Board, together with the FDIC, separately is seeking comment on a proposal that would address the applicability of resolution planning requirements to large U.S. banking organizations and foreign banking organizations based on a category approach that is broadly consistent with the categories set forth in this proposal.

A. Scope of Application

Consistent with the domestic proposal and EGRRCPA's amendments to section 165 of the Dodd-Frank Act, this proposal generally would increase the asset size threshold for application of the enhanced prudential standards framework to foreign banking organizations from $50 billion to $100 billion in total consolidated assets.[26] Under the proposal, such a foreign banking organization with $100 billion or more in combined U.S. assets [27] would be subject to Category II, Category III, or Category IV enhanced prudential standards.[28] The category of standards that would apply to a foreign banking organization would be based on the risk profile of its U.S. operations, as measured by size, cross-jurisdictional activity, nonbank assets, off-balance sheet exposure, and weighted short-term wholesale funding. The most stringent requirements would apply to a foreign banking organization subject to Category II standards. Requirements under this category would apply to a foreign banking organization with very large U.S. operations or those with significant cross-jurisdictional activity, and generally would remain unchanged from existing requirements. In comparison, requirements applicable to foreign banking organizations would become increasingly less stringent under Category III and Category IV, respectively, commensurate with the reduced sizes and risk profiles of their U.S. operations. Category III standards would apply to a foreign banking organization with U.S. operations that are significant in size or have elevated U.S. risk profiles, measured based on the levels of nonbank assets, off-balance sheet exposure, and weighted short-term wholesale funding among those operations. The least stringent prudential standards would apply under Category IV to a foreign banking organization with combined U.S. assets of at least $100 billion that is not subject to Category III or Category II standards based on its U.S. risk profile.

Section II.B. of this **SUPPLEMENTARY INFORMATION** section discusses the proposed criteria for determining which category of standards would apply to a foreign banking organization, and Sections II.C. through II.E. of this **SUPPLEMENTARY INFORMATION** section discuss the standards that would apply under each category. Section II.F. of this **SUPPLEMENTARY INFORMATION** section discusses the standards that would apply to foreign banking organizations with total consolidated assets of $100 billion or more, but a U.S. presence that does not meet the criteria for the application of prudential standards under the categories described in this proposal and that presents lesser risk to U.S. financial stability. Other than U.S. risk-management requirements, the proposal would not apply enhanced prudential standards to foreign banking organizations with total consolidated assets of less than $100 billion, consistent with EGRRCPA.

B. Scoping Criteria for Proposed Categories

Under the proposal, the three categories for determining the enhanced prudential standards that apply to foreign banking organizations with combined U.S. assets of $100 billion or more would be defined based on the following criteria, measured based on the combined U.S. operations of a foreign banking organization:

- Category II standards, including risk-management standards, liquidity requirements, and single-counterparty credit limit requirements, would apply to foreign banking organizations the combined U.S. operations of which have $700 billion or more in assets, or $75 billion or more in cross-jurisdictional activity.[29] In addition, under the interagency foreign banking organization capital and liquidity proposal, the most stringent standardized liquidity requirements would apply to the foreign banking organization at the level of any U.S. intermediate holding company and

[26] Under the proposal, the threshold for application of risk-management requirements would increase from $10 billion to $50 billion in total consolidated assets.

[27] Combined U.S. assets means the sum of the consolidated assets of each top-tier U.S. subsidiary of a foreign banking organization (excluding any section 2(h)(2) company, if applicable) and the total assets of each U.S. branch and U.S. agency of a foreign banking organization, as reported by the foreign banking organization on the Annual Report of Foreign Banking Organizations (FR Y–7Q).

[28] This proposal would not apply the most stringent Category I standards to foreign banking organizations because, under the domestic proposal, Category I standards would apply only to U.S. global systemically important bank holding companies. Under Board regulations, only a top-tier U.S. bank holding company can be identified as a U.S. global systemically important bank holding company. *See* 12 CFR 217.11(d); 12 CFR part 217, subpart H.

[29] Cross-jurisdictional activity would be measured excluding cross-jurisdictional liabilities to non-U.S. affiliates and cross-jurisdictional claims on non-U.S. affiliates to the extent that these claims are secured by financial collateral.

certain of its depository institution subsidiaries.

• Category III standards, including risk-management standards, liquidity requirements, and single-counterparty credit limit requirements, would apply to foreign banking organizations that are not subject to Category II standards and the combined U.S. operations of which have $250 billion or more in assets or $75 billion or more in any of the following indicators: Nonbank assets, weighted short-term wholesale funding, or off-balance sheet exposure. Standardized liquidity requirements [30] (applicable at the level of its U.S. intermediate holding company (and certain of its depository institution subsidiaries), if any) would vary in stringency based on a foreign banking organization's level of weighted short-term wholesale funding, as described in the interagency foreign banking organization capital and liquidity proposal.

• Category IV risk-management standards and liquidity requirements would apply to foreign banking organizations with at least $100 billion in combined U.S. assets that do not meet any of the thresholds proposed for Categories II and III. In addition, as discussed in the interagency foreign banking organization capital and liquidity proposal, standardized liquidity requirements would apply to a foreign banking organization with $50 billion or more in weighted short-term wholesale funding at its combined U.S. operations, at the level of its U.S. intermediate holding company (and certain of its depository institution subsidiaries), if any.

Capital standards, including stress testing and capital planning, would apply to a U.S. intermediate holding company that meets the thresholds for Categories II, III and IV described above, based on its total consolidated assets or the materiality of the risk-based indicators. The stress testing and capital planning requirements would increase in stringency commensurate with the risk profile of a U.S. intermediate holding company.

The use of a multi-category approach would align the enhanced prudential standards applicable to foreign banking organizations with those set forth in the domestic proposal for U.S. firms with similar risk profiles. Such an approach would allow firms and the public to identify what requirements apply to a foreign banking organization's U.S. operations and predict what requirements would apply if the risk profile of those operations were to change. By taking into consideration the materiality of each risk indicator that would be used to determine the applicability of Category II, Category III, or Category IV standards, the proposal would provide a basis for assessing the extent to which a foreign banking organization's U.S. operations present U.S. financial stability and safety and soundness risks. The proposed thresholds would apply based on the level of each indicator averaged over the preceding four calendar quarters, as described further below, in order to capture significant changes in a foreign banking organization's U.S. risk profile, rather than temporary fluctuations.

In general, the proposed categories of standards align with the categories that would apply under the domestic proposal to U.S. banking organizations. The domestic proposal includes an additional category of standards—Category I—that would apply to U.S. global systemically important bank holding companies (U.S. GSIBs), identified using the methodology under the Board's U.S. GSIB surcharge rule.[31] Because the U.S. GSIB surcharge rule would not identify a foreign banking organization or U.S. intermediate holding company as a U.S. GSIB, Category I standards would not apply to any foreign banking organization or U.S. intermediate holding company under this proposal.

Question 1: What would be the advantages and disadvantages of including enhanced prudential standards that are more stringent than those in Category II, comparable to those of Category I under the domestic proposal, and applying them to a U.S. intermediate holding company or the combined U.S. operations of a foreign banking organization with a comparable systemic risk profile to that of a U.S. GSIB? What differences in enhanced prudential standards would be appropriate to apply to such a U.S. intermediate holding company or foreign banking organization with respect to its combined U.S. operations, relative to the standards that would apply under the proposal?

1. Size

Section 165 of the Dodd-Frank Act, as amended by EGRRCPA, requires the Board to apply enhanced prudential standards to foreign banking organizations based on their total consolidated asset size. The proposal would consider total consolidated asset size for determining whether a foreign banking organization is subject to the enhanced prudential standards framework, and tailor the application of those standards based on the combined U.S. assets of a foreign banking organization [32] or, with respect to the application of capital standards, the total consolidated assets of a foreign banking organization's U.S. intermediate holding company.[33] This approach is similar to the current enhanced prudential standards framework.

The Board believes a size threshold based on a foreign banking organization's U.S. presence is appropriate for differentiating among foreign banking organizations in view of the statutory purpose of the enhanced prudential standards framework, which is to prevent or mitigate risk to U.S. financial stability.[34] In addition, a size threshold based on the combined U.S. operations or U.S. intermediate holding company of a foreign banking organization would more closely align the application of enhanced prudential standards to both domestic and foreign banking organizations. The asset size thresholds set forth in this proposal are generally consistent with those that would apply to large U.S. banking organizations under the domestic proposal for Categories II through IV.

In developing the asset size thresholds for the domestic proposal, the Board considered the requirements of section 165 of the Dodd-Frank Act, as amended by EGRRCPA, together with historical examples of large U.S. banking organizations that experienced

[30] The specific standardized liquidity requirements that would apply under Categories III and IV based on weighted short-term wholesale funding levels of $75 billion and $50 billion, respectively, are discussed in the interagency foreign banking organization capital and liquidity proposal. Proposed changes to the liquidity data reporting requirements under FR 2052a are discussed later in this proposal.

[31] *See* 12 CFR part 217 subpart H; *see also* Regulatory Capital Rules: Implementation of Risk-Based Capital Surcharge for Global Systemically Important Bank Holding Companies, 80 FR 49082 (August 14, 2015).

[32] Combined U.S. assets are reported on the FR Y–7 or FR Y–7Q. Total consolidated assets of a U.S. intermediate holding company are reported on the Consolidated Statements for Holding Companies, under Form FR Y–9C. Consistent with the existing prudential standards framework, the combined U.S. assets of a foreign banking organization would continue to be calculated as the sum of the consolidated assets of each top-tier U.S. subsidiary of the foreign banking organizations (excluding any section 2(h)(2) company, if applicable) and the total assets of each U.S. branch and U.S. agency of the foreign banking organization.

[33] All U.S. intermediate holding companies are required to file Form FR Y–9C, regardless of whether they control a bank. If the U.S. intermediate holding company has not filed an FR Y–9C for each of the four most recent consecutive quarters, it must use the most recent quarter or consecutive quarters as reported on FR Y–9C.

[34] 12 U.S.C. 5365(a)(1).

significant distress or failure during the financial crisis. The Board's analysis found that the crisis experience of domestic banking organizations with total consolidated assets of $100 billion, $250 billion, and $700 billion presented materially different risks to U.S. financial stability and the U.S. economy more broadly, which would support the differentiation of enhanced prudential standards for firms included within those size thresholds.[35] In addition, size thresholds of these orders of magnitude reflected observed differences in structural and operational complexity, and in the range and scale of financial services a firm provides.

The Board recognizes that the U.S. operations of foreign banking organizations are structured differently than domestic firms; nevertheless, the risks to U.S. financial stability and safety and soundness that stem from size are present regardless of structure. Because foreign banking organizations operate through both branches and agencies as well as U.S. subsidiaries, the proposal would establish categories based on the foreign banking organization's combined U.S. assets. The size of a foreign banking organization's U.S. operations provides a measure of the extent to which U.S. customers or counterparties may be exposed to a risk of loss or suffer a disruption in the provision of services in the United States.[36] For example, during the financial crisis some large foreign banking organizations rapidly deleveraged their U.S. operations to address capital deficiencies, leaving commercial borrowers without a primary source of funding and contributing to large-scale asset fire sales. For foreign banking organizations with the largest U.S. operations, rapid deleveraging among those operations could disrupt U.S. markets and thereby present significant risks to U.S. financial stability in the same way as similarly sized domestic firms, due to the materiality of their presence in the United States.

Question 2: What are the advantages and disadvantages of using size thresholds to tailor prudential standards for foreign banking organizations? In what ways, if any, does the inclusion of asset size thresholds in prudential standards drive changes in foreign banking organizations' business models and risk profiles in ways that differ from the effects of thresholds based on other risk-based indicators? To what extent can other factors adequately differentiate among the risk profiles of foreign banking organizations and serve as tools to tailor prudential standards?

2. Other Risk-Based Indicators

Consistent with the domestic proposal, this proposal also would consider the level of cross-jurisdictional activity, nonbank assets, off-balance sheet exposure, and weighted short-term wholesale funding levels of a foreign banking organization's U.S operations to determine the applicable category of standards. The Board is proposing to apply a uniform threshold of $75 billion for each of these risk-based indicators. A threshold of $75 billion would represent at least 30 percent and as much as 75 percent of the size of the U.S. operations of a foreign banking organization or a U.S. intermediate holding company with combined U.S. assets or total consolidated assets, respectively, of between $100 billion and $250 billion. The agencies also proposed a $75 billion threshold for these indicators in the domestic interagency proposal. Under this proposal and the domestic proposal, setting the thresholds for these risk-based indicators at $75 billion would ensure that domestic banking organizations and the U.S. operations of foreign banking organizations that account for the vast majority—over 70 percent—of the total amount of each risk-based indicator would be subject to enhanced prudential standards. To the extent the levels and distribution of an indicator substantially change in the future, the Board may consider modifications, if appropriate.

In addition to foreign banking organizations with $700 billion or more in combined U.S. assets, Category II standards would apply to a foreign banking organization with (1) $100 billion or more in combined U.S. assets and (2) combined U.S. operations with $75 billion or more in cross-jurisdictional activity. Similarly, in addition to foreign banking organizations with $250 billion or more in combined U.S. assets, Category III standards would apply to foreign banking organization with (1) $100 billion or more in combined U.S assets and (2) combined U.S. operations with at least $75 billion in weighted short-term wholesale funding, nonbank assets, or off-balance sheet exposure.[37]

a. Cross-Jurisdictional Activity

Foreign banking organizations with U.S. operations that engage in significant cross-jurisdictional activity present complexities that support the application of more stringent standards. For example, significant cross-border activity of the U.S. operations of a foreign banking organization may require more sophisticated risk management to appropriately address the heightened interconnectivity and complexity of those operations and the diversity of risks across all jurisdictions in which the foreign banking organization provides financial services. In addition, cross-jurisdictional activity may present increased challenges in resolution because there could be legal or regulatory restrictions that prevent the transfer of financial resources across borders where multiple jurisdictions and regulatory authorities are involved. The use of a threshold based on cross-jurisdictional activity to differentiate prudential standards applicable to foreign banking organizations is also intended to maintain consistency with the thresholds proposed for large U.S. banking organizations under the domestic proposal. The Board's capital and liquidity regulations currently use total on-balance sheet foreign exposure, as reported on the Country Exposure Report (FFIEC 009), to determine the application of certain requirements for depository institution holding companies and certain of their depository institution subsidiaries, such as the supplementary leverage ratio and countercyclical capital buffer.[38]

For purposes of determining the application of prudential standards under the proposal, a foreign banking organization would measure cross-jurisdictional activity as the sum of the cross-jurisdictional assets and liabilities of its combined U.S. operations or its U.S. intermediate holding company, as applicable, excluding intercompany liabilities and collateralized intercompany claims. Measuring cross-jurisdictional activity taking into

[35] 83 FR 61408, 61413–14 (November 29, 2018).

[36] For domestic banking organizations, categories of standards are defined based on total consolidated assets, including the U.S. banking organization's international operations.

[37] For capital standards, in addition to U.S. intermediate holding companies with $700 billion or more in total assets, Category II would apply to a U.S. intermediate holding company with (1) total consolidated assets of $100 billion or more and (2) $75 billion or more in cross-jurisdictional activity. In addition to U.S. intermediate holding companies with $250 billion or more in total assets, Category III capital standards would apply to a U.S. intermediate holding company with (1) $100 billion or more in total consolidated assets and (2) $75 billion or more in weighted short-term wholesale funding, nonbank assets, or off-balance sheet exposure.

[38] *See* 12 CFR 217.10 (requiring advanced approaches Board-regulated institutions to maintain a supplementary leverage ratio); 217.11(b) (requiring advanced approaches Board-regulated institutions to maintain a countercyclical capital buffer); 217.100(b)(1) (describing the size and on-balance sheet foreign exposure thresholds for determining an advanced approaches Board-regulated institution).

account both assets and liabilities—instead of just assets—would provide a broader gauge of the scale of cross-border operations and associated risks, as it includes both borrowing and lending activities outside of the United States.[39] The proposal would adjust the measurement of cross-jurisdictional activity to exclude intercompany liabilities and to recognize collateral in calculating intercompany claims in order to reflect the structural differences between foreign banking organizations' operations in the United States and domestic holding companies.

Specifically, the proposed cross-jurisdictional activity indicator would exclude liabilities of the combined U.S. operations or U.S. intermediate holding company that reflect transactions with non-U.S. affiliates. Intercompany liabilities generally represent funding from the foreign banking organization to its U.S. operations and, in the case of certain long-term debt instruments, may be required by regulation.[40] The proposed exclusion recognizes the benefit of the foreign banking organization providing support to its U.S. operations. Short-term funding from affiliates, which may pose heightened liquidity risks to the U.S. operations, would be captured in the proposal's measure of weighted short-term wholesale funding.

Foreign banking organizations' U.S. operations often intermediate transactions between U.S. clients and foreign markets, including by facilitating access for foreign clients to U.S. markets, and clearing and settling U.S. dollar-denominated transactions. In addition, they engage in transactions to manage enterprise-wide risks. In these roles, they engage in substantial and regular transactions with non-U.S. affiliates. In recognition that the U.S. operations have increased cross-jurisdictional activity as a result of these activities, the proposal would include in cross-jurisdictional claims only the net exposure (*i.e.,* net of collateral value subject to haircuts) of all secured transactions with non-U.S. affiliates to the extent that these claims are collateralized by financial collateral.[41]

The proposed recognition of financial collateral would apply to all types of claims, including repurchase agreements and securities lending agreements. Specifically, claims on non-U.S. affiliates would be reduced by the value of any financial collateral in a manner consistent with the Board's capital rule,[42] which permits, for example, banking organizations to recognize financial collateral when measuring the exposure amount of repurchase agreements and securities borrowing and securities lending transactions (together, repo-style transactions).[43] The capital rule recognizes as financial collateral certain types of high-quality collateral, including cash on deposit and securities issued by the U.S. government, as well as certain types of equity securities and debt. With the exception of cash on deposit, the banking organization also is required to have a perfected, first-priority interest in the collateral or, outside of the United States, the legal equivalent thereof.[44] Permitting the reduction of certain claims on non-U.S. affiliates if the collateral meets the definition of financial collateral would ensure that the collateral is liquid, while the use of supervisory haircuts would also limit risk associated with price volatility. In addition, relying on the capital rule's definition of financial collateral would provide clarity regarding the types of collateral eligible to reduce the amount of cross-jurisdictional claims under this approach.

As an example of how the proposed financial collateral recognition would operate, if the U.S. operations of a foreign banking organization placed cash with the parent foreign banking organization through a reverse repurchase agreement, and the parent foreign banking organization provided securities that qualified as financial collateral, the exposure of the U.S. operations would be reduced by the value of the securities in a manner consistent with the capital rule's collateral haircut approach. If the value of the claim exceeds the value of the financial collateral after taking into account supervisory haircuts, then the uncollateralized portion of the claim would be included in the foreign banking organization's measure of cross-jurisdictional activity. Conversely, if the value of the collateral after taking into account supervisory haircuts exceeds the value of the claim, the exposure to the non-U.S. affiliate would be excluded from the measure of cross-jurisdictional activity.

In addition to the proposal to exclude intercompany liabilities and certain collateralized intercompany claims from the measure of cross-jurisdictional activity, the Board is requesting comment on alternatives to adjusting the measure for cross-jurisdictional activity to recognize that the U.S. intermediate holding company or combined U.S. operations engage in substantial and regular transactions with non-U.S. affiliates.

Under the first alternative, the Board would exclude all transactions with non-U.S. affiliates from the computation of the cross-jurisdictional activity of a U.S. intermediate holding company or the combined U.S. operations of a foreign banking organization. This alternative would focus only on third-party assets and liabilities and may be a less burdensome way to account for the structural differences between foreign banking organizations' operations in the United States and large domestic holding companies.

Under the second alternative, the Board would adjust the $75 billion threshold for the cross-jurisdictional activity indicator. For example, the Board could apply a threshold of $100 billion for cross-jurisdictional activity such that the U.S. intermediate holding company or combined U.S. operations of a foreign banking organization would be subject to Category II capital or liquidity standards if it exceeded this threshold. This alternative would recognize the flows between a foreign banking organization's U.S. operations and its foreign affiliates without making any additional adjustments to address

[39] The Basel Committee on Banking Supervision (BCBS) recently amended its measurement of cross-border activity to more consistently reflect derivatives, and the Board anticipates it will separately propose changes to the FR Y–15 in a manner consistent with this change. Any related changes to the proposed cross-jurisdictional activity indicator would be updated through those separately proposed changes to the FR Y–15.

[40] *See* 12 CFR 252.162 and 12 CFR 252.165.

[41] *See* the definition of ''financial collateral'' at 12 CFR 217.2.

[42] *See* 12 CFR 217.37.

[43] *See* the definition of ''repo-style transaction'' at 12 CFR 217.2.

[44] *See* 12 CFR 217.2. The proposal would differ from the FFIEC 009, on which U.S. intermediate holding companies report cross-border claims, in two respects. The FFIEC 009 uses different rules to recognize collateral, using the term ''eligible collateral,'' which includes cash as well as investment grade debt or marketable equity securities. In addition, the FFIEC 009 requires reporting of repurchase agreements, securities lending agreements and other similar financing agreements at the value of the outstanding claim, regardless of the amount of collateral provided. *See* Instructions for the Preparation of the Country Exposure Report (FFIEC 009) at 12–13 (effective September 2016). The proposal would use the concept of financial collateral from the capital rule and would recognize collateral for any claim, including claims to which the collateral haircut approach applies under the capital rule.

In addition, the FFIEC 009 measures cross-jurisdictional activity on an ultimate-risk basis, whereby claims are allocated based on the country of residence of the ultimate obligor, which, in certain cases, can mean the country or residence of the collateral provided (ultimate-risk basis). Securities lending agreements and repurchase agreements, however, are allocated based on the residence of the counterparty, without taking into consideration features of the collateral. The proposal would require allocation of exposures on an ultimate-risk basis (subject to the netting described above).

intercompany liabilities or collateralized intercompany claims. This alternative would not require a foreign banking organization to monitor collateral transfers or calculate supervisory haircuts in measuring its cross-jurisdictional activity.

Question 3: What are the advantages and disadvantages of recognizing the value of collateral for certain transactions with non-U.S. affiliates in the computation of the cross-jurisdictional activity of a U.S. intermediate holding company or the combined U.S. operations of a foreign banking organization? How would this recognition align with the objectives of the proposed indicator as a measure of operational complexity, scope, and risks associated with operations and activities in foreign jurisdictions and with principles of national treatment and equality of competitive opportunity?

Question 4: What would be the advantages and disadvantages of excluding from the measure of cross-jurisdictional activity liabilities to non-U.S. affiliates? How would this exclusion align with the objectives of the proposed indicator as a measure of operational complexity, scope, and risks associated with operations and activities in foreign jurisdictions and with principles of national treatment and equality of competitive opportunity?

Question 5: What are the advantages and disadvantages of recognizing collateral for all repo-style transactions and other collateralized positions? To what extent should the type of transaction determine whether collateral is recognized?

Question 6: What are the advantages and disadvantages of relying on the definition of financial collateral in the capital rule and applying supervisory haircuts in calculating the amount of cross-jurisdictional claims? What are the burdens associated with this approach and how do these burdens compare with the benefits? Are there other criteria that the Board should consider in addition to this approach (e.g., the amount of time that would be needed to monetize the collateral) and why?

Question 7: What would be the advantages and disadvantages of other ways to define eligible collateral, such relying on the definition of high-quality liquid assets (HQLA) in the liquidity coverage ratio rule (LCR rule)?[45] *Under this alternative approach, collateral would be recognized in the calculation of the exposure if the collateral is HQLA. Would relying on the definition of HQLA help ensure the collateral is liquid and provide greater clarity on the types of collateral that could be recognized? What are the burdens associated with this approach and how do these burdens compare with the benefits?*

Question 8: As discussed above, measuring cross-jurisdictional activity on an ultimate risk basis takes into consideration both the type of collateral, and the location of the collateral or issuer. On the FFIEC 009, if collateral is in the form of investment grade debt or marketable securities, risk is allocated based on the residence of the issuer of the security, while cash collateral is allocated based on the residence of the legal entity where the cash is held. What would be the advantages and disadvantages of allocating cross-jurisdictional claims based on the location of the entity holding the collateral for securities and cash?

Question 9: On the FFIEC 009, repurchase agreements, securities lending agreements, and other similar financial transactions cannot be re-allocated or ''transferred'' to a different jurisdiction based on the location of the collateral or issuer. What would be the advantages and disadvantages of allowing repurchase agreements, securities financing transactions, and other similar agreements to be excluded from the measure of cross-jurisdictional activity if the collateral was issued by a U.S. entity or, for cash collateral, located in the United States? How would such treatment align with the objectives of the proposed indicator as a measure of operational complexity, scope, and risks associated with operations and activities in foreign jurisdictions and with principles of national treatment and equality of competitive opportunity?

Question 10: What are the advantages and disadvantages of measuring cross-jurisdictional activity on an immediate-counterparty basis (i.e., on the basis of the country of residence of the borrower) rather than on an ultimate-risk basis? What, if any, clarifications could be made to the measurement of cross-jurisdictional activity on an ultimate-risk basis to ensure consistency across banking organizations and more accurate assessment of risk?

Question 11: What is the most appropriate way in which the proposed cross-jurisdictional activity indicator could account for the risk of transactions with a delayed settlement date, and why? What are the advantages and disadvantages of the use of settlement-date accounting versus trade-date accounting for purposes of the cross-jurisdictional activity indicator?

Question 12: What are the advantages or disadvantages of the alternative approaches to measuring non-U.S. affiliate transactions for purposes of the cross-jurisdictional activity indicator? How do these alternatives compare to the proposal?

Question 13: What other positions, if any, should be excluded from or included in the cross-jurisdictional activity indicator for purposes of determining prudential standards, and why? How would excluding from the cross-jurisdictional activity measure a broader or narrower set of intercompany assets and liabilities align with the objectives of the proposed indicator as a measure of operational complexity, scope, and risks associated with operations and activities in foreign jurisdictions and with principles of national treatment and equality of competitive opportunity?

Question 14: What would be the advantages and disadvantages of including in or excluding from the proposed cross-jurisdictional activity indicator positions of the U.S. branches and agencies of a foreign banking organization with the parent foreign banking organization or other non-U.S. affiliates? For example, what would be the advantages or disadvantages of including or excluding reported gross due from and gross due to the parent foreign banking organization or other non-U.S. affiliates?

Question 15: What modifications to the proposed cross-jurisdictional activity measure should the Board consider to better align it with the proposed treatment for U.S. banking organizations under the domestic proposal and promote consistency in the measurement of assets and liabilities across the Board's prudential standards framework and applicable accounting standards, and why? How would any such modification more appropriately account for the risks of cross-jurisdictional activity for foreign banking organizations and mitigate risks to U.S. financial stability?

Question 16: To what extent would using a particular measure of cross-jurisdictional activity create incentives for foreign banking organizations to restructure relationships between U.S. subsidiaries, U.S. branches and agencies, and non-U.S. affiliates?

Question 17: What alternative indicators should the Board consider to

[45] *See* Liquidity Coverage Ratio: Liquidity Risk Measurement Standards, 79 FR 61440, 61450 (Oct. 10, 2014), codified at 12 CFR part 50 (OCC), 12 CFR part 249 (Board), and 12 CFR part 329 (FDIC). For the definition of HQLA under the Board's LCR rule, *see* 12 CFR 249.20.

the proposed cross-jurisdictional activity indicator as a measure of cross-border activity of a foreign banking organization? How would any alternative indicator align with the proposed cross-jurisdictional activity measure for U.S. banking organizations under the domestic interagency proposal?

Question 18: What are the advantages and disadvantages of the proposal or the alternatives in combination with other potential changes to the measurement and reporting of cross-jurisdictional activity discussed above (e.g., ultimate-risk basis)? How would changes to the measurement and reporting of cross-jurisdictional activity in combination with the proposal or alternatives align with the objectives of the proposed indicator as a measure of operational complexity, scope, and risks associated with operations and activities in foreign jurisdictions and with principles of national treatment and equality of competitive opportunity?

Question 19: Data reported on the Banking Organization Systemic Risk Report (FR Y–15) is used to measure the systemic risk of large banking organizations, including to identify and calibrate surcharges applied to U.S. GSIBs. The Board may amend the FR Y–15 in this context, and would seek comment on the effect of any changes on the U.S. GSIB surcharge framework as well as on the advantages and disadvantages of incorporating these changes into the calculation of risk indicators. The Board also may separately amend the FR Y–15 in the context of the calculation of risk indicators. What are the advantages and disadvantages of the risk-based indicator definitions tracking the inputs to the U.S. GSIB surcharge framework?

b. Nonbank assets

The level of a banking organization's investment in nonbank subsidiaries provides a measure of the organization's business and operational complexity. Specifically, banking organizations with significant investments in nonbank subsidiaries are more likely to have complex corporate structures, inter-affiliate transactions, and funding relationships. A banking organization's complexity is positively correlated with the impact of the organization's failure or distress. Through its U.S. intermediate holding company, a foreign banking organization can maintain significant investments in nonbank subsidiaries, and therefore may present structural, funding, and resolution concerns analogous to those presented by domestic banking organizations.

Nonbank activities also may involve a broader range of risks than those associated with banking activities, and can increase interconnectedness with other financial market participants, requiring sophisticated risk management and governance, including capital planning, stress testing, and liquidity risk management. If not adequately managed, the risks associated with nonbanking activities could present significant safety and soundness concerns and increase financial stability risks. The distress or failure of a nonbank subsidiary could be destabilizing to the U.S. operations of a foreign banking organization and the foreign banking organization itself, and cause counterparties and creditors to lose confidence in the organization's global operations. Nonbank assets also reflect the degree to which a foreign banking organization and its U.S. operations may be engaged in activities through legal entities that are not subject to separate capital requirements or to the direct regulation and supervision applicable to a regulated banking entity.

The proposed nonbank assets indicator would align with the measure of nonbank assets currently used in the capital plan rule to tailor certain requirements as well as with the nonbank assets indicator in the domestic proposal.[46]

c. Off-Balance Sheet Exposure

Off-balance sheet exposure complements the measure of size by taking into consideration financial and banking activities not reflected on the balance sheet of a foreign banking organization with respect to its U.S. operations. Like size, off-balance sheet exposure provides a measure of the extent to which customers or counterparties may be exposed to a risk of loss or suffer a disruption in the provision of services. In addition, off-balance sheet exposure can lead to significant future draws on liquidity, particularly in times of stress. During the financial crisis, for example, vulnerabilities among the U.S. operations of foreign banking organizations were exacerbated by margin calls on derivative exposures and draws on commitments. These exposures can be a source of safety and soundness risk, as organizations with significant off-balance sheet exposure may have to fund these positions in the market in a time of stress. These risks also may affect financial stability because they can manifest rapidly and with less transparency to other market participants, in comparison to the risks associated with on-balance sheet positions. In addition, because draws on off-balance sheet exposures such as committed credit and liquidity facilities tend to increase in times of stress, they can exacerbate the effects of stress conditions.[47]

Off-balance sheet exposure may also serve as a measure of interconnectedness. Some off-balance sheet exposures, such as derivatives, are concentrated among the largest financial firms.[48] The distress or failure of one party to a financial contract, such as a derivative or securities financing transaction, can trigger disruptive terminations of these contracts that destabilize the defaulting party's otherwise solvent affiliates.[49] Such a default also can lead to disruptions in other financial markets, for example, by causing market participants to rapidly unwind trading positions.[50] In this way, the effects of one party's failure or distress can be amplified by its off-balance sheet connections with other financial market participants.

Under the proposal, off-balance sheet exposure would be measured as the difference between total exposure and

[46] The capital plan rule defines ''average total nonbank assets'' as the average of the total nonbank assets of a U.S. intermediate holding company subject to the capital plan rule, calculated in accordance with the instructions to the FR Y–9LP, for the four most recent consecutive quarters or, if the intermediate holding company has not filed the FR Y–9LP, for each of the four most recent consecutive quarters, for the most recent quarter or consecutive quarters, as applicable. *See* 12 CFR 225.8(d)(2).

[47] *See* William F. Bassett, Simon Gilchrist, Gretchen C. Weinbach, Egon Zakrajšek, ''Improving Our Ability to Monitor Bank Lending,'' in Risk Topography: Systemic Risk and Macro Modeling 149–161 (Markus Brunnermeier and Arvind Krishnamurthy, eds. 2014), available at: *http://www.nber.org/chapters/c12554.*

[48] *See, e.g.,* Sheri M. Markose, Systemic Risk from Global Financial Derivatives: A Network Analysis of Contagion and its Mitigation with Super-Spreader Tax, IMF Working Papers (Nov. 30, 2012), available at: *https://www.imf.org/en/Publications/WP/Issues/2016/12/31/Systemic-Risk-from-Global-Financial-Derivatives-A-Network-Analysis-of-Contagion-and-Its-40130.*

[49] To address these risks, the agencies have established restrictions relating to the qualified financial contracts of U.S. GSIBs, the insured depository institution subsidiaries of U.S. GSIBs, and the U.S. operations of systemically important foreign banking organizations. *See* 12 CFR part 252, subpart I (Board); 12 CFR part 47 (OCC); and 12 CFR part 382 (FDIC). That rule does not apply to savings and loan holding companies, to the U.S. operations of other large foreign banking organizations, or to other large bank holding companies.

[50] *See e.g.,* The Orderly Liquidation of Lehman Brothers Holdings Inc. under the Dodd-Frank Act, 5 FDIC Quarterly No. 2, 31 (2011), *https://www.fdic.gov/bank/analytical/quarterly/2011-vol5-2/article2.pdf.*

on-balance sheet assets.[51] Total exposure includes on-balance sheet assets plus certain off-balance sheet exposures, including derivative exposures, repo-style transactions, and other off-balance sheet exposures (such as commitments).

d. Weighted Short-Term Wholesale Funding

The proposed weighted short-term wholesale funding indicator would provide a measure of the liquidity risk presented by the U.S. operations of a foreign banking organization, as reliance on short-term, generally uninsured funding from more sophisticated counterparties can make those operations vulnerable to large-scale funding runs. In particular, foreign banking organizations with U.S. operations that fund long-term assets with short-term liabilities from financial intermediaries such as investment funds may need to rapidly sell less liquid assets to meet withdrawals and maintain their operations in a time of stress, which they may be able to do only at ''fire sale'' prices. Asset fire sales can cause rapid deterioration in a foreign banking organization's financial condition and adversely affect U.S. financial stability by driving down asset prices across the market. As a result, the use of weighted short-term wholesale funding presents both safety and soundness and financial stability risks. Short-term wholesale funding also provides a measure of interconnectedness among market participants, including other financial sector entities, which can provide a mechanism for transmission of distress.

The proposed short-term wholesale funding indicator would measure the extent to which the U.S. operations of a foreign banking organization rely on short-term wholesale funding sources.[52] Weighted short-term wholesale funding would include exposures between the U.S. operations of a foreign banking organization and its non-U.S. affiliates, as reliance on short-term wholesale funding from affiliates can contribute to a firm's funding vulnerability in times of stress.

Weighted short-term wholesale funding levels would serve as both a threshold for the general application of Category III standards, as well as a separate threshold for applying enhanced liquidity requirements to foreign banking organizations whose combined U.S. operations reflect heightened liquidity risk profiles. A foreign banking organization whose combined U.S. operations have weighted short-term wholesale funding of at least $75 billion would be subject to the general application of Category III standards, which would include daily liquidity data reporting under this proposal and full standardized liquidity requirements applicable to a U.S. intermediate holding company and certain depository institution subsidiaries, if any, under the interagency foreign banking organization capital and liquidity proposal. By contrast, a foreign banking organization subject to Category III standards whose combined U.S. operations have less than $75 billion of weighted short-term wholesale funding would be subject to a monthly liquidity data reporting requirement under this proposal and reduced standardized liquidity requirements applicable to a U.S. intermediate holding company and certain depository institution subsidiaries, if any, under the interagency foreign banking organization capital and liquidity proposal.[53]

Question 20: What are the advantages and disadvantages of the proposed risk-based indicators? What different indicators should the Board use, and why?

Question 21: The Board is considering whether Category II standards should apply based on weighted short-term wholesale funding, nonbank assets, and off-balance sheet exposure, using a higher threshold than the $75 billion threshold that would apply for Category III standards, in addition to the thresholds discussed above based on asset size and cross-jurisdictional activity. For example, a foreign banking organization or U.S. intermediate holding company could be subject to Category II standards if one or more of these indicators equals or exceeds a level such as $100 billion or $200 billion. A threshold of $200 billion would represent at least 30 percent and as much as 80 percent of total assets for the U.S. operations of a foreign banking organization with between $250 billion and $700 billion in combined U.S. assets. If the Board were to adopt additional indicators for purposes of identifying foreign banking organizations with U.S. operations that should be subject to Category II standards, at what level should the threshold for each indicator be set, and why? Commenters are encouraged to provide data supporting their recommendations.

3. Alternative Scoping Criteria

An alternative approach for tailoring the application of enhanced prudential standards to a foreign banking organization would be to use a single, comprehensive score to assess the risk profile and systemic footprint of a foreign banking organization's combined U.S. operations or U.S. intermediate holding company. The Board uses such an identification methodology (scoring methodology) to identify a U.S. bank holding company as a U.S. GSIB and apply risk-based capital surcharges to these firms. As an alternative in the domestic proposal, the Board described a scoring methodology that could be used to tailor prudential standards for domestic banking organizations.

The scoring methodology in the Board's regulations is used to calculate a U.S. GSIB's capital surcharge under two methods.[54] The first method is based on the sum of a bank holding company's systemic indicator scores reflecting its size, interconnectedness, cross-jurisdictional activity, substitutability, and complexity (method 1). The second method is based on the sum of these same measures of risk, except that the substitutability measures are replaced with a measure of the bank holding company's reliance on short-term wholesale funding (method 2).[55] Consistent with the domestic

[51] In connection with extending the applicability of the FR Y–15 reporting requirements to U.S. branches and agencies of a foreign banking organization (discussed below), the proposal would add this measure of off-balance sheet exposure to the FR Y–15 reporting form as a separate line item.

[52] Specifically, short-term wholesale funding is the amount of a firm's funding obtained from wholesale counterparties or retail brokered deposits and sweeps with a remaining maturity of one year or less. Categories of short-term wholesale funding are then weighted based on four residual maturity buckets; the asset class of collateral, if any, backing the funding; and characteristics of the counterparty. *See,* 12 CFR 217.406 and Regulatory Capital Rules: Implementation of Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies, 80 FR 49082 (August 14, 2015).

[53] In addition, as discussed in more detail in the interagency foreign banking organization capital and liquidity proposal, domestic and foreign banking organizations subject to Category IV standards that have weighted short-term wholesale funding levels of at least $50 billion would be subject to reduced standardized liquidity requirements, which would apply to its U.S. intermediate holding company and certain of its depository institution subsidiaries, if any. The Board is requesting comment on whether it should impose standardized liquidity requirements on the U.S. branch and agency network of a foreign banking organization, as well as possible approaches for doing so, which would be proposed through a future rulemaking.

[54] Application of a U.S. GSIB's capital surcharge is determined based on an annual calculation. Similarly, the alternative scoping criteria under this proposal would be based on an annual calculation. *See* 12 CFR part 217, subpart H.

[55] For more discussion relating to the scoring methodology, please see the Board's final rule establishing the scoring methodology. *See* Regulatory Capital Rules: Implementation of Risk-

proposal and as an alternative to the threshold approach under this proposal, the Board is seeking comment on use of the scoring methodology to tailor the application of enhanced prudential standards to the U.S. operations of foreign banking organizations.

The scoring methodology was designed to identify and assess the systemic risk of a large banking organization, and similarly can be used to measure the risks posed by the U.S. operations of foreign banking organizations.[56] The component measures of the scoring methodology identify banking organizations that have heightened risk profiles and provide a basis for assessing risk to safety and soundness and U.S. financial stability. Size, interconnectedness, cross-jurisdictional activity, substitutability, complexity, and short-term wholesale funding are indicators of risk for both foreign and domestic banking organizations. Similar to the thresholds-based approach set forth in this proposal, the indicators used in the scoring methodology closely align with the risk-based factors specified in section 165 of the Dodd-Frank Act. Because this information would be reported publicly, use of the scoring methodology would promote transparency in the application of such standards to foreign banking organizations.

The Board has previously used the scoring methodology and global methodology[57] to identify and apply enhanced prudential standards to U.S. subsidiaries and operations of foreign global systemically important banking organizations (foreign GSIBs). For example, the Board's restrictions on qualified financial contracts and total loss-absorbing capacity requirements apply to U.S. GSIBs and the U.S. operations of foreign GSIBs, with the latter identified under the Board's scoring methodology or the global methodology.[58] Accordingly, use of the scoring methodology would promote consistency with the Board's existing regulations.

Under the alternative scoring approach, the size of a foreign banking organization's combined U.S. assets, together with the method 1 or method 2 score of its U.S. operations under the scoring methodology, would be used to determine which category of standards would apply. Consistent with the proposal, most enhanced prudential standards would be based on the method 1 or method 2 score applicable to a foreign banking organization's combined U.S. operations. The application of capital standards, however, would apply based on the method 1 or method 2 score of a foreign banking organization's U.S. intermediate holding company. U.S. intermediate holding companies already report information required to calculate method 1 and method 2 scores, and in connection with this proposal, those reporting requirements would be extended to include a foreign banking organization's combined U.S. operations.[59]

To determine which category of standards would apply under the alternative scoring methodology, the Board considered the distribution of method 1 and method 2 scores of the U.S. operations of foreign banking organizations, U.S. intermediate holding companies, domestic bank holding companies and certain savings and loan holding companies with at least $100 billion in total consolidated assets.[60] As discussed below, the Board is providing ranges of scores for the application of Category II and Category III standards. If the Board adopts a final rule that uses the scoring methodology to establish tailoring thresholds, the Board would set a single score within the listed ranges for the application of Category II and Category III standards.

Category II. In selecting the ranges of method 1 or method 2 scores that could define the application of Category II standards, the Board considered the potential of a firm's material distress or failure to disrupt the U.S. financial system or economy. The Board estimated method 1 and method 2 scores for domestic banking organizations with more than $250 billion in total consolidated assets, and foreign banking organizations with more than $250 billion in combined U.S. assets. To this sample, the Board added estimates of method 1 and method 2 scores for a banking organization whose distress impacted U.S. financial stability during the crisis (Wachovia), and estimated method 1 and method 2 scores assuming significant growth in operations (*e.g.,* if one or more U.S. intermediate holding companies each had $700 billion in assets). The Board also considered the outlier method 1 and method 2 scores for domestic and foreign banking organizations with more than $250 billion in total consolidated assets that are not U.S. GSIBs.[61]

Based on this analysis and to maintain comparability to the domestic proposal, under the alternative scoring approach the Board would apply Category II standards to any foreign banking organization with at least $100 billion in combined U.S. assets whose combined U.S. operations have (a) a method 1 score that meets or exceeds a minimum score between 60 and 80, or (b) a method 2 score that meets or exceeds a minimum score between 100 and 150. These same size thresholds and score ranges would apply to U.S. intermediate holding companies for the application of capital standards.

Category III. Under the proposal, the Board would apply Category III standards to a foreign banking organization with combined U.S. assets of $250 billion or more, or for capital standards, a U.S. intermediate holding company with total consolidated assets of $250 billion or more, that does not meet the criteria for Category II. This reflects, among other things, the crisis experience of domestic banking organizations with total consolidated assets of $250 billion or more, which presented materially different risks to U.S. financial stability relative to firms with less than $250 billion in assets. Similarly, under the domestic proposal, the Board would at a minimum apply Category III standards to a firm with assets of $250 billion or more, reflecting the threshold above which the Board must apply enhanced prudential standards under section 165.

The domestic proposal seeks comment on an alternative scoring approach under which a firm with total consolidated assets between $100 billion and $250 billion that has a method 1 or method 2 score within a specified range would be subject to

Based Capital Surcharges for Global Systemically Important Bank Holding Companies, 80 FR 49082 (Aug. 14, 2015).

[56] *See infra* note 41.

[57] Global methodology means the assessment methodology and the higher loss absorbency requirement for global systemically important banks issued by the BCBS, as updated from time to time. *See* 12 CFR 252.2.

[58] *See* 12 CFR 252.82(b) (definition of ''covered entity'' with regard to restrictions on qualified financial contracts); 12 CFR 252.160 (definition of ''covered IHC'' with regard to total loss-absorbing capacity requirements). *See also* 12 CFR 252.153(b) (identification of foreign GSIBs in the enhanced prudential standards rule; 12 CFR 252.170(a)(2)(ii) (definition of ''major foreign banking organization'' in single counterparty credit limits rule).

[59] As discussed below, under the proposal, the FR Y–15 would be amended to collect risk-indicator data for the combined U.S. operations of foreign banking organizations.

[60] In conducting its analysis, the Board considered method 1 and method 2 scores as of September 30, 2018.

[61] Outliers can be determined by a number of statistical methods. For these purposes, the Board computed an outlier as the third quartile plus three times the interquartile range of method 1 and method 2 scores of U.S. bank holding companies, certain U.S. savings and loan holding companies, U.S. intermediate holding companies, and the combined U.S. operations of foreign banking organizations.

Category III standards. Specifically, the Board proposed selecting a minimum score for application of Category III standards between 25 and 45 under method 1, or between 50 and 85 under method 2. The maximum score for application of the Category III standards would be one point lower than the minimum score selected for application of Category II standards. In selecting these ranges, the Board compared the scores of domestic firms with total consolidated assets of between $100 billion and $250 billion with those of firms with total consolidated assets greater than $250 billion. The Board performed a similar analysis including the scores of foreign banking organizations and found similar results. The Board is therefore considering the same thresholds for application of Category III standards to foreign banking organizations under the alternative scoring approach. Use of these thresholds would maintain comparable treatment between domestic firms and the U.S. operations of foreign banking organizations under the alternative scoring approach.

Specifically, under the alternative scoring approach, Category III standards would apply to a foreign banking organization with combined U.S. assets between $100 billion and $250 billion with a method 1 score that meets or exceeds a minimum score between 25 and 45 or a method 2 score that meets or exceeds a minimum score between 50 and 85, and in either case is below the score threshold for Category II standards. These same size thresholds and score ranges would apply to U.S. intermediate holding companies for the application of capital standards.

Category IV: Under the alternative scoring approach, Category IV standards would apply to a foreign banking organization with at least $100 billion in combined U.S. assets whose method 1 or method 2 score for its combined U.S. operations is below the minimum score threshold for Category III. Likewise, Category IV capital standards would apply to a foreign banking organization with a U.S. intermediate holding company that has at least $100 billion in total assets and does not meet the minimum score threshold for Category III.

Question 22: What are the advantages and disadvantages to the use of the alternative scoring approach and category thresholds described above instead of the proposed thresholds for foreign banking organizations?

Question 23: If the Board were to use the alternative scoring approach to differentiate foreign banking organizations' U.S. operations for purposes of tailoring prudential standards, should the Board use method 1 scores, method 2 scores, or both? What are the challenges of applying the alternative scoring approach to the combined U.S. operations or U.S. intermediate holding company of a foreign banking organization? What modifications to the alternative scoring approach, if any, should the Board consider and why (e.g., should intercompany transactions be reflected in the calculation of indicators)?

Question 24: If the Board adopted the alternative scoring approach, what would be the advantages or disadvantages of requiring scores to be calculated for the U.S. operations of a foreign banking organization at a frequency greater than annually, including, for example, requiring scores to be calculated on a quarterly basis?

Question 25: With respect to each category of standards described above, at what level should the method 1 or method 2 score thresholds be set and why? Commenters are encouraged to provide data supporting their recommendations.

Question 26: What other approaches should the Board consider in setting thresholds for tailored prudential standards for foreign banking organizations and why? How would any such approach affect the comparability of requirements across domestic banking organizations and foreign banking organizations?

4. Determination of Applicable Category of Standards

Under the proposal, a foreign banking organization with combined U.S. assets of $100 billion or more would be required to determine the category of standards that would apply to its combined U.S. operations or U.S. intermediate holding company, as applicable. In order to capture significant changes, rather than temporary fluctuations, in a foreign banking organization's U.S. risk profile, a category of standards would apply to a foreign banking organization's U.S. operations or its U.S. intermediate holding company based on a four-quarter average of the levels for each indicator.[62] A foreign banking organization would remain subject to a category of standards until it no longer meets the indicators for that category in each of the four most recent calendar quarters, or until the foreign banking organization met the criteria for another category of standards based on an increase in the value of one or more indicators, averaged over the preceding four calendar quarters. This approach would be consistent with the existing applicability and cessation requirements of the enhanced prudential standards rule.[63]

If a foreign banking organization becomes subject to a different category of standards, the standards under that category would be effective on the first day of the second quarter following the date on which the foreign banking organization met the criteria for that category of standards. For example, a foreign banking organization that changes from Category IV to Category III standards based on an increase in the value of a risk-based indicator averaged over the first, second, third, and fourth quarters of a calendar year would be subject to Category III standards beginning on April 1 (the first day of the second quarter) of the following year.

Under the proposal, a foreign banking organization could be subject to different categories of standards for its combined U.S. operations and U.S. intermediate holding company. Consider, for example, a foreign banking organization with combined U.S. assets of $400 billion, cross-jurisdictional activity of $80 billion at its combined U.S. operations, and a U.S. intermediate holding company with consolidated total assets of $260 billion and $45 billion of cross-jurisdictional activity. In this example, the combined U.S. operations of the foreign banking organization would be subject to Category II liquidity and risk-management standards as well as single-counterparty credit limits[64] because together, the U.S. intermediate holding company and branch and agency network have more than $75 billion in cross-jurisdictional activity. However, the U.S. intermediate holding company would be subject to Category III capital standards based on its total consolidated assets (which exceed $250 billion) and lower level of cross-jurisdictional activity.

Question 27: What are the advantages and disadvantages of determining the category of standards applicable to a foreign banking organization's combined U.S. operations or U.S. intermediate holding company on a quarterly basis? Would making this

[62] With respect to a foreign banking organization that has reported an indicator for less than four quarters, the proposal would refer to the average of the most recent quarter or quarters. The measurement approach discussed in this section would apply to all standards within a given category, including regulatory and reporting requirements for a foreign banking organization.

[63] *See e.g.,* 12 CFR 252.150.

[64] Single-counterparty credit limits are discussed in section II.D. of this **SUPPLEMENTARY INFORMATION** section.

determination on an annual basis would be more appropriate and why?

Question 28: What are the advantages and disadvantages of the proposed transition period for foreign banking organizations that meet the criteria for a different category of standards due to changes in its U.S. risk profile? What would be the advantages or disadvantages of providing additional time to conform to new requirements?

C. Enhanced Prudential Standards for Foreign Banking Organizations

1. Category II Standards

Category II standards would apply to a foreign banking organization with $700 billion or more in combined U.S. assets, or $75 billion or more in cross-jurisdictional activity. In view of its complexity, interconnectedness, and the materiality of its U.S. presence, the distress or failure of a foreign banking organization with U.S. operations that would be subject to Category II standards could impose substantial costs on the U.S. financial system and economy. As discussed in section II.B. of this **SUPPLEMENTARY INFORMATION** section, foreign banking organizations with the largest U.S. operations typically have more complex operational and management structures and provide financial services in the United States on a broader range and scale than smaller firms. In addition, foreign banking organizations with U.S. operations that engage in heightened levels of cross-jurisdictional activity present operational complexities and interconnectivity concerns, and are exposed to a greater diversity of risks as a result of the multiple jurisdictions in which they provide financial services. The risks and operational complexities associated with cross-jurisdictional activity can present significant challenges to the recovery and resolution process.

To address these risks and maintain consistency with the domestic proposal, under this proposal a U.S intermediate holding company subject to Category II capital standards would continue to submit an annual capital plan, and the Federal Reserve would conduct an assessment of the company's capital plan according to the capital plan rule.[65] The proposal also would maintain annual supervisory stress testing for these U.S. intermediate holding companies and require company-run stress testing on an annual basis.[66] In addition, U.S. intermediate holding companies subject to Category II capital standards would continue to report the information required under the existing FR Y–14 reporting forms to inform the Board's supervisory stress test and facilitate review of the firm's capital plan, as well as the ongoing monitoring and supervision of these companies.

The proposal would maintain the enhanced prudential standards rule's existing liquidity risk-management, monthly internal liquidity stress testing, and liquid asset buffer requirements for a foreign banking organization with combined U.S. operations subject to Category II liquidity standards. Daily liquidity data reporting under Form FR 2052a also would apply to a foreign banking organization with combined U.S. operations subject to Category II standards. These requirements help to ensure that a foreign banking organization has effective governance and risk management processes to measure and estimate liquidity needs, and sufficient liquid assets to cover risks and exposures and to support activities through a range of conditions. In particular, internal liquidity stress testing, liquidity buffer, and liquidity risk-management requirements help to ensure that a foreign banking organization with large U.S. operations can appropriately manage liquidity risk and withstand disruptions in funding sources.[67] Consistent with current requirements, for foreign banking organizations with both a U.S. intermediate holding company and a U.S. branch or agency, the foreign banking organization would conduct internal liquidity stress tests separately for each of its U.S. intermediate holding company, the U.S. branch or agency network, and the combined U.S. operations.[68]

The proposal would make changes to the Board's single-counterparty credit limits to align the thresholds for application of these requirements with the proposed thresholds for other enhanced prudential standards and to tailor further the requirements applicable to U.S. intermediate holding companies. Under the proposal, single-counterparty credit limits would apply to the combined U.S. operations of a foreign banking organization subject to Category II or Category III standards. The proposed revisions to the single-counterparty credit limits rule are discussed in section II.D. of this **SUPPLEMENTARY INFORMATION** section.

Question 29: What modifications, if any, should the Board consider to the proposed Category II prudential standards for foreign banking organizations, and why?

2. Category III Standards

Category III standards would apply to a foreign banking organization with combined U.S. assets of $250 billion or more, or a heightened risk profile as measured based on the level of weighted short-term wholesale funding, nonbank assets, and off-balance sheet exposure among its combined U.S. operations.[69] A foreign banking organization with U.S. operations of this size or risk profile heightens the need for sophisticated capital planning and more intensive oversight through stress testing, as well as sophisticated measures to monitor and manage liquidity risk. For example, U.S. intermediate holding companies that engage in heightened levels of nonbank activities may be exposed to a relatively broader range of risks, and the application of more sophisticated capital planning and stress testing requirements would be appropriate to support those activities. Similarly, a foreign banking organization with heightened levels of off-balance sheet exposure among its combined U.S. operations may be required to fulfill substantial draws on commitments and margin calls on derivatives during times of stress. Rigorous risk management and liquidity monitoring would appropriately support risks associated with these exposures.

The Board's current prudential standards framework generally applies the same capital standards to all U.S. intermediate holding companies with $250 billion or more in total

[65] 12 CFR 225.8.

[66] The proposal would remove the mid-cycle company-run stress testing requirement for a U.S. intermediate holding company subject to Category II standards. In the Board's experience, the mandatory mid-cycle stress test provided modest risk-management benefits and limited incremental information to market participants beyond what the annual company-run stress test provides.

[67] As discussed in the interagency foreign banking organization capital and liquidity proposal, the implementation of standardized liquidity requirements to complement a firm's own internal liquidity stress testing and buffer requirements would help address liquidity risk.

[68] The proposal would revise the FR 2052a reporting requirements to require all foreign banking organizations subject to Category II standards to report the FR 2052a on a daily basis (daily reporting requirements would also apply to foreign banking organizations subject to Category III standards that have weighted short-term wholesale funding of $75 billion or more in respect of their combined U.S. operations). Some foreign banking organizations that would be subject to Category II standards currently report FR 2052a data on a monthly basis. For these firms, the proposal would increase the frequency of reporting requirements under the FR 2052a.

[69] Category III capital standards would apply to a U.S. intermediate holding company with total consolidated assets of $250 billion or more, or a heightened risk profile based on its level or weighted short-term wholesale funding, nonbank assets, and off-balance sheet exposure.

consolidated assets.[70] The proposed framework would further differentiate among foreign banking organizations with $250 billion or more in combined U.S. assets, consistent with the domestic proposal. In particular, Category II would include standards generally consistent with those developed by the BCBS that are appropriate for very large or complex firms, whereas Category III would include less stringent standards, based on the relatively lower U.S. risk profiles of foreign banking organizations that would be subject to Category III standards.

The proposal would largely maintain the existing capital planning and stress testing standards under the capital plan and enhanced prudential standards rules for U.S. intermediate holding companies that would be subject to Category III capital standards, but would remove the mid-cycle company-run stress testing requirement and require public disclosure of company-run stress test results every other year rather than annually. The Board would continue to conduct supervisory stress testing of these U.S. intermediate holding companies on an annual basis.

In regard to capital planning, a U.S. intermediate holding company subject to Category III capital standards would continue to submit confidential data to the Board using the existing schedule for FR Y–14 reports. Such a U.S. intermediate holding company also would submit an annual capital plan and report the information required under the FR Y–14A. The FR Y–14 and Y–14A reports are inputs into the supervisory stress test and inform the Board's review of the firm's capital plan, as well as the ongoing monitoring and supervision of these companies. In addition, as part of the internal stress test, a U.S. intermediate holding company must establish and maintain internal processes for assessing capital adequacy under expected and stressful conditions, which represent an important risk management capability for a U.S. intermediate holding company of this size or risk profile.

A U.S. intermediate holding company subject to Category III capital standards would publicly disclose the results of company-run stress tests only once every two years, rather than annually.[71] Because such a U.S. intermediate holding company would continue to submit an annual capital plan (including the results of an internal capital stress test) and would be subject to annual supervisory stress testing, a reduction in the frequency of disclosures related to the company-run stress test should reduce compliance costs without a material increase in safety and soundness or financial stability risks.[72] Public disclosure of supervisory stress test results would continue to be made on an annual basis.

For the reasons described under the discussion of Category II standards, the proposal would maintain existing liquidity risk management, monthly internal liquidity stress testing, and liquidity buffer requirements for the combined U.S. operations of a foreign banking organization subject to Category III liquidity standards. The proposal also would include liquidity data reporting requirements under FR 2052a for a foreign banking organization subject to Category III liquidity standards, and tailor those requirements based on the level of weighted short-term wholesale funding. Some foreign banking organizations that would be subject to Category III standards currently report FR 2052a data for their combined U.S. operations on a monthly basis. However, under the proposal, if the combined U.S. operations of a foreign banking organization have $75 billion or more in weighted short-term wholesale funding, FR 2052a data would be submitted for each business day.[73] Daily reporting is appropriate for a foreign banking organization with heightened levels of weighted short-term wholesale funding, because a firm that relies more on unsecured, less-stable funding relative to deposits typically must rollover liabilities in order to fund its routine activities. Accordingly, short-term wholesale funding can be indicative of a firm that has heightened liquidity risk.

Question 30: What modifications, if any, should the Board consider to the proposed Category III prudential standards for foreign banking organizations, and why?

Question 31: What are the advantages and disadvantages of reducing the frequency of the company-run stress test and related disclosures to every other year for a U.S. intermediate holding company subject Category III standards?

3. Category IV Standards

Under the proposal, Category IV standards would apply to foreign banking organizations with combined U.S. assets of $100 billion or more that do not meet the criteria for Categories II or III with respect to their combined U.S. operations or U.S. intermediate holding companies (as applicable). Based on an analysis of the crisis experience of large domestic banking organizations, the Board found that the failure or distress of a U.S. banking organization that meets or exceeds the thresholds for Category IV standards, while not likely to have as great of an impact on U.S. financial stability as the failure or distress of a firm subject to Category II or III standards, could nonetheless have an amplified negative effect on economic growth and employment relative to the failure or distress of smaller firms. Notwithstanding structural differences between the U.S. operations of foreign banking organizations and domestic firms, the size and risk profile of such U.S. operations could present similar risk to financial stability and safety and soundness as those presented by U.S. firms.

Relative to current requirements under the enhanced prudential standards rule, the proposed Category IV standards would maintain core elements of the capital and liquidity standards, and tailor these requirements to reflect the lower risk profile and lesser degree of complexity of a foreign banking organization subject to this category of standards.

The proposal would tailor the application of capital standards for U.S. intermediate holding companies subject

[70] For example, the supplementary leverage ratio, countercyclical capital buffer, and requirement to recognize most elements of accumulated other comprehensive income (AOCI) in regulatory capital generally apply to U.S. intermediate holding companies with $250 billion or more in total consolidated assets or $10 billion or more in on-balance sheet foreign exposure. In addition, if a U.S. intermediate holding company that meets this threshold has an insured depository institution subsidiary, the U.S. intermediate holding company also is subject to the LCR rule.

[71] The company-run stress testing requirement under the enhanced prudential standards rule includes a mandatory public disclosure component, whereas the capital plan rule does not. Compare 12 CFR 252.58 with 12 CFR 225.8. The proposal would maintain the annual internal stress test requirement under the capital plan rule, but reduce the required frequency of company-run stress testing under the enhanced prudential standards rule to every other year. As a result, in the intervening year between company-run stress tests under the enhanced prudential standards rule, the proposed Category III standards would require a U.S. intermediate holding company to conduct an internal capital stress test only as part of its annual capital plan submission, without required public disclosure.

[72] Consistent with the domestic proposal, a U.S. intermediate holding company of a foreign banking organizations subject to Category II capital standards would conduct and publicly report the results of a company-run stress test more frequently (annually) than U.S. intermediate holding companies of foreign banking organizations subject to Category III standards (every two years), based on the differences in size, cross-jurisdictional activity, complexity, and risk profile indicated by the scoping criteria for each of these categories. 83 FR 66024 (December 21, 2018).

[73] FR 2052a data would be submitted on a monthly basis for combined U.S. operations of a foreign banking organization subject to Category III standards with less than $75 billion in weighted short-term wholesale funding.

to Category IV capital standards, consistent with the domestic proposal. Specifically, the proposal would reduce the frequency of supervisory stress testing to every other year, and eliminate the requirement to conduct and publicly report the results of a company-run stress test. A supervisory stress test cycle of this frequency would be consistent with the domestic proposal and appropriate for the risk profile of a U.S. intermediate holding company subject to this category of standards. The proposal would maintain the existing FR Y–14 reporting for these U.S. intermediate holding companies in order to provide the Board with the data it needs to conduct supervisory stress testing and inform the Board's ongoing monitoring and supervision of these companies.[74]

The Board continues to expect a U.S. intermediate holding company of a foreign banking organization subject to Category IV capital standards to have a sound capital position and sound capital planning practices. Capital is central to the ability of a U.S. intermediate holding company to absorb unexpected losses and continue to lend to creditworthy businesses and consumers. To be resilient under a range of conditions, a U.S. intermediate holding company must maintain sufficient levels of capital to support the risks associated with its exposures and activities. As a result, processes for managing and allocating capital resources are critical to a company's financial strength and resiliency, and also to the stability and effective functioning of the U.S. financial system.

In April 2018, the Board issued a proposal to apply stress buffer requirements to large bank holding companies and U.S. intermediate holding companies.[75] As part of a future capital plan proposal, the Board intends to propose that the stress buffer requirements under Category IV would be calculated in a manner that aligns with the proposed two-year supervisory stress testing cycle. Specifically, the Board plans to propose that the stress buffer requirements would be updated annually to reflect planned distributions, but only every two years to reflect stress loss projections.[76]

As part of the capital plan proposal, the Board intends to maintain the requirement that the firm submit an annual capital plan, but provide greater flexibility to U.S. intermediate holding companies to develop their annual capital plans. Under such an approach, Category IV standards could require a capital plan to include estimates of revenues, losses, reserves, and capital levels based on a forward-looking analysis, taking into account the U.S. intermediate holding company's idiosyncratic risks under a range of conditions; however, it would not require submission of the results of company-run stress tests on the FR Y–14A. This change would align with the proposal to remove company-run stress testing requirements from Category IV standards under this proposal. The Board also intends at a future date to revise its guidance relating to capital planning to align with the proposed categories of standards and to allow more flexibility in how all firms subject to Category IV standards perform capital planning.

Category IV liquidity standards would include liquidity risk management, stress testing, and buffer requirements. The combined U.S. operations of a foreign banking organization that would be subject to Category IV standards typically do not present the risks to U.S. financial stability that are associated with size, cross-jurisdictional activity, nonbank assets, and off-balance sheet exposure. Accordingly, the proposal would reduce the frequency of required internal liquidity stress testing to at least quarterly, rather than monthly.[77] Under the proposed Category IV standards, a foreign banking organization would continue to be required to maintain a liquidity buffer at its U.S. intermediate holding company that is sufficient to meet the projected net stressed cash-flow need over the 30-day planning horizon under the internal liquidity stress test and a liquidity buffer at its U.S. branches and agencies that is sufficient to meet projected needs over the first fourteen days of a stress test with a 30-day planning horizon.

The proposal also would modify certain liquidity risk-management requirements under Category IV. First, the combined U.S. operations of a foreign banking organization subject to this category of standards would calculate collateral positions on a monthly basis, rather than weekly. Second, the proposal would clarify that risk limits established to monitor sources of liquidity risk must be consistent with the established liquidity risk tolerance for the combined U.S. operations a foreign banking organization and appropriately reflect their risk profile. Importantly, limits established in accordance with the proposal would not need to consider activities or risks that are not relevant to the combined U.S. operations of a foreign banking organization. Third, while the proposal would continue to require a foreign banking organization subject to Category IV standards to establish and maintain procedures for monitoring intraday risk that are consistent with the risk profile of its combined U.S. operations, Category IV standards would not specify any required elements of those procedures.

Question 32: What modifications, if any, should the Board consider to the proposed Category IV standards, and why?

Question 33: What are the advantages and disadvantages of conducting a supervisory stress test every other year, rather than annually, and eliminating the company-run stress testing requirement for purposes of Category IV standards? What would be the advantages or disadvantages of the Board conducting supervisory stress tests for these U.S. intermediate holding companies on a more frequent basis? How should the Board consider providing U.S. intermediate holding companies with additional flexibility in their capital plans?

D. Single-Counterparty Credit Limits

Section 165(e) of the Dodd-Frank Act requires the Board to establish single-counterparty credit limits for large U.S. and foreign banking organizations in order to limit the risks that the failure of any individual firm could pose to other firms subject to such requirements.[78] Under the Board's enhanced prudential standards framework, single-counterparty credit limits apply to the combined U.S. operations of a foreign banking organization with $250 billion or more in total consolidated assets, and separately to any subsidiary U.S. intermediate holding company of such a

[74] The Board plans to separately propose reductions in FR Y–14 reporting requirements for firms subject to Category IV standards as part of the capital plan proposal at a later date, to align with changes the Board would propose to the capital plan rule.

[75] *See* Amendments to the Regulatory Capital, Capital Plan, and Stress Test Rules, 83 FR 18160 (proposed April 25, 2018).

[76] Under the capital plan rule, the Board may require a U.S. intermediate holding company to resubmit its capital plan if there has been, or will likely be, a material change in the firm's risk profile, financial condition, or corporate structure. *See* 12 CFR 225.8(e)(4). In the event of a resubmission, the Board may conduct a quantitative evaluation of that capital plan. As noted in the April 2018 proposal, the Board may recalculate a firm's stress buffer requirements whenever the firm chooses or is required to resubmit its capital plan. 83 FR 18171.

[77] Combined U.S. operations of a foreign banking organization subject to Category IV standards would remain subject to monthly FR 2052a liquidity reporting requirements.

[78] 12 U.S.C. 5365(e).

firm with total consolidated assets of $50 billion or more.[79]

The single-counterparty credit limits that apply to those foreign banking organizations and their U.S. intermediate holding companies increase in stringency in a manner commensurate with their size and risk profile. All foreign banking organizations are subject to an aggregate net credit exposure limit to any single counterparty equal to 25 percent of tier 1 capital. In addition, if a foreign banking organization has the characteristics of a ''major foreign banking organization,'' [80] it also is subject to an aggregate net credit exposure limit to any ''major counterparty'' [81] equal to 15 percent of tier 1 capital.[82] These requirements apply to the combined U.S. operations of a foreign banking organization and are determined with respect to the foreign banking organization's tier 1 capital. Alternatively, a foreign banking organization may comply with these requirements by certifying that it meets, on a consolidated basis, standards established by its home country supervisor that are consistent with the BCBS large exposure standard.[83]

For those foreign banking organizations' U.S. intermediate holding companies, the Board's single-counterparty credit limits apply a similar approach. For a U.S. intermediate holding company with total consolidated assets of at least $50 billion and less than $250 billion, its aggregate net credit exposure to a single counterparty cannot exceed 25 percent of total regulatory capital plus the balance of its allowance for loan and lease losses that is not includable in tier 2 capital.[84] In comparison, a U.S. intermediate holding company with total consolidated assets of at least $250 billion and less than $500 billion is subject to an aggregate net credit exposure limit of 25 percent of tier 1 capital.[85] For ''major U.S. intermediate holding companies,'' the rule applies the same aggregate limits that apply to a major foreign banking organization—(i) an aggregate net credit exposure limit to any single counterparty equal to 25 percent of tier 1 capital,[86] and (ii) an aggregate net credit exposure limit to a ''major counterparty'' equal to 15 percent of tier 1 capital.[87]

Other provisions of the single-counterparty credit limits apply only to U.S. intermediate holding companies with total consolidated assets of $250 billion or more. Specifically, the current rule sets forth requirements for the treatment of exposures to securitization vehicles, investment funds, and other special purpose vehicles (collectively, SPVs),[88] and the application of economic interdependence and control relationship tests to aggregate connected counterparties [89] for U.S. intermediate holding companies that meet or exceed this asset size threshold. In addition, U.S. intermediate holding companies with $250 billion or more in total consolidated assets must comply with the rule on a daily basis as of the end of each business day and submit a quarterly report to demonstrate its compliance.[90]

The proposal would revise the Board's single-counterparty credit limits to align the thresholds for application of these requirements with the proposed thresholds for other enhanced prudential standards. Under the proposal, single-counterparty credit limits would apply to the combined U.S. operations of a foreign banking organization subject to Category II or Category III standards or of a foreign banking organization with $250 billion or more in total consolidated assets. A foreign banking organization would continue to be able to comply with the single-counterparty credit limits by certifying to the Board that it meets comparable home-country standards that apply on a consolidated basis.

The proposal also would apply single-counterparty credit limits separately to a U.S. intermediate holding company of a foreign banking organization subject to Category II or Category III standards but would modify the requirements currently applicable to those U.S. intermediate holding companies. First, the proposal would eliminate the requirements applicable to major U.S. intermediate holding companies and instead subject all U.S. intermediate companies to a uniform aggregate net credit exposure limit to a single counterparty equal to 25 percent of tier 1 capital. In addition, the proposal would remove the bifurcated treatment under the current rule regarding exposures to SPVs and the application of the economic interdependence and control relationship tests, as well as compliance requirements. Under the proposal, these requirements would apply to all U.S. intermediate holding companies as they apply currently to U.S. intermediate holding companies with $250 billion or more in total consolidated assets. These revisions are intended to more appropriately balance the single-counterparty credit limits that apply to U.S. intermediate holding companies by maintaining the core aggregate net credit exposure limit and extending the applicability of other requirements that are integral to the framework. While these revisions would increase the compliance burden relative to the single-counterparty credit limits currently applicable to certain U.S. intermediate holding companies with less than $250 billion in assets, they are consistent with the focus of the post-crisis reform framework as it relates to reducing interconnectivity within the financial system and the maintenance of higher-quality forms of capital and, therefore, could help to mitigate risks to U.S. financial stability. In particular, the Board has stated that basing single-counterparty credit limits on tier 1 capital sets the limits relative to the company's ability to absorb losses on a going-concern basis and acknowledges market participants' focus on higher-quality capital during the financial crisis.[91]

The proposal would not apply single-counterparty credit limits to the combined U.S. operations of foreign banking organizations subject to Category IV standards unless such a foreign banking organization has $250 billion or more in total consolidated assets, as required by federal law.[92] In addition, the proposal only would apply single-counterparty credit limits to U.S.

[79] 12 CFR 252.72(a).

[80] ''Major foreign banking organization'' means a top-tier foreign banking organization that has the characteristics of a global systemically important banking organization under the global methodology, or is identified by the Board as a major foreign banking organization. 12 CFR 252.171(z).

[81] ''Major counterparty'' means a U.S. GSIB, a foreign banking organization that is a global systemically important banking organization, and any nonbank financial company supervised by the Board. 12 CFR 252.171(y).

[82] 12 CFR 252.172(c).

[83] 12 CFR 252.172(d). *See also* BCBS, Supervisory Framework for Measuring and Controlling Large Exposures (April 2014). The large exposures standard establishes an international single-counterparty credit limit framework for internationally active banks.

[84] 12 CFR 252.172(a).

[85] *Id.* at 252.172(b)(1).

[86] *Id.*

[87] *Id.* at 252.172(c)(1).

[88] *Id.* at 252.175. For a discussion of the treatment of exposures to SPVs under the single-counterparty credit limit rule, *see* ''Single-Counterparty Credit Limits for Bank Holding Companies and Foreign Banking Organizations,'' 83 FR 38460, 38480–82 (Aug. 6, 2018).

[89] 12 CFR 252.176. For a discussion of the economic interdependence and control relationship tests to aggregate connected counterparties under the single-counterparty credit limit rule, see *id.* at 38482–84.

[90] 12 CFR 252.178(a)(1) and (a)(3). A U.S. intermediate holding company with less than $250 billion in total consolidated assets must comply with single-counterparty credit limits as of the end of each quarter. *See* 12 CFR 252.178(a)(2).

[91] *See* 83 FR 38460, 38471 (Aug. 6, 2018).

[92] *See supra* note 71.

intermediate holding companies of foreign banking organizations subject to Category II or Category III standards. As discussed above, the proposed indicators for Category II and Category III represent measures of vulnerability to safety and soundness and financial stability risks, which may be exacerbated if a foreign banking organization has combined U.S. operations with outsized credit exposure to a single counterparty. Accordingly, application of these limits would help to mitigate this risk. In addition, foreign banking organizations with combined U.S. operations that have high reliance on weighted short-term wholesale funding or a significant concentration of nonbank assets or off-balance sheet exposure often also have a high degree of interconnectedness with other market participants and may be likely to transmit their distress or failure to those participants. Single-counterparty credit limits may reduce the extent of that transmission.[93] Foreign banking organizations with combined U.S. operations that would be subject to Category IV standards typically do not present these risks.

Question 34: What are the advantages and disadvantages of the proposed revisions to the applicability requirements for single-counterparty credit limits and the removal of aggregate net credit exposure limits applicable to major U.S. intermediate holding companies?

Question 35: What are the advantages and disadvantages of extending to U.S. intermediate holding companies with less than $250 billion in total consolidated assets that are subject to Category II or Category III standards the requirements under the single-counterparty credit limits framework regarding the treatment of exposures to SPVs and the application of the economic interdependence and control relationship tests, as well as heightened compliance requirements?

E. Risk-Management and Risk-Committee Requirements

Sound enterprise-wide risk management supports the safe and sound operation of banking organizations and reduces the likelihood of their material distress or failure, and thus promotes U.S. financial stability. Section 165(h) of the Dodd-Frank Act requires certain publicly traded bank holding companies, which includes foreign banking organizations, to establish a risk committee that is ''responsible for the oversight of the enterprise-wide risk management practices'' that meets other statutory requirements.[94] EGRRCPA raised the threshold for mandatory application of the risk-committee requirement from publicly traded bank holding companies with $10 billion in total consolidated assets to publicly traded bank holding companies with $50 billion or more in total consolidated assets. Additionally, the Board has discretion to apply risk-committee requirements to publicly traded bank holding companies with under $50 billion in total consolidated assets if the Board determines doing so is necessary or appropriate to promote sound risk management practices.

Under the current enhanced prudential standards rule, all foreign banking organizations with total consolidated assets of $50 billion or more, and publicly traded foreign banking organizations with at least $10 billion in total consolidated assets, must maintain a risk committee that meets specified requirements.[95] These requirements vary based on a foreign banking organization's total consolidated assets and combined U.S. assets. Foreign banking organizations with at least $10 billion but less than $50 billion in total consolidated assets, as well as foreign banking organizations with total consolidated assets of $50 billion or more but less than $50 billion in combined U.S. assets, must annually certify to the Board that they maintain a qualifying committee that oversees the risk management policies of the combined U.S. operations of the foreign banking organization. In contrast, foreign banking organizations with total consolidated assets of $50 billion or more and $50 billion or more in combined U.S. assets are subject to more detailed risk-committee and risk-management requirements, including the requirement to appoint a U.S. chief risk officer.[96]

Consistent with EGRRCPA, the proposal would raise the total consolidated asset threshold for application of the risk-committee requirement to foreign banking organizations and would not change the substance of the risk-committee requirement for these firms. Maintaining these risk-committee requirements for foreign banking organizations with total consolidated assets of $50 billion or more would help support the safety and soundness of a foreign banking organization's U.S. operations in a manner commensurate with its U.S. risk profile. Under the proposal, foreign banking organizations with at least $50 billion but less than $100 billion in total consolidated assets, as well as foreign banking organizations with total consolidated assets of $100 billion or more but less than $50 billion in combined U.S. assets, would be required to maintain a risk committee and make an annual certification to that effect. Additionally, foreign banking organizations with total consolidated assets of $100 billion or more and $50 billion or more in combined U.S. assets would be required to comply with the more detailed risk-committee and risk-management requirements in the Board's enhanced prudential standards rule (Regulation YY), which include the chief risk officer requirement. The proposal would eliminate the risk-committee requirements that apply for foreign banking organizations with less than $50 billion in total consolidated assets.

Similar to its approach for domestic banking organizations, the Board historically has assessed the adequacy of risk management of foreign banking organizations through the examination process as informed by supervisory guidance; the requirements in section 165(h) of the Dodd-Frank Act supplement, but do not replace, the Board's existing risk management guidance and supervisory expectations.[97] Given the activities and risk profiles of foreign banking organizations with less than $50 billion in total consolidated assets, the Board expects to review these firms' risk management practices through the supervisory process. The Board would continue to expect foreign banking organizations with less than $50 billion in total consolidated assets to establish risk management processes and procedures commensurate with their risks.

F. Enhanced Prudential Standards for Foreign Banking Organizations With a Smaller U.S. Presence

The current regulatory framework for foreign banking organizations tailors the application of enhanced prudential standards based on the size and complexity of a foreign banking organization's U.S. operations. Under the Board's current enhanced prudential standards rule, foreign banking organizations with at least $10 billion but less than $50 billion in total consolidated assets are subject to

[93] The limitation on a U.S. intermediate holding company's exposure to a single counterparty also may reduce the likelihood that distress at another firm would be transmitted to the U.S. intermediate holding company.

[94] 12 U.S.C. 5363(h).

[95] *See* 12 CFR 252.144, 252.155, and subpart M.

[96] 12 CFR 252.155.

[97] *See* Enhanced Prudential Standards for Bank Holding Companies and Foreign Banking Organizations, 79 FR 17239, 17247 (Mar. 27, 2014).

company-run stress testing requirements in subpart L and the risk-management and risk-committee requirements in subpart M, the latter of which is described above.[98] Additionally, foreign banking organizations with at least $50 billion in total consolidated assets but less than $50 billion in combined U.S. assets are subject to risk-based and leverage capital, risk-management and risk-committee, liquidity risk management, and capital stress testing requirements in subpart N of the Board's enhanced prudential standards rule.[99] The Board largely requires the foreign banking organization's compliance with home-country capital and liquidity standards at the consolidated level, and imposes certain risk-management requirements that are specific to the U.S. operations of a foreign banking organization.

The proposal generally adopts this approach for foreign banking organizations with a limited U.S. presence; however, it would also implement targeted changes to reduce the stringency of certain requirements applicable to these firms, as described below. It would also maintain certain risk-management and capital requirements for a U.S. intermediate holding company of a foreign banking organization that does not meet the thresholds under the proposal for the application of Category II, Category III or Category IV standards.

1. Enhanced Prudential Standards for Foreign Banking Organizations With Less Than $50 Billion in Total Consolidated Assets

The proposal would eliminate risk-committee and risk-management requirements for foreign banking organizations with less than $50 billion in total consolidated assets, as described above.

In addition, consistent with EGRRCPA, the proposal would eliminate subpart L of the Board's enhanced prudential standards rule, which currently prescribes company-run stress testing requirements for foreign banking organizations with more than $10 billion but less than $50 billion in total consolidated assets.[100] EGRRCPA raised the threshold for mandatory application of company-run stress testing requirements from financial companies with more than $10 billion in total consolidated assets to financial companies with more than $250 billion in total consolidated assets. As a result, foreign banking organizations with less than $50 billion in total consolidated assets would no longer be required to be subject to a home-country capital stress testing regime, or if the foreign banking organization was not subject to qualifying home country standards, additional stress testing requirements in subpart L.[101]

2. Enhanced Prudential Standards for Foreign Banking Organizations With $100 Billion or More in Total Consolidated Assets but Less Than $100 Billion in Combined U.S. Assets

Under the Board's existing enhanced prudential standards rule, subpart N applies to foreign banking organizations with $50 billion or more in total consolidated assets but less than $50 billion in combined U.S. assets. Currently, the standards in subpart N—which include risk-based and leverage capital, liquidity risk management, and capital stress testing requirements—largely require compliance with home-country standards.

Consistent with EGRRCPA, the proposal would raise the threshold for application of subpart N to foreign banking organizations with $100 billion or more in total consolidated assets but less than $100 billion in combined U.S. assets. Under the proposed rule, the requirements under subpart N would continue to largely defer to home-country standards and remain generally unchanged from the requirements that apply currently to a foreign banking organization with a limited U.S presence, including liquidity risk management requirements, risk-based and leverage capital requirements, and capital stress testing requirements. However, consistent with the proposed stress testing frequency for smaller and less complex domestic holding companies, the proposal would require foreign banking organizations with total consolidated assets of less than $250 billion that do not meet the criteria for application of Category II, Category III, or Category IV standards to be subject to a home-country supervisory stress test on a biennial basis, rather than annually as under the current framework.

As mentioned above in section II.E. of this Supplementary Information, risk-committee requirements in subpart N would be further differentiated based on combined U.S. assets. Under the proposal, foreign banking organizations with $100 billion or more in total consolidated assets but less than $50 billion in combined U.S. assets would be required to certify on an annual basis that they maintain a qualifying risk committee that oversees the risk management policies of the combined U.S. operations of the foreign banking organization. In contrast, foreign banking organizations with $100 billion or more in total consolidated assets, and at least $50 billion but less than $100 billion in combined U.S. assets would be subject to more detailed risk-committee and risk-management requirements, which include the chief risk officer requirement. These more detailed risk-committee requirements would be the same requirements that apply to foreign banking organizations with $100 billion or more in combined U.S. assets.

The proposal would not revise the $50 billion U.S. non-branch asset threshold for the U.S. intermediate holding company formation requirement. This requirement has resulted in substantial gains in the resilience and safety and soundness of foreign banking organizations' U.S. operations. Therefore, a foreign banking organization subject to subpart N (*i.e.,* one with less than $100 billion in combined U.S. assets) may have or could be required to form a U.S. intermediate holding company. A U.S. intermediate holding company of such a foreign banking organization would not be subject to Category II, Category III, or Category IV capital standards, but it would remain subject to the risk-based and leverage capital requirements that apply to a U.S. bank holding company of a similar size and risk profile under the Board's capital rule.[102] Similarly, a U.S. intermediate holding company of a foreign banking organization subject to subpart N would be required to comply with risk-management and risk-committee requirements. As under the

[98] The company-run stress testing requirements in subpart L also currently apply to foreign savings and loan holding companies with at least $10 billion in total consolidated assets. *See* 12 CFR 252.120 *et seq.*

[99] 12 CFR 252.140 *et seq.*

[100] Subpart L also currently applies to foreign savings and loan holding companies with more than $10 billion in total consolidated assets. *Id.*

[101] For foreign savings and loan holding companies, the proposal would apply company-run stress testing requirements to foreign savings and loan holding companies with more than $250 billion in total consolidated assets. These requirements would be the same as those that currently apply in subpart L of the enhanced prudential standards rule. *See id.* Raising the asset size threshold for application of company-run stress testing requirements for foreign savings and loan holding companies to more than $250 billion in total consolidated assets would be consistent with section 165(i)(2) of the Dodd-Frank Act, as amended by EGRRCPA. Under this proposal, company-run stress test requirements for foreign savings and loan holding companies would be in the new subpart R of Regulation LL.

[102] 12 CFR part 217. As discussed in the interagency foreign banking organization capital and liquidity proposal, such a U.S. intermediate holding company would be subject to the generally applicable risk-based and leverage capital requirements.

current rule, under the proposal the risk committee of the U.S. intermediate holding company may also serve as the U.S. risk committee for the foreign banking organization's combined U.S. operations.

G. Technical Changes to the Regulatory Framework for Foreign Banking Organizations and Domestic Banking Organizations

The proposal would make several technical changes and clarifying revisions to the Board's enhanced prudential standards rule. In addition to any defined terms described previously in this Supplementary Information section, the proposal would add defined terms for foreign banking organizations with combined U.S. operations subject to Category II, III, or IV standards, defined as ''Category II foreign banking organizations'', ''Category III foreign banking organizations'', or ''Category IV foreign banking organizations'', respectively. Similarly, the proposal would add defined terms for ''Category II U.S. intermediate holding companies'', ''Category III U.S. intermediate holding companies'', and ''Category IV U.S. intermediate holding companies''. The addition of these terms would facilitate the requirements for application of enhanced prudential standards under the category framework set forth in this proposal.

The proposal would revise the requirements for establishment of a U.S. intermediate holding company to eliminate the requirement to submit an implementation plan. The implementation plan requirement was intended to facilitate initial compliance with the U.S. intermediate holding company requirement. To assess compliance with the U.S. intermediate holding company requirement under the proposal, information would be requested through the supervisory process. Such information could include information on the U.S. subsidiaries of the foreign banking organization that would be transferred, a projected timeline for the structural reorganization, and a discussion of the firm's plan to comply with the enhanced prudential standards that would be applicable to the U.S. intermediate holding company.

The proposal also would make conforming amendments to the process for requesting an alternative organizational structure for a U.S. intermediate holding company, as well as clarify that a foreign banking organization may submit a request for an alternative organizational structure in the context of a reorganization, anticipated acquisition, or prior to formation of a U.S. intermediate holding company. In light of the requests received under this section following the initial compliance with the U.S. intermediate holding company requirement, the time period for the Board's expected action would be shortened from 180 days to 90 days. These amendments would apply to a U.S. intermediate holding company formed under subpart N or subpart O.

As discussed above, capital requirements would apply to a U.S. intermediate holding company based on its risk profile, while other requirements would be based on the risk profile of the combined U.S. operations of a foreign banking organization. Subpart O of Regulation YY currently provides that a foreign banking organization that forms two or more U.S. intermediate holding companies would meet any threshold governing applicability of particular requirements by aggregating the total consolidated assets of the U.S. intermediate holding companies. The proposal would not change this aggregation requirement, but would amend the requirement to consider the risk-based indicators discussed above.

In addition, the proposal would provide a reservation of authority to permit a foreign banking organization to comply with the requirements of Regulation YY through a subsidiary foreign bank or company of the foreign banking organization. In making this determination, the Board would take into consideration the ownership structure of the foreign banking organization, including (1) whether the foreign banking organization is owned or controlled by a foreign government; (2) whether the action would be consistent with the purposes of this part; and (3) any other factors that the Board determines are relevant. For example, if top-tier foreign banking organization is a sovereign wealth fund that controls a U.S. bank holding company, with prior approval of the Board the U.S. bank holding company could comply with the requirements established under Regulation YY instead of the sovereign wealth fund, provided that doing so would not raise significant supervisory or policy issues and would be consistent with the purposes of section 165. The reservation of authority is intended to provide additional flexibility to address certain foreign banking organization structures, as well as to provide clarity and reduce burden for these institutions.

The proposal also would amend Regulation YY to eliminate transition and initial applicability provisions that were relevant only for purposes of the initial adoption and implementation of the enhanced prudential standards framework.

For both foreign and domestic banking organizations, the Board is soliciting comment on whether to more closely align the assets that qualify as highly liquid assets in the enhanced prudential standards rule [103] with HQLA under the current LCR rule.[104]

Specifically, the enhanced prudential standards rule requires certain large foreign and domestic banking organizations to hold buffers of highly liquid assets. The rule defines highly liquid assets to include cash, certain securities issued or guaranteed by the U.S. government or a U.S. government-sponsored enterprise, and other assets that a firm demonstrates to the Board's satisfaction meet specific liquidity criteria.[105]

The LCR rule describes assets that are HQLA that may be used by a firm to meets its net cash outflow amount.[106] HQLA are expected to be easily and immediately convertible into cash with little or no expected loss of value during a period of stress.[107] Certain HQLA are subject to additional, asset-specific requirements, including, for example, that the assets be liquid and readily marketable.[108]

When the Board adopted the enhanced prudential standards rule in 2014, the Board stated that HQLA under the then-proposed LCR rule would be liquid under most scenarios, but a covered company would still be required to demonstrate to the Board that these assets meet the criteria for highly liquid assets set forth in the enhanced prudential standards rule.[109] After several years of supervising firms that are subject to the enhanced prudential standards rule and LCR rule, the Board is considering whether it would be appropriate to expand the list of enumerated highly liquid assets to include certain assets that are HQLA (potentially reflecting operational requirements of the LCR rule), or otherwise adjust the definition of highly liquid assets to align with the LCR rule. Under this approach, a banking organization would no longer be required to obtain a determination from

[103] 12 CFR 252.35(b) and 12 CFR 252.157(c).

[104] *See* Liquidity Coverage Ratio: Liquidity Risk Measurement Standards, 79 FR 61440, 61450 (Oct. 10, 2014), codified at 12 CFR part 50 (OCC), 12 CFR part 249 (Board), and 12 CFR part 329 (FDIC). For the definition of HQLA under the Board's LCR rule, *see* 12 CFR 249.20.

[105] *Id.*

[106] 12 CFR 50.20 (OCC), 12 CFR 249.20 (Board), and 12 CFR 329.20 (FDIC).

[107] *See* 79 FR at 61450.

[108] 12 CFR 50.20 (OCC), 12 CFR 249.20 (Board), and 12 CFR 329.20 (FDIC).

[109] *See* 79 FR 17259–60 (Oct. 10, 2014).

the Board for assets that are HQLA, as those assets would be enumerated as highly liquid assets in Regulation YY.

Question 36: How, if at all, should the Board adjust the current definition of highly liquid assets in 12 CFR 252.35(b)(3) and 252.157(c)(7) of the enhanced prudential standards rule to improve alignment with the definition of HQLA? Should the enumerated list of highly liquid assets be expanded to include any or all of certain categories of HQLA (e.g., level 1 liquid assets, all level 1 and level 2A liquid assets, certain level 1 liquid assets, certain level 2A liquid assets, etc.) or certain assets that are HQLA (e.g., sovereign bonds that are assigned a zero percent risk weight under the Board's capital regulation)? Should ''cash'' in the enhanced prudential standards rule be clarified to mean Reserve Bank balances and foreign withdrawable reserves, to more closely align with the enumerated list of level 1 liquid assets that are not securities in the LCR rule?

Question 37: What are the advantages and disadvantages of incorporating into the definition of highly liquid assets other requirements of the LCR rule related to HQLA, including, for example, the requirements for an asset to be ''eligible HQLA,'' the haircuts applied to HQLA, or the quantitative limits on the composition of the HQLA amount? [110]

Question 38: If a firm's HQLA satisfy the requirements in the LCR rule to be eligible HQLA, [111] *what are the advantages and disadvantages of requiring the firm to separately demonstrate that the HQLA meet the other requirements in the enhanced prudential standards rule for highly liquid assets?* [112] *What would be the advantages and disadvantages of adding other requirements for highly liquid assets in the enhanced prudential standards rule, including a requirement that a firm take into account potential conflicts to a business or risk management strategy stemming from the monetization of these assets?*

In addition, the proposal would amend the internal liquidity stress testing requirements to provide a banking organization with notice and an opportunity to respond if the Board determined that the banking organization must change the frequency of its internal liquidity stress testing. The proposed procedures would allow a banking organization to respond to the Board's determination before such requirement takes effect. The proposed procedures are consistent with other similar notice procedures in Regulation YY. The proposed changes would help ensure that the internal liquidity stress tests conducted by a banking organization are consistent with that banking organization's liquidity risk profile.[113]

For domestic bank holding companies, the proposal would amend the Board's GSIB surcharge rule to require a bank holding company subject to Category III standards to compute its method 1 score on an annual basis to determine whether it is a U.S. GSIB. Currently, the Board's GSIB surcharge rule applies only to a domestic bank holding company that is an advanced approaches Board-regulated institution (a bank holding company with $250 billion or more in total consolidated assets or $10 billion or more in on-balance sheet foreign exposure), as a bank holding company that does not meet these thresholds is less likely to pose heightened risks to U.S. financial stability.[114]

In the domestic interagency proposal, the Board proposed to revise the definition of advanced approaches Board-regulated institution to include a bank holding company that is identified as a U.S. GSIB or a bank holding company that has either $700 billion in total consolidated assets or $75 billion in cross-jurisdictional activity. The Board did not address whether a Category III banking organization would need to calculate its method 1 score in the domestic proposal or the domestic interagency proposal. As noted by the Board in the domestic proposal, Category III standards would apply to domestic bank holding companies that could pose heightened risks to U.S financial stability and would further the safety and soundness of a bank holding company of such size and risk profile.[115] Accordingly, because of the risk profile of these firms, the Board is proposing to revise the GSIB surcharge rule to require Category III banking organizations to calculate their method 1 scores annually. The proposed change would not increase the number of firms that currently calculate their method 1 GSIB score annually, as all proposed Category III domestic bank holding companies are advanced approaches Board-regulated institutions under the Board's existing GSIB surcharge rule.

Question 39: How could the Board further improve the structure of the enhanced prudential standards framework in Regulation YY and proposed prudential standards in Regulation LL? For example, would providing all definitions under one section facilitate compliance with the framework? Are there other structural or technical changes to Regulation YY and Regulation LL the Board should consider and, if so, why? Are there other clarifications to Regulation YY that the Board should consider and, if so, how and why? For example, are there defined terms that could be further clarified?

Question 40: What are the advantages or disadvantages of providing foreign banking organizations additional flexibility in complying with the Board's risk-committee requirements? What, if any, additional flexibility should the Board provide to foreign banking organizations with $50 billion or more in combined U.S. assets to maintain their risk committees at entities other than at the top-tier foreign banking organization or at the foreign banking organization's U.S. intermediate holding company? What alternative structures should the Board consider? What factors should the Board consider in determining whether to provide foreign banking organizations with additional flexibility or permit an alternative structure in complying with the risk-committee requirements? In particular, to what extent should the Board consider (a) the scope of the risk committee's oversight of the combined U.S. operations of the foreign banking organization; and (b) the reporting lines from the risk committee to the global board of directors of the foreign banking organization?

Question 41: What are the advantages or disadvantages of requiring a domestic bank holding company subject to Category III standards to compute its method 1 score? What would be the advantages or disadvantages of the Board, instead of the bank holding companies subject to the GSIB surcharge rule, computing the method 1 scores for all, or some, bank holding companies subject to the GSIB surcharge rule?

III. Proposed Reporting Changes

To accommodate the proposed revisions to the framework for determining the applicability of enhanced prudential standards to foreign banking organizations, the proposal would make various changes to related reporting forms. Specifically,

[110] 12 CFR 249.21 *and* 249.22.

[111] *See* 12 CFR 50.22 (OCC); 12 CFR 249.22 (Board); 12 CFR 329.50 (FDIC).

[112] 12 CFR 252.35(b)(3) *and* 252.157(c)(7).

[113] The proposed procedures would not limit the authority of the Board under any other provision of law or regulation to take supervisory or enforcement action, including action to address unsafe or unsound practices or conditions, deficient liquidity levels, or violations of law.

[114] *See* 12 CFR 217.400(b)(1). *See* 80 FR 49082 (August 14, 2015).

[115] 83 FR 61408, 61413 (November 29, 2018).

the proposal would amend the FR Y–7, FR Y–7Q, FR Y–9C, FR Y–14, FR Y–15, and FR 2052a.

The Board is proposing to revise Item 5 on the FR Y–7, Regulation YY Compliance for the Foreign Banking Organization (FBO), to align the reporting form with the applicability thresholds set forth in this proposal and other regulatory changes that are consistent with the Board's July 2018 statement concerning EGRRCPA.[116] Specifically, Item 5(a) would be amended to apply only to foreign savings and loan holding companies with more than $250 billion in total consolidated assets, and would assess compliance with the capital stress testing requirements under proposed section 238.162 of the Board's Regulation LL, as revised under this proposal. Items 5(b) and 5(c) would continue to assess compliance with the risk committee requirements in sections 252.132(a) and 252.144(a) of the Board's Regulation YY, respectively, but the descriptions for each Item would be updated to conform to the asset size thresholds under this proposal. For Item 5(b), the description would also eliminate language referring to foreign banking organizations that are publicly traded, as that distinction would be eliminated under this proposal. Similarly, the Board is proposing to revise Items 5(d) and 5(e) to align the descriptions of the requirements with the asset size thresholds under this proposal. These Items would continue to assess compliance with the capital stress testing requirements in sections 252.146(b) and 252.158(b) of the Board's Regulation YY.

The proposal would amend the FR Y–7Q to align with revisions to Regulation YY. Currently, top-tier foreign banking organizations with $50 billion or more in total consolidated assets must report Part 1B—Capital and Asset Information for Top-tier Foreign Banking Organizations with Consolidated Assets of $50 billion or more. The proposal would now require top-tier foreign banking organizations that are subject to either sections 252.143 or 252.154 of the Board's Regulation YY to report Part 1B. Section 252.143 outlines risk-based and leverage capital requirements for foreign banking organizations with total consolidated assets of $250 billion or more but combined U.S. assets of less than $100 billion, while section 252.154 describes risk-based and leverage capital requirements for foreign banking organizations with $100 billion or more in total consolidated assets and combined U.S. assets of $100 billion or more.

The Board is proposing to amend the FR Y–9C to further clarify requirements for U.S. intermediate holding companies subject to Category III capital standards. In the domestic proposal, the Board proposed to amend the FR Y–9C to clarify that Category III Board-regulated institutions would not be included in the proposed definition of ''advanced approaches banking organizations'' but would be required to comply with the supplementary leverage ratio and countercyclical capital buffer requirements. Specifically, the domestic proposal would require line item 45 to be completed by ''advanced approaches banking organizations and Category III Board-regulated institutions.'' This proposal would make additional changes to line item 45 to further clarify that the supplementary leverage ratio and countercyclical capital buffer apply to Category III U.S. intermediate holding companies. Accordingly, line item 45 would be amended to apply to ''advanced approaches holding companies, Category III bank holding companies, Category III savings and loan holding companies or Category III U.S. intermediate holding companies.'' The instructions for the FR Y–9C also would be amended in this proposal to align with the proposed revisions to line item 45. Under the domestic proposal, the instructions for Schedule HC–R of the FR Y–9C would be clarified to indicate that Category III Board-regulated institutions are not subject to the advanced approaches rule but are subject to the supplementary leverage ratio and countercyclical capital buffer. This proposal would amend those instructions to further clarify that the supplementary leverage ratio and countercyclical capital buffer also apply to Category III bank holding companies, Category III savings and loan holding companies, and Category III U.S. intermediate holding companies.

Consistent with EGRRCPA and the Board's July 2018 statement relating to EGRRCPA, the proposal would revise the FR Y–14A, Y–14M, and Y–14Q to revise the threshold for U.S. intermediate holding companies that would be required to submit these forms, by increasing it to U.S. intermediate holding companies with $100 billion or more in total consolidated assets. U.S. intermediate holding companies below this size threshold would no longer be required to submit these forms. The proposal would also make technical changes to the definitions of ''large and complex'' and ''large and noncomplex'' bank holding company to align with proposed changes in § 225.8(d)(9).

The Board is proposing to modify the FR Y–15 report to require a foreign banking organization to report data for its combined U.S. operations that are related to the criteria for determining the applicability of enhanced prudential standards under this proposal. Currently, only U.S. intermediate holding companies are required to the FR Y–15. Extending FR Y–15 reporting requirements to the combined U.S. operations of a foreign banking organization would allow the Board to determine the applicable category of standards, as well as monitor the risk profile of those operations, consistent with the scope of application of this proposal. Specifically, foreign banking organizations would be required to report the information required under new schedules H through N of the FR Y–15, which would replicate schedules A through G of the current FR Y–15 for domestic holding companies (with the exception of cross-jurisdictional activity, as discussed below).[117] Schedules H through N would be structured to include three columns, in which a foreign banking organization would report the information request for each item for (i) its U.S. intermediate holding company, (ii) its U.S. branch and agency network, and (iii) its combined U.S. operations. In calculating an item for its U.S. branch and agency network, a foreign banking organization would not be required to reflect transactions between its individual branches and agencies; such transactions would be treated as if they were transactions between affiliates under generally accepted accounting principles, and thus eliminated in consolidation. Similarly, in calculating an item for its combined U.S. operations, a foreign banking organization would not be required to reflect transactions between entities that comprise the combined U.S. operations of the foreign banking organization. Consistent with the domestic proposal, the proposal would add two line items to Schedule H of the FR Y–15 to calculate total off-balance sheet exposure. New line item M4 (total consolidated assets) would report the total consolidated on-balance sheet assets for the respondent, as calculated under Schedule HC, item 12 (total consolidated assets) on the FR Y–9C. New line item M5 (total off-balance sheet exposures) would be total

[116] *See* Board statement regarding the impact of the Economic Growth, Regulatory Relief, and Consumer Protection Act, July 6, 2018, available at *https://www.federalreserve.gov/newsevents/pressreleases/bcreg20180706b.htm.*

[117] U.S. intermediate holding companies would no longer be required to report on schedules A through G of the FR Y–15.

exposure, as currently defined on the FR Y–15, minus line item M4. For purposes of reporting cross-jurisdictional activity, the FR Y–15 would require foreign banking organizations to report assets and liabilities of the U.S. intermediate holding company and U.S. branch and agency network, excluding cross-jurisdictional liabilities to non-U.S. affiliates and cross-jurisdictional claims on non-U.S. affiliates to the extent that these claims are secured by eligible financial collateral. To effectuate this change, the proposal would add new line items to proposed Schedule L and amend the instructions accordingly. Finally, the proposed changes to the FR Y–15 would make a number of additional edits to the form's instructions to clarify reporting requirements given the new scope of reporting for foreign banking organizations, and further align the form with the proposed categorization framework (*e.g.,* amending references to ''advanced approaches'' institutions).

The Board is proposing to revise the FR 2052a report to modify the current reporting frequency as described previously in this Supplementary Information section. Consistent with EGRRCPA, the revisions would remove foreign banking organizations with less than $100 billion in combined U.S. assets from the scope of FR 2052a reporting requirements. Additionally, the proposal would require foreign banking organizations with combined U.S. assets of $100 billion or more to report the FR 2052a on a daily basis if they are: (i) Subject to Category II standards, or (ii) have $75 billion or more in weighted short-term wholesale funding. This would increase the frequency of reporting for foreign banking organizations subject to Category II standards with less than $700 billion in combined U.S. assets and foreign banking organizations subject to Category III standards with $75 billion or more in weighted short-term wholesale funding; these foreign banking organizations currently report the FR 2052a liquidity data on a monthly basis. Reporting daily liquidity data would facilitate enhanced supervisory monitoring based on these firms' liquidity risk profile, as indicated by their size, level of weighted short-term wholesale funding or cross-jurisdictional activity. The proposal to require daily FR 2052a liquidity data based on whether a foreign banking organization is subject to Category II standards or has weighted short-term wholesale funding (among its combined U.S. operations) of $75 billion or more would replace the existing criteria for determining whether a foreign banking organization is required to submit FR 2052a liquidity data on a daily basis, which is whether a foreign banking organizations is subject to supervision within the Board's Large Institution Supervision Coordinating Committee (LISCC) portfolio.[118] All other foreign banking organizations with combined U.S. assets of $100 billion or more would be subject to monthly filing requirements. The proposal also would clarify reporting transition periods if a change in category or level of short-term wholesale funding alters a firm's FR 2052a reporting frequency.

Question 42: What are the challenges, if any, of reporting the information required under the FR Y–15 for the combined U.S. operations of a foreign banking organization?

Question 43: What are the costs and benefits of the proposed changes to the FR 2052a, including the advantages and disadvantages of the proposed reporting frequency for firms subject to Category II and III standards?

Question 44: What changes should the Board consider to the proposed reporting requirements to alleviate burden? Commenters are encouraged to explain how any such changes would allow the Board to effectively monitor and supervise foreign banking organizations subject to the proposed reporting requirements, as appropriate to prevent or mitigate risks to U.S. financial stability.

Question 45: What systems modifications would be required to report the information that would be required under the FR Y–15 in connection with this proposal? How much time would be required to implement any such modifications?

Question 46: As a part of this proposal, the Federal Reserve has released proposed Y–15 forms that would add Schedules H–N to be reported by foreign banking organizations. As an alternative, the Federal Reserve could add two new columns to Schedules A–G instead of creating new schedules for these firms. What are the advantages and disadvantages of these two approaches? What other approaches should the Board consider for collecting the Y–15 data from the U.S. branches and agencies, as well as the combined U.S. operations for foreign banking organizations?

[118] *See* SR Letter 12–17, ''Consolidated Supervision Framework for Large Financial Institutions'' (December 17, 2012).

IV. Impact Assessment

In general, the Board expects the proposed adjustments to the capital and liquidity enhanced prudential standards would reduce aggregate compliance costs for foreign banking organizations with $100 billion or more in combined U.S. assets, with minimal effects on the safety and soundness of these firms and U.S. financial stability.[119] With respect to reporting burden, certain foreign banking organizations with weighted short-term wholesale funding of $75 billion or more that previously filed the FR 2052a on a monthly basis may experience a minor increase in compliance costs due to the increase in reporting frequency of the FR 2052a to daily. For additional impact information, commenters should also review the interagency foreign banking organization capital and liquidity proposal.

A. Liquidity

The proposed changes to liquidity requirements are expected to reduce compliance costs for firms that would be subject to Category IV standards by reducing the required frequency of internal liquidity stress tests and tailoring the liquidity risk management requirements to the risk profiles of these firms. The Board does not expect these proposed changes to materially affect the liquidity buffer levels held by these firms or these firms' exposure to liquidity risk.

B. Capital Planning and Stress Testing

First, while the Board expects the proposed changes to capital planning and stress testing requirements to have no material impact on the capital levels of U.S. intermediate holding companies with $100 billion or more in total consolidated assets, the proposal would reduce compliance costs for U.S. intermediate holding companies subject to Category III or IV capital standards. These firms currently must conduct company-run stress tests on a semi-annual basis. For U.S. intermediate holding companies that would be subject to Category III standards, the

[119] Foreign banking organizations with less than $100 billion in combined U.S. assets (and U.S. intermediate holding companies with less than $100 billion in total consolidated assets) would have significantly reduced compliance costs, as these firms would no longer be subject to subpart O of the enhanced prudential standards rule or the capital plan rule, and would no longer be required to file FR Y–14, FR Y–15, or FR 2052a reports. While these foreign banking organizations would no longer be subject to internal liquidity stress testing and buffer requirements with respect to their U.S. operations, these firms' U.S. operations currently hold HLA well in excess of their current liquidity buffer requirements.

proposal would reduce this frequency to every other year. For U.S. intermediate holding companies that would be subject to Category IV standards, the proposal would remove this requirement altogether.[120] In addition, under the proposal the Board would conduct supervisory stress tests of U.S. intermediate holding companies subject to Category IV standards on a two-year, rather than annual, cycle. For U.S. intermediate holding companies subject to Category III or Category IV standards, the proposed changes would reduce the compliance costs associated with capital planning and stress testing.

C. Single-Counterparty Credit Limits

The proposed changes to the single-counterparty credit limits framework are not expected to increase risks to U.S. financial stability. The proposal would remove U.S. intermediate holding companies of a foreign banking organization subject to Category IV standards (as measured based on the combine U.S. operations of the foreign banking organization) from the applicability of single-counterparty credit limits. While these U.S. intermediate holding companies would recognize reductions in compliance costs associated with these requirements, they typically do not present the risks that are intended to be addressed by the single-counterparty credit limits framework. In addition, the proposal would remove the single-counterparty credit limits applicable to major U.S. intermediate holding companies; however, there currently are no U.S. intermediate holding companies that meet or exceed the asset size threshold for these requirements.

The proposal would increase the costs of compliance for U.S. intermediate holding companies with less than $250 billion in total consolidated assets and that are subject to Category II or Category III standards, as determined based on the combined U.S. operations of a foreign banking organization. The proposal would extend the applicability of certain provisions under the single-counterparty credit limits framework to these U.S. intermediate companies, which currently apply only to those with $250 billion or more in total consolidated assets.

[120] Although the proposal would not modify the requirement for a U.S. intermediate holding company that would be subject to Category IV standards to conduct an internal capital stress test as part of its annual capital plan submission, the Board intends to propose changes in the future capital plan proposal to align with the proposed removal of company-run stress testing requirements for these firms. *See* section IV.D of this Supplementary Information section.

V. Administrative Law Matters

A. Solicitation of Comments and Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809) requires the federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board has sought to present the proposal in a simple and straightforward manner, and invites comment on the use of plain language. For example:

- Has the Board organized the material to suit your needs? If not, how could it present the proposal more clearly?
- Are the requirements in the proposal clearly stated? If not, how could the proposal be more clearly stated?
- Do the regulations contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes would achieve that?
- Would more, but shorter, sections be better? If so, which sections should be changed?
- What other changes can the Board incorporate to make the regulation easier to understand?

B. Paperwork Reduction Act Analysis

Certain provisions of the proposed rule contain ''collections of information'' within the meaning of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Board reviewed the proposed rule under the authority delegated to the Board by OMB.

The proposed rule contains reporting requirements subject to the PRA. To implement these requirements, the Board proposes to revise the (1) Complex Institution Liquidity Monitoring Report (FR 2052a; OMB No. 7100–0361), (2) Annual Report of Foreign Banking Organizations (FR Y–7; OMB No. 7100–0297), (3) Capital and Asset Report for Foreign Banking Organizations (FR Y–7Q; OMB No. 7100–0125), (4) Consolidated Financial Statements for Holding Companies (FR Y–9C; OMB No. 7100–0128), (5) Capital Assessments and Stress Testing (FR Y–14A/Q/M; OMB No. 7100–0341), and (6) Banking Organization Systemic Risk Report (FR Y–15; OMB No. 7100–0352).

The proposed rule also contains reporting and recordkeeping requirements subject to the PRA. To implement these requirements, the Board proposes to revise reporting and recordkeeping requirements associated with Regulations Y, LL and YY: (7) Reporting and Recordkeeping Requirements Associated with Regulation Y (Capital Plans) (FR Y–13; OMB No. 7100–0342), (8) Reporting Requirements Associated with Regulation LL (FR LL; OMB No. 7100–NEW), and (9) Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulation YY (FR YY; OMB No. 7100–0350). This document contains Paperwork Reduction Act burden estimates for the proposed changes to Regulations Y, LL and YY for this proposed rule, as well as the burden estimates for the proposed reporting and recordkeeping requirements in Regulations Y, LL and YY in the proposal issued by the Board for domestic banking organizations on October 31, 2018 (83 FR 61408). Foreign banking organizations do not currently report all of the data for the measure of cross-jurisdictional activity and, accordingly, the burden estimates rely on firm categorizations using best available data.

Comments are invited on:

(a) Whether the proposed collections of information are necessary for the proper performance of the Board's functions, including whether the information has practical utility;

(b) The accuracy of the estimates of the burden of the proposed information collections, including the validity of the methodology and assumptions used;

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

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

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

All comments will become a matter of public record. Comments on aspects of this proposed rule that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. A copy of the comments may

also be submitted to the OMB desk officer to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to 202–395–6974.

Proposed Revision, With Extension, of the Following Information Collections

(1) *Report title:* Complex Institution Liquidity Monitoring Report.

Agency form number: FR 2052a.

OMB control number: 7100–0361.

Frequency: Monthly, each business day (daily).

Affected Public: Businesses or other for-profit.

Respondents: U.S. bank holding companies, U.S. savings and loan holding companies, and foreign banking organizations with U.S. assets.

Estimated number of respondents: Monthly: 25; Daily: 17.

Estimated average hours per response: Monthly: 120; Daily: 220.

Estimated annual burden hours: 971,000.

General description of report: The FR 2052a is used to monitor the overall liquidity profile of institutions supervised by the Board. These data provide detailed information on the liquidity risks within different business lines (*e.g.,* financing of securities positions, prime brokerage activities). In particular, these data serve as part of the Board's supervisory surveillance program in its liquidity risk management area and provide timely information on firm-specific liquidity risks during periods of stress. Analyses of systemic and idiosyncratic liquidity risk issues are then used to inform the Board's supervisory processes, including the preparation of analytical reports that detail funding vulnerabilities.

Legal authorization and confidentiality: The FR 2052a is authorized pursuant to section 5 of the Bank Holding Company Act (12 U.S.C. 1844), section 8 of the International Banking Act (12 U.S.C. 3106), section 10 of HOLA (12 U.S.C. 1467a), and section 165 of the Dodd-Frank Act (12 U.S.C. 5365) and is mandatory. Section 5(c) of the Bank Holding Company Act authorizes the Board to require bank holding companies (BHCs) to submit reports to the Board regarding their financial condition. Section 8(a) of the International Banking Act subjects foreign banking organizations to the provisions of the Bank Holding Company Act. Section 10(b)(2) of HOLA authorizes the Board to require savings and loan holding companies (SLHCs) to file reports with the Board concerning their operations. Section 165 of the Dodd-Frank Act requires the Board to establish prudential standards, including liquidity requirements, for certain BHCs and foreign banking organizations.

Financial institution information required by the FR 2052a is collected as part of the Board's supervisory process. Therefore, such information is entitled to confidential treatment under exemption 8 of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(8)). In addition, the institution information provided by each respondent would not be otherwise available to the public and its disclosure could cause substantial competitive harm. Accordingly, it is entitled to confidential treatment under the authority of exemption 4 of the FOIA (5 U.S.C. 552(b)(4), which protects from disclosure trade secrets and commercial or financial information.

Current Actions: To implement the reporting requirements of the proposed rule, the Board is proposing to modify the current FR 2052a reporting frequency. Consistent with EGRRCPA's changes, the revisions would remove foreign banking organizations with less than $100 billion in combined U.S. assets from the scope of FR 2052a reporting requirements. Additionally, the proposal would require foreign banking organizations with combined U.S. assets of $100 billion or more to report the FR 2052a on a daily basis if they are (1) subject to Category II standards or (2) have $75 billion or more in weighted short-term wholesale funding. All other foreign banking organizations with combined U.S. assets of $100 billion or more would be subject to monthly filing requirements. The Board estimates that proposed revisions to the FR 2052a would decrease the respondent count by 6. Specifically, the Board estimates that the number of monthly filers would decrease from 36 to 25, but the number of daily filers would increase from 12 to 17. The Board estimates that proposed revisions to the FR 2052a would increase the estimated annual burden by 259,160 hours. The draft reporting forms and instructions are available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx.*

(2) *Report title:* Annual Report of Holding Companies; Annual Report of Foreign Banking Organizations; Report of Changes in Organizational Structure; Supplement to the Report of Changes in Organizational Structure.

Agency form number: FR Y–6; FR Y–7; FR Y–10; FR Y–10E.

OMB control number: 7100–0297.

Frequency: Annual and event-generated.

Affected Public: Businesses or other for-profit.

Respondents: Bank holding companies (BHCs), savings and loan holding companies (SLHCs), securities holding companies (SHCs), and intermediate holding companies (IHCs) (collectively, holding companies (HCs)), foreign banking organizations (FBOs), state member banks (SMBs) unaffiliated with a BHC, Edge Act and agreement corporations, and nationally chartered banks that are not controlled by a BHC (with regard to their foreign investments only).

Estimated number of respondents: FR Y–6: 4,079; FR Y–7: 257; FR Y–10: 4,269; FR Y–10E: 4,269.

Estimated average hours per response: FR Y–6: 5.5; FR Y–7: 4.5; FR Y–10: 2.5; FR Y–10E: 0.5.

Estimated annual burden hours: FR Y–6: 22,435; FR Y–7: 1,157; FR Y–10: 32,018; FR Y–10E: 2,135.

General description of report: The FR Y–6 is an annual information collection submitted by top-tier domestic HCs and FBOs that are non-qualifying. It collects financial data, an organization chart, verification of domestic branch data, and information about shareholders. The Federal Reserve uses the data to monitor HC operations and determine HC compliance with the provisions of the BHC Act, Regulation Y (12 CFR part 225), the Home Owners' Loan Act (HOLA), Regulation LL (12 CFR part 238), and Regulation YY (12 CFR part 252).

The FR Y–7 is an annual information collection submitted by FBOs that are qualifying to update their financial and organizational information with the Federal Reserve. The FR Y–7 collects financial, organizational, shareholder, and managerial information. The Federal Reserve uses the information to assess an FBO's ability to be a continuing source of strength to its U.S. operations and to determine compliance with U.S. laws and regulations.

The FR Y–10 is an event-generated information collection submitted by FBOs; top-tier HCs; securities holding companies as authorized under Section 618 of the Dodd-Frank Act (12 U.S.C. 1850a(c)(1)); state member banks unaffiliated with a BHC; Edge and agreement corporations that are not controlled by a member bank, a domestic BHC, or an FBO; and nationally chartered banks that are not controlled by a BHC (with regard to their foreign investments only) to capture changes in their regulated investments and activities. The Federal Reserve uses the data to monitor

structure information on subsidiaries and regulated investments of these entities engaged in banking and nonbanking activities.

The FR Y–10E is an event-driven supplement that may be used to collect additional structural information deemed to be critical and needed in an expedited manner.

Legal authorization and confidentiality: These information collections are mandatory as follows:

FR Y–6: Section 5(c)(1)(A) of the Bank Holding Company Act (BHC Act) (12 U.S.C. 1844(c)(1)(A)); sections 8(a) and 13(a) of the International Banking Act (IBA) (12 U.S.C. 3106(a) and 3108(a)); sections 11(a)(1), 25, and 25A of the Federal Reserve Act (FRA) (12 U.S.C. 248(a)(1), 602, and 611a); and sections 113, 165, 312, 618, and 809 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (12 U.S.C. 5361, 5365, 5412, 1850a(c)(1), and 5468(b)(1)).

FR Y–7: Sections 8(a) and 13(a) of the IBA (12 U.S.C. 3106(a) and 3108(a)); sections 113, 165, 312, 618, and 809 of the Dodd-Frank Act (12 U.S.C. 5361, 5365, 5412, 1850a(c)(1), and 5468(b)(1)).

FR Y–10 and FR Y–10E: Sections 4(k) and 5(c)(1)(A) of the BHC Act (12 U.S.C. 1843(k), and 1844(c)(1)(A)); section 8(a) of the IBA (12 U.S.C. 3106(a)); sections 11(a)(1), 25(7), and 25A of the FRA (12 U.S.C. 248(a)(1), 321, 601, 602, 611a, 615, and 625); sections 113, 165, 312, 618, and 809 of the Dodd-Frank Act (12 U.S.C. 5361, 5365, 5412, 1850a(c)(1), and 5468(b)(1)); and section 10(c)(2)(H) of the Home Owners' Loan Act (HOLA) (12 U.S.C. 1467a(c)(2)(H)).

Except as discussed below, the data collected in the FR Y–6, FR Y–7, FR Y–10, and FR Y–10E are generally not considered confidential. With regard to information that a banking organization may deem confidential, the institution may request confidential treatment of such information under one or more of the exemptions in the Freedom of Information Act (FOIA) (5 U.S.C. 552). The most likely case for confidential treatment will be based on FOIA exemption 4, which permits an agency to exempt from disclosure ''trade secrets and commercial or financial information obtained from a person and privileged and confidential'' (5 U.S.C. 552(b)(4)). To the extent an institution can establish the potential for substantial competitive harm, such information would be protected from disclosure under the standards set forth in National Parks & Conservation Association v. Morton, 498 F.2d 765 (DC Cir. 1974). In particular, the disclosure of the responses to the certification questions on the FR Y–7 may interfere with home country regulators' administration, execution, and disclosure of their stress test regime and its results, and may cause substantial competitive harm to the FBO providing the information, and thus this information may be protected from disclosure under FOIA exemption 4. Exemption 6 of FOIA might also apply with regard to the respondents' submission of non-public personal information of owners, shareholders, directors, officers and employees of respondents. Exemption 6 covers ''personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy'' (5 U.S.C. 552(b)(6)). All requests for confidential treatment would need to be reviewed on a case-by-case basis and in response to a specific request for disclosure.

Current Actions: The Board is proposing to revise item 5 on the FR Y–7, Regulation YY Compliance for the Foreign Banking Organization (FBO), to align the reporting form with the applicability thresholds set forth in this proposal and other regulatory changes that are consistent with the Board's July 2018 statement concerning EGRRCPA. The Board estimates that proposed revisions to the FR Y–7 would not impact the respondent count, but the estimated average hours per response would decrease from 6 hours to 4.5 hours. The Board estimates that proposed revisions to the FR Y–7 would decrease the estimated annual burden by 385 hours. The draft reporting forms and instructions are available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx.*

(3) *Report title:* Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations, Abbreviated Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations, and Capital and Asset Report for Foreign Banking Organizations.

Agency form number: FR Y–7N, FR Y–7NS, and FR Y–7Q.

OMB control number: 7100–0125.

Frequency: Quarterly and annually.

Affected Public: Businesses or other for-profit.

Respondents: Foreign banking organizations (FBOs).

Estimated number of respondents: FR Y–7N (quarterly): 35; FR Y–7N (annual): 19; FR Y–7NS: 22; FR Y–7Q (quarterly): 130; FR Y–7Q (annual): 29.

Estimated average hours per response: FR Y–7N (quarterly): 7.6; FR Y–7N (annual): 7.6; FR Y–7NS: 1; FR Y–7Q (quarterly): 2.25; FR Y–7Q (annual): 1.5.

Estimated annual burden hours: FR Y–7N (quarterly): 1,064; FR Y–7N (annual): 144; FR Y–7NS: 22; FR Y–7Q (quarterly): 1,170; FR Y–7Q (annual): 44.

General description of report: The FR Y–7N and the FR Y–7NS are used to assess an FBO's ability to be a continuing source of strength to its U.S. operations and to determine compliance with U.S. laws and regulations. FBOs file the FR Y–7N quarterly or annually or the FR Y–7NS annually predominantly based on asset size thresholds. The FR Y–7Q is used to assess consolidated regulatory capital and asset information from all FBOs. The FR Y–7Q is filed quarterly by FBOs that have effectively elected to become or be treated as a U.S. financial holding company (FHC) and by FBOs that have total consolidated assets of $50 billion or more, regardless of FHC status. All other FBOs file the FR Y–7Q annually.

Legal authorization and confidentiality: With respect to FBOs and their subsidiary IHCs, section 5(c) of the BHC Act, in conjunction with section 8 of the International Banking Act (12 U.S.C. 3106), authorizes the board to require FBOs and any subsidiary thereof to file the FR Y–7N reports, and the FR Y–7Q.

Information collected in these reports generally is not considered confidential. However, because the information is collected as part of the Board's supervisory process, certain information may be afforded confidential treatment pursuant to exemption 8 of FOIA (5 U.S.C. 552(b)(8)). Individual respondents may request that certain data be afforded confidential treatment pursuant to exemption 4 of the FOIA if the data has not previously been publically disclosed and the release of the data would likely cause substantial harm to the competitive position of the respondent (5 U.S.C. 552(b)(4)). Additionally, individual respondents may request that personally identifiable information be afforded confidential treatment pursuant to exemption 6 of the FOIA if the release of the information would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552(b)(6)). The applicability of FOIA exemptions 4 and 6 would be determined on a case-by-case basis.

Current Actions: The proposal would amend the FR Y–7Q to align with revisions to the enhanced prudential standards rule. Currently, top-tier foreign banking organizations with $50 billion or more in total consolidated assets must report Part 1B—Capital and Asset Information for Top-tier Foreign Banking Organizations with Consolidated Assets of $50 billion or more. The proposal would now require top-tier foreign banking organizations

that are subject to either sections 252.143 or 252.154 of the enhanced prudential standards rule to report Part 1B. The Board estimates that proposed revisions to the FR Y–7Q would not impact the respondent count, but the estimated average hours per response would decrease from 3 hours to 2.25 hours. The Board estimates that proposed revisions to the FR Y–7Q would decrease the estimated annual burden by 390 hours. The draft reporting forms and instructions are available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx.*

(4) *Report title:* Consolidated Financial Statements for Holding Companies.

Agency form number: FR Y–9C, FR Y–9LP, FR Y–9SP, FR Y–9ES, and FR Y–9CS.

OMB control number: 7100–0128.

Frequency: Quarterly, semiannually, and annually.

Affected Public: Businesses or other for-profit.

Respondents: Bank holding companies (BHCs), savings and loan holding companies (SLHCs), securities holding companies (SHCs), and U.S. Intermediate Holding Companies (IHCs) (collectively, holding companies (HCs)).

Estimated number of respondents: FR Y–9C (non-advanced approaches holding companies): 292; FR Y–9C (advanced approached holding companies): 19; FR Y–9LP: 338; FR Y–9SP: 4,238; FR Y–9ES: 82; FR Y–9CS: 236.

Estimated average hours per response: FR Y–9C (non-advanced approaches holding companies): 46.34; FR Y–9C (advanced approached holding companies): 47.59; FR Y–9LP: 5.27; FR Y–9SP: 5.40; FR Y–9ES: 0.50; FR Y–9CS: 0.50.

Estimated annual burden hours: FR Y–9C (non advanced approaches holding companies): 54,125; FR Y–9C (advanced approached holding companies): 3,617; FR Y–9LP: 7,125; FR Y–9SP: 45,770; FR Y–9ES: 41; FR Y–9CS: 472.

General description of report: The FR Y–9 family of reporting forms continues to be the primary source of financial data on HCs on which examiners rely between on-site inspections. Financial data from these reporting forms is used to detect emerging financial problems, review performance, conduct preinspection analysis, monitor and evaluate capital adequacy, evaluate HC mergers and acquisitions, and analyze an HC's overall financial condition to ensure the safety and soundness of its operations. The FR Y–9C, FR Y–9LP, and FR Y–9SP serve as standardized financial statements for the consolidated holding company. The Board requires HCs to provide standardized financial statements to fulfill the Board's statutory obligation to supervise these organizations. The FR Y–9ES is a financial statement for HCs that are Employee Stock Ownership Plans. The Board uses the FR Y–9CS (a free-form supplement) to collect additional information deemed to be critical and needed in an expedited manner. HCs file the FR Y–9C on a quarterly basis, the FR Y–9LP quarterly, the FR Y–9SP semiannually, the FR Y–9ES annually, and the FR Y–9CS on a schedule that is determined when this supplement is used.

Legal authorization and confidentiality: The FR Y–9 family of reports is authorized by section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)), section 10(b) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)), section 618 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (12 U.S.C. 1850a(c)(1)), and section 165 of the Dodd-Frank Act (12 U.S.C. 5365). The obligation of covered institutions to report this information is mandatory.

With respect to FR Y–9LP, FR Y–9SP, FR Y–ES, and FR Y–9CS, the information collected would generally not be accorded confidential treatment. If confidential treatment is requested by a respondent, the Board will review the request to determine if confidential treatment is appropriate.

With respect to FR Y–9C, Schedule HI's item 7(g) ''FDIC deposit insurance assessments,'' Schedule HC–P's item 7(a) ''Representation and warranty reserves for 1–4 family residential mortgage loans sold to U.S. government agencies and government sponsored agencies,'' and Schedule HC–P's item 7(b) ''Representation and warranty reserves for 1–4 family residential mortgage loans sold to other parties'' are considered confidential. Such treatment is appropriate because the data is not publicly available and the public release of this data is likely to impair the Board's ability to collect necessary information in the future and could cause substantial harm to the competitive position of the respondent. Thus, this information may be kept confidential under exemptions (b)(4) of the Freedom of Information Act, which exempts from disclosure ''trade secrets and commercial or financial information obtained from a person and privileged or confidential'' (5 U.S.C. 552(b)(4)), and (b)(8) of the Freedom of Information Act, which exempts from disclosure information related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions (5 U.S.C. 552(b)(8)).

Current Actions: To implement the reporting requirements of the proposed rule, the Board is proposing to amend the FR Y–9C to further clarify requirements for U.S. intermediate holding companies subject to Category III capital standards. This proposal would amend those instructions to further clarify that the supplementary leverage ratio and countercyclical buffer also apply to Category III bank holding companies, Category III savings and loan holding companies, and Category III U.S. intermediate holding companies. The Board estimates that proposed revisions to the FR Y–9C would increase the respondent count by 1. The draft reporting forms and instructions are available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx.*

(5) *Report title:* Capital Assessments and Stress Testing.

Agency form number: FR Y–14A/Q/M.

OMB control number: 7100–0341.

Frequency: Annually, semiannually, quarterly, and monthly.

Affected Public: Businesses or other for-profit.

Respondents: The respondent panel consists of any top-tier bank holding company (BHC) that has $100 billion or more in total consolidated assets, as determined based on (1) the average of the firm's total consolidated assets in the four most recent quarters as reported quarterly on the firm's FR Y–9C or (2) the average of the firm's total consolidated assets in the most recent consecutive quarters as reported quarterly on the firm's FR Y–9Cs, if the firm has not filed an FR Y–9C for each of the most recent four quarters. The respondent panel also consists of any U.S. intermediate holding company (IHC). Reporting is required as of the first day of the quarter immediately following the quarter in which the respondent meets this asset threshold, unless otherwise directed by the Board.

Estimated number of respondents: 35.

Estimated average hours per response: FR Y–14A: Summary, 887; Macro Scenario, 31; Operational Risk, 18; Regulatory Capital Instruments, 21; Business Plan Changes, 16; and Adjusted Capital Plan Submission, 100. FR Y–14Q: Retail, 15; Securities, 13; PPNR, 711; Wholesale, 151; Trading, 1,926; Regulatory Capital Transitions, 23; Regulatory Capital Instruments, 54; Operational Risk, 50; MSR Valuation, 23; Supplemental, 4; Retail FVO/HFS, 15; Counterparty, 514; and Balances, 16.

FR Y–14M: 1st Lien Mortgage, 516; Home Equity, 516; and Credit Card, 512. FR Y–14: Implementation, 7,200; Ongoing Automation Revisions, 480. FR Y–14 Attestation—Implementation, 4,800; Attestation On-going Audit and Review, 2,560.

Estimated annual burden hours: FR Y–14A: Summary, 62,090; Macro Scenario, 2,170; Operational Risk, 630; Regulatory Capital Instruments, 735; Business Plan Changes, 560; and Adjusted Capital Plan Submission, 500. FR Y–14Q: Retail, 2,100; Securities, 1,820; Pre-Provision Net Revenue (PPNR), 99,540; Wholesale, 21,140; Trading, 92,448; Regulatory Capital Transitions, 3,220; Regulatory Capital Instruments, 7,560; Operational risk, 7,000; Mortgage Servicing Rights (MSR) Valuation, 1,380; Supplemental, 560; Retail Fair Value Option/Held for Sale (Retail FVO/HFS), 1,500; Counterparty, 24,672; and Balances, 2,240. FR Y–14M: 1st Lien Mortgage, 204,336; Home Equity, 167,184; and Credit Card, 79,872. FR Y–14: Implementation, and On-going Automation Revisions, 16,800. FR Y–14 Attestation On-going Audit and Review, 33,280.

General description of report: These collections of information are applicable to top-tier BHCs with total consolidated assets of $100 billion or more and U.S. IHCs. This family of information collections is composed of the following three reports:

1. The FR Y–14A collects quantitative projections of balance sheet, income, losses, and capital across a range of macroeconomic scenarios and qualitative information on methodologies used to develop internal projections of capital across scenarios either annually or semi-annually.

2. The quarterly FR Y–14Q collects granular data on various asset classes, including loans, securities, and trading assets, and PPNR for the reporting period.

3. The monthly FR Y–14M is comprised of three retail portfolio- and loan-level schedules, and one detailed address-matching schedule to supplement two of the portfolio and loan-level schedules.

The data collected through the FR Y–14A/Q/M reports provide the Board with the information and perspective needed to help ensure that large firms have strong, firm-wide risk measurement and management processes supporting their internal assessments of capital adequacy and that their capital resources are sufficient given their business focus, activities, and resulting risk exposures. The annual CCAR exercise complements other Board supervisory efforts aimed at enhancing the continued viability of large firms, including continuous monitoring of firms' planning and management of liquidity and funding resources, as well as regular assessments of credit, market and operational risks, and associated risk management practices. Information gathered in this data collection is also used in the supervision and regulation of these financial institutions. To fully evaluate the data submissions, the Board may conduct follow-up discussions with, or request responses to follow up questions from, respondents. Respondent firms are currently required to complete and submit up to 18 filings each year: Two semi-annual FR Y–14A filings, four quarterly FR Y–14Q filings, and 12 monthly FR Y–14M filings. Compliance with the information collection is mandatory.

Legal authorization and confidentiality: The Board has the authority to require BHCs to file the FR Y–14A/Q/M reports pursuant to section 5 of the Bank Holding Company Act (BHC Act) (12 U.S.C. 1844), and to require the U.S. IHCs of FBOs to file the FR Y–14 A/Q/M reports pursuant to section 5 of the BHC Act, in conjunction with section 8 of the International Banking Act (12 U.S.C. 3106). The Board has authority to require SLHCs to file the FR Y–14A/Q/M reports pursuant to section 10 of HOLA (12 U.S.C. 1467a).

The information collected in these reports is collected as part of the Board's supervisory process, and therefore is afforded confidential treatment pursuant to exemption 8 of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(8)). In addition, individual respondents may request that certain data be afforded confidential treatment pursuant to exemption 4 of FOIA if the data has not previously been publicly disclosed and the release of the data would likely cause substantial harm to the competitive position of the respondent (5 U.S.C. 552(b)(4)). Determinations of confidentiality based on exemption 4 of FOIA would be made on a case-by-case basis.

Current Actions: To implement the reporting requirements of the proposed rule, the Board proposes to revise the FR Y–14 threshold for U.S. intermediate holding companies that would be required to submit these forms, by increasing it to apply only U.S. intermediate holding companies with $100 billion or more in total consolidated assets. U.S. intermediate holding companies below this size threshold would no longer be required to submit these forms. The Board estimates that proposed revisions to the FR Y–14 would decrease the reporting panel by 1 respondent. The draft reporting forms and instructions are available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx.*

(6) *Report title:* Banking Organization Systemic Risk Report.

Agency form number: FR Y–15.

OMB control number: 7100–0352.

Frequency: Quarterly.

Affected Public: Businesses or other for-profit.

Respondents: U.S. bank holding companies (BHCs), covered savings and loan holding companies (SLHCs), and U.S. intermediate holding companies (IHCs) of foreign banking organizations with $100 billion or more in total consolidated assets, and any BHC designated as a global systemically important bank holding company (GSIB) that does not otherwise meet the consolidated assets threshold for BHCs.

Estimated number of respondents: 42.

Estimated average hours per response: 408.01.

Estimated annual burden hours: 68,546.

General description of report: The FR Y–15 quarterly report collects systemic risk data from U.S. bank holding companies (BHCs), covered savings and loan holding companies (SLHCs), and U.S. intermediate holding companies (IHCs) with total consolidated assets of $50 billion or more, and any BHC identified as a global systemically important banking organization (GSIB) based on its method 1 score calculated as of December 31 of the previous calendar year. The Board uses the FR Y–15 data to monitor, on an ongoing basis, the systemic risk profile of institutions that are subject to enhanced prudential standards under section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). In addition, the FR Y–15 is used to (1) facilitate the implementation of the GSIB surcharge rule, (2) identify other institutions that may present significant systemic risk, and (3) analyze the systemic risk implications of proposed mergers and acquisitions.

Legal authorization and confidentiality: The mandatory FR Y–15 is authorized by sections 163 and 165 of the Dodd-Frank Act (12 U.S.C. 5463 and 5365), the International Banking Act (12 U.S.C. 3106 and 3108), the Bank Holding Company Act (12 U.S.C. 1844), and HOLA (12 U.S.C. 1467a).

Most of the data collected on the FR Y–15 is made public unless a specific request for confidentiality is submitted by the reporting entity, either on the FR Y–15 or on the form from which the data item is obtained. Such information

will be accorded confidential treatment under exemption 4 of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4)) if the submitter substantiates its assertion that disclosure would likely cause substantial competitive harm. In addition, items 1 through 4 of Schedule G of the FR Y–15, which contain granular information regarding the reporting entity's short-term funding, will be accorded confidential treatment under exemption 4 for observation dates that occur prior to the liquidity coverage ratio disclosure standard being implemented. To the extent confidential data collected under the FR Y–15 will be used for supervisory purposes, it may be exempt from disclosure under Exemption 8 of FOIA (5 U.S.C. 552(b)(8)).

Current Actions: To implement the reporting requirements of the proposed rule, the Board is proposing to modify the FR Y–15 report to require a foreign banking organization to report data for its combined U.S. operations that are related to the criteria for determining the applicability of enhanced prudential standards under this proposal. Foreign banking organizations would be required to report the information required under new schedules H through N of the FR Y–15, which would replicate schedules A through F of the current FR Y–15 for domestic holding companies (with the exception of cross-jurisdictional activity, as discussed below).[121] Schedules H through N would be structured to include three columns, in which a foreign banking organization would report the information request for each item for (i) its U.S. intermediate holding company, (ii) its U.S. branch and agency network, and (iii) its combined U.S. operations. Consistent with the domestic proposal, the proposal would add two line items to Schedule H of the FR Y–15 to calculate total off-balance sheet exposure. New line item M4 (total consolidated assets) would report the total consolidated on-balance sheet assets for the respondent, as calculated under Schedule HC, item 12 (total consolidated assets) on the FR Y–9C. New line item M5 (total off-balance sheet exposures) would be total exposure, as currently defined on the FR Y–15, minus line item M4. For purposes of reporting cross-jurisdictional activity, the FR Y–15 would require foreign banking organizations to report assets and liabilities of the U.S. intermediate holding company and U.S. branch and agency network, excluding cross-jurisdictional liabilities to non-U.S. affiliates and cross-jurisdictional claims on non-U.S. affiliates to the extent that these claims are secured by eligible financial collateral. To effectuate this change, the proposal would add new line items to proposed Schedule L and amend the instructions accordingly. The proposal would clarify that Line Item 2(a) should be completed only with respect to the U.S. intermediate holding company's liabilities to its foreign subsidiaries, if any, and not liabilities to non-U.S. affiliates of the foreign banking organization not held by the U.S. intermediate holding company. Line Item 2(a) would be left blank for the U.S. branch or agency. The Board estimates that the proposed changes to the FR Y–15 would increase the respondent count by 5 respondents. The Board also estimates that proposed revisions to the FR Y–15 would increase the estimated average hours per response by 7.01 hours and would increase the estimated annual burden by 9,198 hours. The draft reporting forms and instructions are available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx.*

(7) *Report title:* Reporting and Recordkeeping Requirements Associated with Regulation Y (Capital Plans).

Agency form number: FR Y–13.

OMB control number: 7100–0342.

Frequency: Annually.

Affected Public: Businesses or other for-profit.

Respondents: BHCs and IHCs.

Estimated number of respondents: 36.

Estimated average hours per response: Annual capital planning reporting (225.8(e)(1)(ii)), 80 hours; data collections reporting (225.8(e)(3)), 1,005 hours; data collections reporting (225.8(e)(4)), 100 hours; review of capital plans by the Federal Reserve reporting (225.8(f)(3)(i)), 16 hours; prior approval request requirements reporting (225.8(g)(1), (3), & (4)), 100 hours; prior approval request requirements exceptions (225.8(g)(3)(iii)(A)), 16 hours; prior approval request requirements reports (225.8(g)(6)), 16 hours; annual capital planning recordkeeping (225.8(e)(1)(i)) (LISCC and large and complex firms), 11,920 hours; annual capital planning recordkeeping (225.8(c)(1)(i)) (large and noncomplex firms), 8,920 hours; annual capital planning recordkeeping (225.8(e)(1)(iii)), 100 hours.

Estimated annual burden hours: Annual capital planning reporting (225.8(e)(1)(ii)), 2,720 hours; data collections reporting (225.8(e)(3)), 25,125 hours; data collections reporting (225.8(e)(4)), 1,000 hours; review of capital plans by the Federal Reserve reporting (225.8(f)(3)(i)), 32 hours; prior approval request requirements reporting (225.8(g)(1), (3), & (4)), 2,300 hours; prior approval request requirements exceptions (225.8(g)(3)(iii)(A)), 32 hours; prior approval request requirements reports (225.8(g)(6)), 32 hours; annual capital planning recordkeeping (225.8(e)(1)(i)) (LISCC and large and complex firms), 214,560 hours; annual capital planning recordkeeping (225.8(c)(1)(i)) (large and noncomplex firms), 142,720 hours; annual capital planning recordkeeping (225.8(e)(1)(iii)), 3,400 hours.

General description of report: Regulation Y (12 CFR part 225) requires large bank holding companies (BHCs) to submit capital plans to the Federal Reserve on an annual basis and to require such BHCs to request prior approval from the Federal Reserve under certain circumstances before making a capital distribution.

Current Actions: This proposal and the Board's proposal on prudential standards for domestic banking organizations (83 FR 61408) would make various changes to the Board's capital plan rule. First, the threshold for application of § 225.8 would be raised from bank holding companies with $50 billion or more in total consolidated assets to bank holding companies with $100 billion or more in total consolidated assets. Second, the proposals would amend the definition of ''large and noncomplex bank holding company'' to be Category IV banking organizations, pursuant to 12 CFR 252.5. The proposed changes would reduce the panels for various provisions in § 225.8.

(8) *Title of Information Collection:* Reporting Requirements Associated with Regulation LL.

Agency Form Number: FR LL.

OMB control number: 7100–NEW.

Frequency: Biennial.

Affected Public: Businesses or other for-profit.

Respondents: Savings and loan holding companies.

Description of the Information Collection: Section 252.122(b)(1)(iii) of the Board's Regulation YY currently requires, unless the Board otherwise determines in writing, a foreign savings and loan holding company with more than $10 billion in total consolidated assets that does not meet applicable home-country stress testing standards to report on an annual basis a summary of the results of the stress test to the Board.

Current Actions: The Board proposes to move the requirement for foreign savings and loan holding companies currently in § 252.122(b)(1)(iii) of

[121] U.S. intermediate holding companies would no longer be required to report on schedules A through G of the FR Y–15.

Regulation YY into the proposed § 238.162(b)(1)(ii) of Regulation LL. In doing so, the Board proposes to amend the frequency of the reporting requirement in proposed § 238.162(b)(1)(ii) from annual to at least biennial. The Board also proposes to raise the threshold for applicability of section 238.162 from more than $10 billion in total consolidated assets to more than $250 billion in total consolidated assets.

Legal authorization and confidentiality: This information collection is authorized by section 10 of the Home Owners' Loan Act (HOLA) and section 165(i)(2) of the Dodd-Frank Act. The obligation of covered institutions to report this information is mandatory. This information would be disclosed publicly and, as a result, no issue of confidentiality is raised.

Estimated number of respondents: 1.[122]

Estimated average hours per response: 80.

Estimated annual burden hours: 40.

(8) *Title of Information Collection:* Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulation YY (Enhanced Prudential Standards).

Agency Form Number: FR YY.

OMB Control Number: 7100–0350.

Frequency of Response: Annual, semiannual, quarterly.

Affected Public: Businesses or other for-profit.

Respondents: State member banks, U.S. bank holding companies, savings and loan holding companies, nonbank financial companies, foreign banking organizations, U.S. intermediate holding companies, foreign saving and loan holding companies, and foreign nonbank financial companies supervised by the Board.

Number of respondents: 24 U.S. bank holding companies with total consolidated assets of $50 billion or more, 46 U.S. bank holding companies with total consolidated assets over $10 billion and less than $50 billion, 21 state member banks with total consolidated assets over $10 billion, 39 savings and loan holding companies with total consolidated assets over $10 billion, 24 foreign banking organizations with total consolidated assets of $50 billion or more and combined U.S. assets of $50 billion or more, 17 U.S. intermediate holding companies, and 102 foreign banking organizations with total consolidated assets of more than $10 billion and combined U.S. assets of less than $50 billion.

[122] Currently, there are no foreign savings and loan holding companies in existence. For PRA purposes, ''1'' is used as a placeholder.

Description of the Information Collection: Section 165 of the Dodd-Frank Act, as amended by EGRRCPA, requires the Board to implement enhanced prudential standards for bank holding companies and foreign banking organizations with total consolidated assets of $250 billion or more, and provides the Board with discretion to apply enhanced prudential standards to certain bank holding companies and foreign banking organizations with $100 billion or more, but less than $250 billion, in total consolidated assets. The enhanced prudential standards include risk-based and leverage capital requirements, liquidity standards, requirements for overall risk management (including establishing a risk committee), stress test requirements, and debt-to-equity limits for companies that the Financial Stability Oversight Council has determined pose a grave threat to financial stability.

Current Actions: As described below, the Board is amending reporting, recordkeeping and disclosure requirements in Regulation YY to be consistent with EGRRCPA's changes to section 165 of the Dodd-Frank; the Board's proposal to amend prudential standards for domestic banking organizations (83 FR 61408); and the proposal described in this **Federal Register** document, which amends prudential standards for foreign banking organizations and foreign savings and loan holding companies.

Subpart D—The domestic proposal proposed to change applicability thresholds for application of subpart D from bank holding companies with $50 billion or more in total consolidated assets to bank holding companies with $100 billion or more in total consolidated. In doing so, the number of respondents for collections of information in §§ 252.34 and 252.35 would decrease. Additionally, the burden hours for compliance with §§ 252.34(h)(1) and (3) would be reduced. Section 252.34(h)(1) would require a bank holding company with total consolidated assets of $100 billion or more to establish and maintain policies and procedures to monitor assets that have been, or are available to be, pledged as collateral in connection with transactions to which it or its affiliates are counterparties and sets forth minimum standards for those procedures. Category IV bank holding companies would be required to calculate their collateral positions on a monthly basis; all other bank holding companies subject to the section would be required to calculate their collateral positions on a weekly basis. Currently, all bank holding companies subject to this provision must calculate collateral positions weekly (or more frequently, as directed by the Board).

Section 252.34(h)(3) would require a bank holding company with total consolidated assets of $100 billion or more to establish and maintain procedures for monitoring intraday liquidity risk exposure that are consistent with the bank holding company's capital structure, risk profile, complexity, activities, and size. If the bank holding company is a global systemically important bank holding company, Category II bank holding company, or a Category III bank holding company, these procedures must address how the management of the bank holding company will: (1) Monitor and measure expected daily gross liquidity inflows and outflows; (2) manage and transfer collateral to obtain intraday credit; (3) identify and prioritize time-specific obligations so that the bank holding company can meet these obligations as expected and settle less critical obligations as soon as possible; (4) manage the issuance of credit to customers where necessary; and (5) consider the amounts of collateral and liquidity needed to meet payment systems obligations when assessing the bank holding company's overall liquidity needs. Category IV bank holding companies would not be subject to the proscriptive language.

Subpart L—The proposal would eliminate subpart L. In doing so, the proposal would eliminate § 252.122(b)(1)(iii), which currently requires, unless the Board otherwise determines in writing, a foreign banking organization with total consolidated assets of more than $10 billion but less than $50 billion or a foreign savings and loan holding company with total consolidated assets of more than $10 billion that does not meet the home-country stress testing standards set forth in the rule to report on an annual basis a summary of the results of the stress test to the Board. This requirement would continue to exist for foreign banking organizations with total consolidated assets of more than $100 billion in proposed §§ 252.146 and 252.158 of Regulation YY, and for a foreign savings and loan holding company with total consolidated assets of more than $250 billion in proposed § 238.162 of Regulation LL.

Subpart M—The proposal would change the applicability thresholds for application of subpart M from foreign banking organizations with between $10 and $50 billion in total consolidated assets to foreign banking organizations with between $50 and $100 billion in

total consolidated assets. In doing so, the number of respondents for collections of information in § 252.132 would decrease.

Subpart N—The proposal would change the applicability thresholds for application of subpart N from foreign banking organizations with $50 billion or more in total consolidated assets but combined U.S. assets of less than $50 billion to foreign banking organizations with $100 billion or more in total consolidated assets but combined U.S. assets of less than $100 billion. In doing so, the number of respondents for collections of information in §§ 252.143, 252.144, 252.145, 252.146, 252.154, 252.157, and 252.158 would decrease. Moreover, some of the requirements in subpart N would only apply to foreign banking organizations with $250 billion or more in total consolidated assets. These provisions include §§ 252.143(a) and 252.145(a).

Subpart O—The proposal would change the applicability thresholds for application of subpart O from foreign banking organizations with $50 billion or more in total consolidated assets and combined U.S. assets of $50 billion or more to foreign banking organizations with $100 billion or more in total consolidated assets and combined U.S. assets of $100 billion or more. In doing so, the number of respondents for collections of information in §§ 252.153, 252.156, and 252.157 would decrease. The proposal would also eliminate implementation plans in § 252.153(d), which would result in a reduction of annual burden hours.

The burden hours for compliance with § 252.156(g)(1) and (3) also would be reduced. Section 252.156(g)(1) would require a foreign banking organization with combined U.S. assets of $100 billion or more to establish and maintain policies and procedures to monitor assets that have been or are available to be pledged as collateral in connection with transactions to which entities in its U.S. operations are counterparties. Previously, all foreign banking organizations subject to this provision were required to calculate collateral positions on a weekly basis (or more frequently, as directed by the Board). As proposed, Category IV foreign banking organizations companies would calculate all of the collateral positions for its combined U.S. operations on a monthly basis; all other foreign banking organizations with at least $100 billion in combined U.S. assets would calculate on a weekly basis.

Section 252.156(g)(3) would require a foreign banking organization with combined U.S. assets of $100 billion or more to establish and maintain procedures for monitoring intraday liquidity risk exposure for its combined U.S. operations that are consistent with the capital structure, risk profile, complexity, activities, and size of the foreign banking organization and its combined U.S. operations. If the foreign banking organization is a Category II foreign banking organization or a Category III foreign banking organization, these procedures must address how the management of the combined U.S. operations will: (1) Monitor and measure expected gross daily inflows and outflows; (2) manage and transfer collateral to obtain intraday credit; (3) identify and prioritize time-specific obligations so that the foreign banking organizations can meet these obligations as expected and settle less critical obligations as soon as possible; (4) manage the issuance of credit to customers where necessary; and (5) consider the amounts of collateral and liquidity needed to meet payment systems obligations when assessing the overall liquidity needs of the combined U.S. operations. Category IV foreign banking organizations would not be subject to the proscriptive language.

Current estimated annual burden: 41,619 hours.

Proposed revisions estimated annual burden: (11,238) hours.

Total estimated annual burden: 30,381 hours.

C. Regulatory Flexibility Act Analysis

In accordance with the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* the Board is publishing an initial regulatory flexibility analysis of the proposal. The RFA requires each federal agency to prepare an initial regulatory flexibility analysis in connection with the promulgation of a proposed rule, or certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.[123] Under regulations issued by the SBA, a small entity includes a bank, bank holding company, or savings and loan holding company with assets of $550 million or less (small banking organization).[124] Based on the Board's analysis, and for the reasons stated below, the Board believes that this proposed rule will not have a significant economic impact on a substantial number of small banking organizations

As discussed in the **SUPPLEMENTARY INFORMATION** section, the Board is proposing to adopt amendments to Regulations Q,[125] Y,[126] LL,[127] and YY[128] that would affect the regulatory requirements that apply to foreign banking organizations and foreign savings and loan holding companies with more than $10 billion in total consolidated assets and U.S. depository institution holding companies with $100 billion or more in total consolidated assets. Therefore, companies that are affected by the proposal substantially exceed the $550 million asset threshold at which a banking entity is considered a ''small entity'' under SBA regulations.

Because the proposal is not likely to apply to any company with assets of $550 million or less if adopted in final form, the proposal is not expected to affect any small entity for purposes of the RFA. The Board does not believe that the proposal duplicates, overlaps, or conflicts with any other Federal rules. In light of the foregoing, the Board does not believe that the proposal, if adopted in final form, would have a significant economic impact on a substantial number of small entities supervised. Nonetheless, the Board seeks comment on whether the proposal would impose undue burdens on, or have unintended consequences for, small banking organizations, and whether there are ways such potential burdens or consequences could be minimized in a manner consistent the purpose of the proposal.

List of Subjects

12 CFR Part 217

Administrative practice and procedure, Banks, Banking, Capital, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Risk, Securities.

12 CFR Part 225

Administrative practice and procedure, Banks, Banking, Capital planning, Holding companies, Reporting and recordkeeping requirements, Securities, Stress testing.

12 CFR Part 238

Administrative practice and procedure, Banks, Banking, Federal Reserve System, Reporting and recordkeeping requirements, Securities.

12 CFR Part 252

Administrative practice and procedure, Banks, Banking, Capital planning, Federal Reserve System,

[123] *See* 5 U.S.C. 603, 604, and 605.

[124] *See* 13 CFR 121.201.

[125] 12 CFR part 217.

[126] 12 CFR part 225.

[127] 12 CFR part 238.

[128] 12 CFR part 252.

Holding companies, Reporting and recordkeeping requirements, Securities, Stress testing.

Authority and Issuance

For the reasons stated in the Supplementary Information, Chapter II of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 217—CAPITAL ADEQUACY OF BANK HOLDING COMPANIES, SAVINGS AND LOAN HOLDING COMPANIES, AND STATE MEMBER BANKS (REGULATION Q)

■ 1. The authority citation for part 217 continues to read as follows:

Authority: 12 U.S.C. 248(a), 321–338a, 481–486, 1462a, 1467a, 1818, 1828, 1831n, 1831o, 1831p–1, 1831w, 1835, 1844(b), 1851, 3904, 3906–3909, 4808, 5365, 5368, 5371.

Subpart H—Risk-based Capital Surcharge for Global Systemically Important Bank Holding Companies

■ 2. Amend § 217.400 by:
■ a. Revising paragraph (b)(1);
■ b. Removing the text to paragraph (b)(2) introductory text;
■ c. Revising paragraph (b)(2)(i); and
■ d. Removing paragraph (b)(3).

The revisions read as follows:

§ 217.400 Purpose and applicability.

* * * * *

(b) * * *

(1) *General.* This subpart applies to a bank holding company that:

(i) Is an advanced approaches Board-regulated institution or a Category III Board-regulated institution;

(ii) Is not a consolidated subsidiary of a bank holding company; and

(iii) Is not a consolidated subsidiary of a foreign banking organization.

(2) * * *

(i) A bank holding company identified in § 217.400(b)(1) is subject to § 217.402 of this part and must determine whether it qualifies as a global systemically important BHC beginning the year immediately following the year in which the bank holding company becomes an advanced approaches Board-regulated institution or a Category III Board-regulated institution;

* * * * *

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

■ 3. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p-1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331–3351, 3906, 3907, and 3909; 15 U.S.C. 1681s, 1681w, 6801 and 6805.

Subpart A—General Provisions

■ 4. In § 225.8, as proposed to be amended at 83 FR 61408 (November 29, 2018), is further amended by revising paragraph (c) and paragraph (d)(9) to read as follows:

§ 225.8 Capital planning.

* * * * *

(c) *Transitional arrangements—Transition periods for certain bank holding companies.*

(1) A bank holding company that meets the $100 billion asset threshold (as measured under paragraph (b) of this section) on or before September 30 of a calendar year must comply with the requirements of this section beginning on January 1 of the next calendar year, unless that time is extended by the Board in writing.

(2) A bank holding company that meets the $100 billion asset threshold after September 30 of a calendar year must comply with the requirements of this section beginning on January 1 of the second calendar year after the bank holding company meets the $100 billion asset threshold, unless that time is extended by the Board in writing.

(3) The Board or the appropriate Reserve Bank with the concurrence of the Board, may require a bank holding company described in paragraph (c)(1)(i) or (ii) of this section to comply with any or all of the requirements in paragraphs (e)(1), (e)(3), (f), or (g) of this section if the Board or appropriate Reserve Bank with concurrence of the Board, determines that the requirement is appropriate on a different date based on the company's risk profile, scope of operation, or financial condition and provides prior notice to the company of the determination

(d) * * *

(9) *Large and noncomplex bank holding company* means any bank holding company subject to this section that, as of December 31 of the calendar year prior to the capital plan cycle, is identified as a Category IV banking organization pursuant to 12 CFR 252.5.

* * * * *

PART 238—SAVINGS AND LOAN HOLDING COMPANIES (REGULATION LL)

■ 5. The authority citation for part 238 continues to read as follows:

Authority: 5 U.S.C. 552, 559; 12 U.S.C. 1462, 1462a, 1463, 1464, 1467, 1467a, 1468, 1813, 1817, 1829e, 1831i, 1972, 15 U.S.C. 78 *l.*

Subpart N—Risk Committee, Liquidity Risk Management, and Liquidity Buffer Requirements for Covered Savings and Loan Holding Companies With Total Consolidated Assets of $100 Billion or More

■ 6. Section 238.124, as proposed to be added at 83 FR 61408 (November 29, 2018), is further amended by adding paragraph (a)(8) to read as follows:

§ 238.124 Liquidity stress testing and buffer requirements

(a) * * *

(8) *Notice and Response.* (i) If the Board determines that a savings and loan holding company must conduct liquidity stress tests according to a frequency other than the frequency provided in paragraphs (a)(2)(i) and (ii) of this section, the Board will notify the savings and loan holding company before the change in frequency takes effect, and describe the basis for its determination. Within 14 calendar days of receipt of a notification under this paragraph, the savings and loan holding company may request in writing that the Board reconsider the requirement. The Board will respond in writing to the company's request for reconsideration prior to requiring the company conduct liquidity stress tests according to a frequency other than the frequency provided in paragraphs (a)(2)(i) and (ii) of this section.

* * * * *

■ 7. Add subpart R to read as follows:

Subpart R—Company-Run Stress Test Requirements for Foreign Savings and Loan Holding Companies With Total Consolidated Assets Over $250 Billion

Sec.
238.160 Definitions.
238.161 Applicability.
238.162 Capital stress testing requirements.

Subpart R—Company-Run Stress Test Requirements for Foreign Savings and Loan Holding Companies With Total Consolidated Assets Over $250 Billion

§ 238.160 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Foreign savings and loan holding company* means a savings and loan holding company as defined in section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a(a)) that is incorporated or organized under the laws of a country other than the United States.

(b) *Pre-provision net revenue* means revenue less expenses before adjusting for total loan loss provisions.

(c) *Stress test cycle* has the same meaning as in subpart O of this part.

(d) *Total loan loss provisions* means the amount needed to make reserves

adequate to absorb estimated credit losses, based upon management's evaluation of the loans and leases that the company has the intent and ability to hold for the foreseeable future or until maturity or payoff, as determined under applicable accounting standards.

§ 238.161 Applicability.

(a) *Applicability for foreign savings and loan holding companies with total consolidated assets of more than $250 billion*—(1) *General.* A foreign savings and loan holding company must comply with the stress test requirements set forth in this section beginning on the first day of the ninth quarter following the date on which its total consolidated assets exceed $250 billion.

(2) *Total consolidated assets.* Total consolidated assets of a foreign savings and loan holding company for purposes of this subpart are equal to the average of total assets for the four most recent calendar quarters as reported by the foreign savings and loan holding company on its applicable regulatory report. If the foreign savings and loan holding company has reported total consolidated assets for the four most recent calendar quarters, total consolidated assets are equal to the average of total consolidated assets as reported for the most recent quarter or quarters, or most recent year.

(3) *Cessation of requirements.* A foreign savings and loan holding company will remain subject to requirements of this subpart until the date on which the foreign savings and loan holding company's total consolidated assets are below $250 billion for each of four most recent calendar quarters.

(b) [Reserved]

§ 238.162 Capital stress testing requirements.

(a) *In general.* (1) A foreign savings and loan holding company with total consolidated assets of more than $250 billion must:

(i) Be subject on a consolidated basis to a capital stress testing regime by its home-country supervisor that meets the requirements of paragraph (a)(2) of this section; and

(ii) Conduct such stress tests or be subject to a supervisory stress test and meet any minimum standards set by its home-country supervisor with respect to the stress tests.

(2) The capital stress testing regime of a foreign savings and loan holding company's home-country supervisor must include:

(i) A supervisory capital stress test conducted by the relevant home-country supervisor or an evaluation and review by the home-country supervisor of an internal capital adequacy stress test conducted by the foreign savings and loan holding company, conducted on at least a biennial basis; and

(ii) Requirements for governance and controls of stress testing practices by relevant management and the board of directors (or equivalent thereof).

(b) *Additional standards.* (1) Unless the Board otherwise determines in writing, a foreign savings and loan holding company that does not meet each of the requirements in paragraphs (a)(1) and (2) of this section must:

(i) Conduct an annual stress test of its U.S. subsidiaries to determine whether those subsidiaries have the capital necessary to absorb losses as a result of adverse economic conditions; and

(ii) Report on at least a biennial basis a summary of the results of the stress test to the Board that includes a description of the types of risks included in the stress test, a description of the conditions or scenarios used in the stress test, a summary description of the methodologies used in the stress test, estimates of aggregate losses, pre-provision net revenue, total loan loss provisions, net income before taxes and pro forma regulatory capital ratios required to be computed by the home-country supervisor of the foreign savings and loan holding company and any other relevant capital ratios, and an explanation of the most significant causes for any changes in regulatory capital ratios.

(2) An enterprise-wide stress test that is approved by the Board may meet the stress test requirement of paragraph (b)(1)(ii) of this section.

PART 252—ENHANCED PRUDENTIAL STANDARDS (REGULATION YY)

■ 8. The authority citation for part 252 continues to read as follows:

Authority: 12 U.S.C. 321–338a, 481–486, 1467a, 1818, 1828, 1831n, 1831o, 1831p–l, 1831w, 1835, 1844(b), 1844(c), 3101 *et seq.,* 3101 note, 3904, 3906–3909, 4808, 5361, 5362, 5365, 5366, 5367, 5368, 5371.

Subpart A—General Provisions

■ 9. Amend § 252.1 by adding paragraph (c) to read as follows:

§ 252.1 Authority and purpose.

* * * * *

(c) *Reservation of authority.* The Board may permit a foreign banking organization to comply with the requirements of this part through a subsidiary foreign bank or company of the foreign banking organization. In making this determination, the Board shall consider:

(1) The ownership structure of the foreign banking organization, including whether the foreign banking organization is owned or controlled by a foreign government;

(2) Whether the action would be consistent with the purposes of this part; and

(3) Any other factors that the Board determines are relevant.

■ 10. Revise § 252.2 to read as follows:

§ 252.2 Definitions.

Unless otherwise specified, the following definitions apply for purposes of this part:

Affiliate has the same meaning as in section 2(k) of the Bank Holding Company Act (12 U.S.C. 1841(k)) and § 225.2(a) of this chapter.

Applicable accounting standards means U.S. generally accepted accounting principles, international financial reporting standards, or such other accounting standards that a company uses in the ordinary course of its business in preparing its consolidated financial statements.

Average combined U.S. assets means the average of combined U.S. assets for the four most recent calendar quarters or, if the banking organization has not reported combined U.S. assets for each of the four most recent calendar quarters, the average of combined U.S. assets for the most recent calendar quarter or quarters, as applicable.

Average cross-jurisdictional activity means the average of cross-jurisdictional activity for the four most recent calendar quarters or, if the banking organization has not reported cross-jurisdictional activity for each of the four most recent calendar quarters, the average of cross-jurisdictional activity for the most recent calendar quarter or quarters, as applicable.

Average off-balance sheet exposure means the average of off-balance sheet exposure for the four most recent calendar quarters or, if the banking organization has not reported total exposure and total consolidated assets for each of the four most recent calendar quarters, the average of off-balance sheet exposure for the most recent calendar quarter or quarters, as applicable.

Average total consolidated assets means the average of total consolidated assets for the four most recent calendar quarters or, if the banking organization has not reported total consolidated assets for each of the four most recent calendar quarters, the average of total consolidated assets for the most recent calendar quarter or quarters, as applicable.

Average total nonbank assets means the average of total nonbank assets for

the four most recent calendar quarters or, if the banking organization has not reported or calculated total nonbank assets for each of the four most recent calendar quarters, the average of total nonbank assets for the most recent calendar quarter or quarters, as applicable.

Average weighted short-term wholesale funding means the average of weighted short-term wholesale funding for each of the four most recent calendar quarters or, if the banking organization has not reported weighted short-term wholesale funding for each of the four most recent calendar quarters, the average of weighted short-term wholesale funding for the most recent quarter or quarters, as applicable.

Bank holding company has the same meaning as in section 2(a) of the Bank Holding Company Act (12 U.S.C. 1841(a)) and § 225.2(c) of this chapter.

Banking organization means:

(1) A bank holding company that is a U.S. bank holding company, which means a bank holding company that is:

(i) Incorporated in or organized under the laws of the United States or in any State; and

(ii) Not a consolidated subsidiary of a bank holding company that is incorporated in or organized under the laws of the United States or in any State;

(2) A U.S. intermediate holding company; or

(3) A foreign banking organization.

Board means the Board of Governors of the Federal Reserve System.

Category II bank holding company means a U.S. bank holding company identified as a Category II banking organization pursuant to § 252.5.

Category II foreign banking organization means a foreign banking organization identified as a Category II banking organization pursuant to § 252.5.

Category II U.S. intermediate holding company means a U.S. intermediate holding company identified as a Category II banking organization pursuant to § 252.5.

Category III bank holding company means a U.S. bank holding company identified as a Category III banking organization pursuant to § 252.5.

Category III foreign banking organization means a foreign banking organization identified as a Category III banking organization pursuant to § 252.5.

Category III U.S. intermediate holding company means a U.S. intermediate holding company identified as a Category III banking organization pursuant to § 252.5.

Category IV bank holding company means a U.S. bank holding company identified as a Category IV banking organization pursuant to § 252.5.

Category IV foreign banking organization means a foreign banking organization identified as a Category IV banking organization pursuant to § 252.5.

Category IV U.S. intermediate holding company means a U.S. intermediate holding company identified as a Category IV banking organization pursuant to § 252.5.

Combined U.S. assets means the sum of the consolidated assets of each top-tier U.S. subsidiary of the foreign banking organization (excluding any section 2(h)(2) company, if applicable) and the total assets of each U.S. branch and U.S. agency of the foreign banking organization, as reported by the foreign banking organization on the FR Y–7Q.

Combined U.S. operations means:

(1) The U.S. branches and agencies of the foreign banking organization, if any; and

(2) The U.S. subsidiaries of the foreign banking organization (excluding any section 2(h)(2) company, if applicable) and subsidiaries of such U.S. subsidiaries.

Company means a corporation, partnership, limited liability company, depository institution, business trust, special purpose entity, association, or similar organization.

Control has the same meaning as in section 2(a) of the Bank Holding Company Act (12 U.S.C. 1841(a)), and the terms controlled and controlling shall be construed consistently with the term control.

Council means the Financial Stability Oversight Council established by section 111 of the Dodd-Frank Act (12 U.S.C. 5321).

Credit enhancement means a qualified financial contract of the type set forth in section 210(c)(8)(D)(ii)(XII), (iii)(X), (iv)(V), (v)(VI), or (vi)(VI) of Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5390(c)(8)(D)(ii)(XII), (iii)(X), (iv)(V), (v)(VI), or (vi)(VI)) or a credit enhancement that the Federal Deposit Insurance Corporation determines by regulation is a qualified financial contract pursuant to section 210(c)(8)(D)(i) of Title II of the act (12 U.S.C. 5390(c)(8)(D)(i)).

Cross-jurisdictional activity. (1) The cross-jurisdictional activity of a U.S. bank holding company is equal to the sum of its cross-jurisdictional claims and cross-jurisdictional liabilities, as reported on the FR Y–15.

(2) The cross-jurisdictional activity of a U.S. intermediate holding company is equal to the sum of cross-jurisdictional claims and cross-jurisdictional liabilities of the U.S. intermediate holding company, as reported on the FR Y–15.

(3) The cross-jurisdictional activity of a foreign banking organization is equal to the sum of cross-jurisdictional claims and cross-jurisdictional liabilities of the combined U.S. operations of the foreign banking organization, as reported on the FR Y–15.

Depository institution has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)).

DPC branch subsidiary means any subsidiary of a U.S. branch or a U.S. agency acquired, or formed to hold assets acquired, in the ordinary course of business and for the sole purpose of securing or collecting debt previously contracted in good faith by that branch or agency.

Foreign banking organization has the same meaning as in § 211.21(o) of this chapter, provided that if the top-tier foreign banking organization is incorporated in or organized under the laws of any State, the foreign banking organization shall not be treated as a foreign banking organization for purposes of this part.

FR Y–7 means the Annual Report of Foreign Banking Organizations reporting form.

FR Y–7Q means the Capital and Asset Report for Foreign Banking Organizations reporting form.

FR Y–9C means the Consolidated Financial Statements for Holding Companies reporting form.

FR Y–9LP means the Parent Company Only Financial Statements of Large Holding Companies.

FR Y–15 means the Systemic Risk Report.

Global methodology means the assessment methodology and the higher loss absorbency requirement for global systemically important banks issued by the Basel Committee on Banking Supervision, as updated from time to time.

Global systemically important banking organization means a global systemically important bank, as such term is defined in the global methodology.

Global systemically important BHC means a bank holding company identified as a global systemically important BHC pursuant to 12 CFR 217.402.

Global systemically important foreign banking organization means a top-tier foreign banking organization that is identified as a global systemically important foreign banking organization under § 252.153(b)(4).

GAAP means generally accepted accounting principles as used in the United States.

Home country, with respect to a foreign banking organization, means the country in which the foreign banking organization is chartered or incorporated.

Home country resolution authority, with respect to a foreign banking organization, means the governmental entity or entities that under the laws of the foreign banking organization's home county has responsibility for the resolution of the top-tier foreign banking organization.

Home-country supervisor, with respect to a foreign banking organization, means the governmental entity or entities that under the laws of the foreign banking organization's home county has responsibility for the supervision and regulation of the top-tier foreign banking organization.

Nonbank financial company supervised by the Board means a company that the Council has determined under section 113 of the Dodd-Frank Act (12 U.S.C. 5323) shall be supervised by the Board and for which such determination is still in effect.

Non-U.S. affiliate means any affiliate of a foreign banking organization that is incorporated or organized in a country other than the United States.

Off-balance sheet exposure. (1) The off-balance sheet exposure of a U.S. bank holding company or U.S. intermediate holding company is equal to:

(i) The total exposure of such banking organization, as reported by the banking organization on the FR Y–15; minus

(ii) The total consolidated assets of such banking organization for the same calendar quarter.

(2) The off-balance sheet exposure of a foreign banking organization is equal to:

(i) The total exposure of the combined U.S. operations of the foreign banking organization, as reported by such foreign banking organization on the FR Y–15; minus

(ii) The combined U.S. assets of the foreign banking organization for the same calendar quarter.

Publicly traded means an instrument that is traded on:

(1) Any exchange registered with the U.S. Securities and Exchange Commission as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

(2) Any non-U.S.-based securities exchange that:

(i) Is registered with, or approved by, a non-U.S. national securities regulatory authority; and

(ii) Provides a liquid, two-way market for the instrument in question, meaning that there are enough independent bona fide offers to buy and sell so that a sales price reasonably related to the last sales price or current bona fide competitive bid and offer quotations can be determined promptly and a trade can be settled at such price within a reasonable time period conforming with trade custom.

(3) A company can rely on its determination that a particular non-U.S.-based securities exchange provides a liquid two-way market unless the Board determines that the exchange does not provide a liquid two-way market.

Section 2(h)(2) company has the same meaning as in section 2(h)(2) of the Bank Holding Company Act (12 U.S.C. 1841(h)(2)).

State means any state, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands.

Subsidiary has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

Top-tier foreign banking organization, with respect to a foreign bank, means the top-tier foreign banking organization or, alternatively, a subsidiary of the top-tier foreign banking organization designated by the Board.

Total consolidated assets. (1) Total consolidated assets of a U.S. bank holding company or a U.S. intermediate holding company is equal to the total consolidated assets of such banking organization, as reported on the FR Y–9C.

(2) Total consolidated assets of a foreign banking organization is equal to the total consolidated assets of the foreign banking organization, as reported on the FR Y–7Q.

Total nonbank assets. (1) Total nonbank assets of a U.S. bank holding company or U.S. intermediate holding company is equal to the total nonbank assets of such banking organization, as reported on the FR Y–9LP.

(2) Total nonbank assets of a foreign banking organization is equal to:

(i) The sum of the assets of the foreign banking organization's nonbank U.S. subsidiaries, including the total nonbank assets of any U.S. intermediate holding company, excluding the assets of any section 2(h)(2) company; plus

(ii) The sum of the foreign banking organization's equity investments in unconsolidated U.S. subsidiaries, excluding equity investments in any section 2(h)(2) company.

U.S. agency has the same meaning as the term ''agency'' in § 211.21(b) of this chapter.

U.S. branch has the same meaning as the term ''branch'' in § 211.21(e) of this chapter.

U.S. branches and agencies means the U.S. branches and U.S. agencies of a foreign banking organization.

U.S. government agency means an agency or instrumentality of the United States whose obligations are fully and explicitly guaranteed as to the timely payment of principal and interest by the full faith and credit of the United States.

U.S. government-sponsored enterprise means an entity originally established or chartered by the U.S. government to serve public purposes specified by the U.S. Congress, but whose obligations are not explicitly guaranteed by the full faith and credit of the United States.

U.S. intermediate holding company means the top-tier U.S. company that is required to be established pursuant to § 252.147 or § 252.153.

U.S. subsidiary means any subsidiary that is incorporated in or organized under the laws of the United States or in any State, commonwealth, territory, or possession of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the North Mariana Islands, the American Samoa, Guam, or the United States Virgin Islands.

Weighted short-term wholesale funding means the weighted short-term wholesale funding of a banking organization, as reported on the FR Y–15.

■ 11. In § 252.5, as proposed to be added at 83 FR 61408 (November 29, 2018), is revised to read as follows:

§ 252.5 Categorization of banking organizations.

(a) *General.* (1) A U.S. bank holding company with average total consolidated assets of $100 billion or more must determine its category among the four categories described in paragraphs (b) through (e) of this section at least quarterly.

(2) A U.S. intermediate holding company with average total consolidated assets of $100 billion or more must determine its category among the three categories described in paragraphs (c) through (e) of this section at least quarterly.

(3) A foreign banking organization with total consolidated assets of $100 billion or more and average combined U.S. assets of $100 billion or more must

determine its category among the three categories described in paragraphs (c) through (e) of this section at least quarterly.

(b) *Global systemically important BHC.* A banking organization is a global systemically important BHC if it is identified as a global systemically important BHC pursuant to 12 CFR 217.402.

(c) *Category II.* (1) A banking organization is a Category II banking organization if the banking organization:

(i) Has:

(A)(*1*) For a U.S. bank holding company or a U.S. intermediate holding company, $700 billion or more in average total consolidated assets;

(*2*) For a foreign banking organization, $700 billion or more in average combined U.S. assets; or

(B)(*1*) Has $75 billion or more in average cross-jurisdictional activity; and

(*2*)(*i*) For a U.S. bank holding company or a U.S. intermediate holding company, $100 billion or more in average total consolidated assets; or

(*ii*) For a foreign banking organization, $100 billion or more in average combined U.S. assets; and

(ii) Is not a global systemically important BHC.

(2) After meeting the criteria in paragraph (c)(1) of this section, a banking organization continues to be a Category II banking organization until the banking organization:

(i) Has:

(A)(*1*) For a U.S. bank holding company or a U.S. intermediate holding company, less than $700 billion in total consolidated assets for each of the four most recent calendar quarters; or

(*2*) For a foreign banking organization, less than $700 billion in combined U.S. assets for each of the four most recent calendar quarters; and

(B) Less than $75 billion in cross-jurisdictional activity for each of the four most recent calendar quarters;

(ii)(A) For a U.S. bank holding company or a U.S. intermediate holding company, less than $100 billion in total consolidated assets for each of the four most recent calendar quarters;

(B) For a foreign banking organization, less than $100 billion in combined U.S. assets for each of the four most recent calendar quarters; or

(iii) Meets the criteria in paragraph (b) to be a global systemically important BHC.

(d) *Category III.* (1) A banking organization is a Category III banking organization if the banking organization:

(i) Has:

(A)(*1*) For a U.S. bank holding company or a U.S. intermediate holding company, $250 billion or more in average total consolidated assets; or

(*2*) For a foreign banking organization, $250 billion or more in average combined U.S. assets; or

(B)(*1*)(*i*) For a U.S. bank holding company or a U.S. intermediate holding company, $100 billion or more in average total consolidated assets; or

(*ii*) For a foreign banking organization, $100 billion in average combined U.S. assets; and

(*2*) At least:

(*i*) $75 billion in average total nonbank assets;

(*ii*) $75 billion in average weighted short-term wholesale funding; or

(*iii*) $75 billion in average off-balance sheet exposure;

(ii) Is not a global systemically important BHC; and

(iii) Is not a Category II banking organization.

(2) After meeting the criteria in paragraph (d)(1) of this section, a banking organization continues to be a Category III banking organization until the banking organization:

(i) Has:

(A)(*1*) For a U.S. bank holding company or a U.S. intermediate holding company, less than $250 billion in total consolidated assets for each of the four most recent calendar quarters; or

(*2*) For a foreign banking organization, less than $250 billion in combined U.S. assets for each of the four most recent calendar quarters;

(B) Less than $75 billion in total nonbank assets for each of the four most recent calendar quarters;

(C) Less than $75 billion in weighted short-term wholesale funding for each of the four most recent calendar quarters; and

(D) Less than $75 billion in off-balance sheet exposure for each of the four most recent calendar quarters; or

(ii) Has:

(A) For a U.S. bank holding company or a U.S. intermediate holding company, less than $100 billion in total consolidated assets for each of the four most recent calendar quarters; or

(B) For a foreign banking organization, less than $100 billion in combined U.S. assets for each of the four most recent calendar quarters;

(iii) Meets the criteria in paragraph (b) of this section to be a global systemically important BHC; or

(iv) Meets the criteria in paragraph (c)(1) of this section to be a Category II banking organization.

(e) *Category IV.* (1) A banking organization is a Category IV banking organization if the banking organization:

(i) Is not global systemically important BHC;

(ii) Is not a Category II banking organization;

(iii) Is not a Category III banking organization; and

(iv) Has:

(A) For a U.S. bank holding company or a U.S. intermediate holding company, average total consolidated assets of $100 billion or more; or

(B) For a foreign banking organization, average combined U.S. assets of $100 billion or more.

(2) After meeting the criteria in paragraph (e)(1), a banking organization continues to be a Category IV banking organization until the banking organization:

(i) Has:

(A) For a U.S. bank holding company or a U.S. intermediate holding company, less than $100 billion in total consolidated assets for each of the four most recent calendar quarters;

(B) For a foreign banking organization, less than $100 billion in combined U.S. assets for each of the four most recent calendar quarters;

(ii) Meets the criteria in paragraph (b) of this section to be a global systemically important BHC;

(iii) Meets the criteria in paragraph (c)(1) of this section to be a Category II banking organization; or

(iv) Meets the criteria in paragraph (d)(1) of this section to be a Category III banking organization.

■ 12. Revise the heading of subpart D to read as follows:

Subpart D—Enhanced Prudential Standards for Bank Holding Companies With Total Consolidated Assets of $100 Billion or More

■ 13. Section 252.35 is amended by adding paragraph (a)(8) to read as follows:

(a) * * *

(8) *Notice and Response.* If the Board determines that a bank holding company must conduct liquidity stress tests according to a frequency other than the frequency provided in paragraphs (a)(2)(i) and (ii) of this section, the Board will notify the bank holding company before the change in frequency takes effect, and describe the basis for its determination. Within 14 calendar days of receipt of a notification under this paragraph, the bank holding company may request in writing that the Board reconsider the requirement. The Board will respond in writing to the company's request for reconsideration prior to requiring the company conduct liquidity stress tests according to a frequency other than the frequency provided in paragraphs (a)(2)(i) and (ii) of this section.

* * * * *

■ 14. Revise the heading of subpart E to read as follows:

Subpart E—Supervisory Stress Test Requirements for Certain U.S. Banking Organizations With $100 Billion or More in Total Consolidated Assets and Nonbank Financial Companies Supervised by the Board

■ 15. Section 252.43 is amended by revising paragraph (a)(2) to read as follows:

§ 252.43 Applicability.

(a) * * *

(2) *Ongoing applicability.* A bank holding company or U.S. intermediate holding company (including any successor company) that is subject to any requirement in this subpart shall remain subject to any such requirement unless and until its total consolidated assets fall below $100 billion for each of four consecutive quarters, as reported on the FR Y–9C and, effective on the as-of date of the fourth consecutive FR Y–9C.

* * * * *

■ 16. Section 252.44, as proposed to be amended at 83 FR 61408 (November 29, 2018), is further amended by revising paragraph (c) to read as follows:

§ 252.44 Analysis conducted by the Board.

* * * * *

(c) *Frequency of analysis conducted by the Board.* (1) Except as provided in paragraph (c)(2) of this section, the Board will conduct its analysis of a covered company on an annual basis.

(2) The Board will conduct its analysis of a Category IV bank holding company or a Category IV U.S. intermediate holding company on a biennial basis and occurring in each year ending in an even number.

■ 17. In § 252.53, republish paragraphs (a)(1)(i) through (iii) and as proposed to be revised in 83 FR 61408 (November 29, 2018) further revise paragraphs (a)(1)(iv) through (vi) to read as follows:

§ 252.53 Applicability.

(a) *Scope*—(1) *Applicability.* Except as provided in paragraph (b) of this section, this subpart applies to any covered company, which includes:

(i) A global systemically important BHC;

(ii) Any Category II bank holding company;

(iii) Any Category III bank holding company;

(iv) Any Category II U.S. intermediate holding company subject to this section pursuant to § 252.153;

(v) Any Category III U.S. intermediate holding company subject to this section pursuant to § 252.153; and

(vi) Any nonbank financial company supervised by the Board that is made subject to this section pursuant to a rule or order of the Board.

(2) *Ongoing applicability.* (i) A bank holding company (including any successor company) that is subject to any requirement in this subpart shall remain subject to any such requirement unless and until the bank holding company:

(A) Is not a global systemically important BHC;

(B) Is not a Category II bank holding company; and

(C) Is not a Category III bank holding company.

(ii) A U.S. intermediate holding company (including any successor company) that is subject to any requirement in this subpart shall remain subject to any such requirement unless and until the U.S. intermediate holding company:

(A) Is not a Category II U.S. intermediate holding company; and

(B) Is not a Category III U.S. intermediate holding company.

* * * * *

■ 18. Section 252.54, as proposed to be amended at 83 FR 61408 (November 29, 2018), is further amended by revising paragraph (a) to read as follows:

§ 252.54 Stress test.

(a) *Stress test*—(1) *In general.* A covered company must conduct a stress test as required under this subpart.

(2) *Frequency.* (i) Except as provided in paragraph (a)(2)(ii) of this section, a covered company must conduct an annual stress test. The stress test must be conducted by April 5 of each calendar year based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.

(ii) A Category III bank holding company or a Category III U.S. intermediate holding company must conduct a biennial stress test. The stress test must be conducted by April 5 of each calendar year ending in an even number, based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.

* * * * *

§ 252.55 [Removed and Reserved]

■ 19. Section 252.55 is removed and reserved.

■ 20. Section 252.56 is amended by revising paragraphs (a) introductory text, (b) introductory text, and (c)(1) to read as follows:

§ 252.56 Methodologies and practices.

(a) *Potential impact on capital.* In conducting a stress test under § 252.54, for each quarter of the planning horizon, a covered company must estimate the following for each scenario required to be used:

* * * * *

(b) *Assumptions regarding capital actions.* In conducting a stress test under § 252.54, a covered company is required to make the following assumptions regarding its capital actions over the planning horizon:

* * * * *

(c) * * *

(1) *In general.* The senior management of a covered company must establish and maintain a system of controls, oversight, and documentation, including policies and procedures, that are designed to ensure that its stress testing processes are effective in meeting the requirements in this subpart. These policies and procedures must, at a minimum, describe the covered company's stress testing practices and methodologies, and processes for validating and updating the company's stress test practices and methodologies consistent with applicable laws and regulations.

* * * * *

■ 21. Section 252.57 is amended by revising paragraph (a) to read as follows:

§ 252.57 Reports of stress test results.

(a) *Reports to the Board of stress test results.* A covered company must report the results of the stress test required under § 252.54 to the Board in the manner and form prescribed by the Board. Such results must be submitted by April 5 of the calendar year in which the stress test is performed pursuant to § 252.54, unless that time is extended by the Board in writing.

* * * * *

■ 22. Section 252.58 is amended by revising paragraph (a)(1) to read as follows:

§ 252.58 Disclosure of stress test results.

(a) *Public disclosure of results*—(1) *In general.* A covered company must publicly disclose a summary of the results of the stress test required under § 252.54 within the period that is 15 calendar days after the Board publicly discloses the results of its supervisory stress test of the covered company pursuant to § 252.46(c), unless that time is extended by the Board in writing.

* * * * *

Subpart L—[Removed and Reserved]

■ 23. Remove and reserve subpart L, consisting of §§ 252.120 through 252.122.

■ 24. Revise the heading for subpart M to read as follows.

Subpart M—Risk Committee Requirement for Foreign Banking Organizations With Total Consolidated Assets of at Least $50 Billion but Less Than $100 Billion

■ 25. In § 252.131, revise paragraphs (a) and (c) to read as follows:

§ 252.131 Applicability.

(a) *General applicability.* A foreign banking organization with total consolidated assets of at least $50 billion but less than $100 billion must comply with the risk-committee requirements set forth in this subpart beginning on the first day of the ninth quarter following the date on which its total consolidated assets equal or exceed $50 billion.

* * * * *

(c) *Cessation of requirements.* A foreign banking organization will remain subject to the risk-committee requirements of this section until the earlier of the date on which:

(1) Its reported total consolidated assets on the FR Y–7 are below $50 billion for each of four consecutive calendar quarters; and

(2) It becomes subject to the requirements of subpart N or subpart O of this part.

* * * * *

■ 26. In § 252.132 revise the section heading, paragraph (a) introductory text, and paragraph (d) to read as follows:

§ 252.132 Risk-committee requirements for foreign banking organizations with total consolidated assets of $50 billion or more but less than $100 billion.

(a) *U.S. risk committee certification.* A foreign banking organization with total consolidated assets of at least $50 billion but less than $100 billion, must, on an annual basis, certify to the Board that it maintains a committee of its global board of directors (or equivalent thereof), on a standalone basis or as part of its enterprise-wide risk committee (or equivalent thereof) that:

* * * * *

(d) *Noncompliance with this section.* If a foreign banking organization does not satisfy the requirements of this section, the Board may impose requirements, conditions, or restrictions relating to the activities or business operations of the combined U.S. operations of the foreign banking organization. The Board will coordinate with any relevant State or Federal regulator in the implementation of such requirements, conditions, or restrictions. If the Board determines to impose one or more requirements, conditions, or restrictions under this paragraph, the Board will notify the organization before it applies any requirement, condition or restriction, and describe the basis for imposing such requirement, condition, or restriction. Within 14 calendar days of receipt of a notification under this paragraph, the company may request in writing that the Board reconsider the requirement, condition, or restriction. The Board will respond in writing to the organization's request for reconsideration prior to applying the requirement, condition, or restriction.

Subpart N—Enhanced Prudential Standards for Foreign Banking Organizations With Total Consolidated Assets of $100 Billion or More but Combined U.S. Assets of Less Than $100 Billion

■ 27. Revise the heading of subpart N to read as set forth above.

■ 28. Revise § 252.140 to read as follows:

§ 252.140 Scope.

This subpart applies to foreign banking organizations with total consolidated assets of $100 billion or more, but combined U.S. assets of less than $100 billion.

■ 29. In § 252.142, revise paragraph (a), add paragraph (b)(3), and revise paragraph (c) to read as follows:

§ 252.142 Applicability.

(a) *General applicability.* A foreign banking organization with total consolidated assets of $100 billion or more and combined U.S. assets of less than $100 billion must:

(1) Comply with the capital stress testing, risk-management and risk committee requirements set forth in this subpart beginning no later than on the first day of the ninth quarter the date on which its total consolidated assets equal or exceed $100 billion; and

(2) Comply with the risk-based and leverage capital requirements and liquidity risk-management requirements set forth in this subpart beginning no later than on the first day of the ninth quarter following the date on which its total consolidated assets equal or exceed $250 billion; and

(3) Comply with the U.S. intermediate holding company requirement set forth in § 252.147 beginning no later than on the first day of the ninth quarter following the date on which its U.S. non-branch assets equal or exceed $50 billion.

(b) * * *

(3) *U.S. non-branch assets.* U.S. non-branch assets are equal to the sum of the consolidated assets of each top-tier U.S. subsidiary of the foreign banking organization (excluding any section 2(h)(2) company and DPC branch subsidiary, if applicable).

(i) For purposes of this subpart, U.S. non-branch assets of a foreign banking organization are calculated as the average of the sum of the total consolidated assets of the top-tier U.S. subsidiaries of the foreign banking organization (excluding any section 2(h)(2) company and DPC branch subsidiary) for the four most recent calendar quarters, as reported to the Board on the FR Y–7Q, or, if the foreign banking organization has not reported this information on the FR Y–7Q for each of the four most recent calendar quarters, the average for the most recent quarter or consecutive quarters as reported on the FR Y–7Q.

(ii) In calculating U.S. non-branch assets, a foreign banking organization must reduce its U.S. non-branch assets calculated under this paragraph by the amount corresponding to balances and transactions between a top-tier U.S. subsidiary and any other top-tier U.S. subsidiary (excluding any 2(h)(2) company or DPC branch subsidiary) to the extent such items are not already eliminated in consolidation.

(iii) U.S. non-branch assets are measured on the as-of date of the most recent FR Y–7Q used in the calculation of the average.

(c) *Cessation of requirements*—(1) *Enhanced prudential standards applicable to the foreign banking organization.* A foreign banking organization will remain subject to the requirements set forth in this subpart until its reported total consolidated assets on the FR Y–7Q are below $100 billion for each of four consecutive calendar quarters, or it becomes subject to the requirements of subpart O of this part.

(2) *Intermediate holding company requirement.* A foreign banking organization will remain subject to the U.S. intermediate holding company requirement set forth in § 252.147 until the sum of the total consolidated assets of the top-tier U.S. subsidiaries of the foreign banking organization (excluding any section 2(h)(2) company and DPC branch subsidiary) is below $50 billion for each of four consecutive calendar quarters, or it becomes subject to the U.S. intermediate holding company requirements of subpart O of this part.

■ 30. In § 252.143, revise the section heading and paragraphs (a)(1) introductory text, (b), and (c) to read as follows:

§ 252.143 Risk-based and leverage capital requirements for foreign banking organizations with total consolidated assets of $250 billion or more but combined U.S. assets of less than $100 billion.

(a) * * *

(1) A foreign banking organization with total consolidated assets of $250 billion or more and combined U.S. assets of less than $100 billion must certify to the Board that it meets capital adequacy standards on a consolidated basis established by its home-country supervisor that are consistent with the regulatory capital framework published by the Basel Committee on Banking Supervision, as amended from time to time (Basel Capital Framework).

* * * * *

(b) *Reporting.* A foreign banking organization with total consolidated assets of $250 billion or more and combined U.S. assets of less than $100 billion must provide to the Board reports relating to its compliance with the capital adequacy measures described in paragraph (a) of this section concurrently with filing the FR Y–7Q.

(c) *Noncompliance with the Basel Capital Framework.* If a foreign banking organization does not satisfy the requirements of this section, the Board may impose requirements, conditions, or restrictions, including risk-based or leverage capital requirements, relating to the activities or business operations of the U.S. operations of the organization. The Board will coordinate with any relevant State or Federal regulator in the implementation of such requirements, conditions, or restrictions. If the Board determines to impose one or more requirements, conditions, or restrictions under this paragraph, the Board will notify the organization before it applies any requirement, condition or restriction, and describe the basis for imposing such requirement, condition, or restriction. Within 14 calendar days of receipt of a notification under this paragraph, the organization may request in writing that the Board reconsider the requirement, condition, or restriction. The Board will respond in writing to the organization's request for reconsideration prior to applying the requirement, condition, or restriction.

■ 31. Revise § 252.144 to read as follows:

§ 252.144 Risk-management and risk committee requirements for foreign banking organizations with total consolidated assets of $100 billion or more but combined U.S. assets of less than $100 billion.

(a) *Risk-management and risk-committee requirements for foreign banking organizations with combined U.S. assets of less than $50 billion*—(1) *U.S. risk committee certification.* Each foreign banking organization with combined U.S. assets of less than $50 billion must, on an annual basis, certify to the Board that it maintains a committee of its global board of directors (or equivalent thereof), on a standalone basis or as part of its enterprise-wide risk committee (or equivalent thereof) that:

(i) Oversees the risk management policies of the combined U.S. operations of the foreign banking organization; and

(ii) Includes at least one member having experience in identifying, assessing, and managing risk exposures of large, complex firms.

(2) *Timing of certification.* The certification required under paragraph (a) of this section must be filed on an annual basis with the Board concurrently with the FR Y–7.

(b) *Risk-management and risk committee requirements for foreign banking organizations with combined U.S. assets of more than $50 billion but less than $100 billion*—(1) *U.S. risk committee*—(i) *General.* Each foreign banking organization with combined U.S. assets of more than $50 billion but less than $100 billion must maintain a U.S. risk committee that approves and periodically reviews the risk management policies of the combined U.S. operations of the foreign banking organization and oversees the risk-management framework of such combined U.S. operations.

(ii) *Risk-management framework.* The foreign banking organization's risk-management framework for its combined U.S. operations must be commensurate with the structure, risk profile, complexity, activities, and size of its combined U.S. operations and consistent with its enterprise-wide risk management policies. The framework must include:

(A) Policies and procedures establishing risk-management governance, risk-management procedures, and risk-control infrastructure for the combined U.S. operations of the foreign banking organization; and

(B) Processes and systems for implementing and monitoring compliance with such policies and procedures, including:

(*1*) Processes and systems for identifying and reporting risks and risk-management deficiencies, including regarding emerging risks, on a combined U.S. operations basis and ensuring effective and timely implementation of actions to address emerging risks and risk-management deficiencies;

(*2*) Processes and systems for establishing managerial and employee responsibility for risk management of the combined U.S. operations;

(*3*) Processes and systems for ensuring the independence of the risk-management function of the combined U.S. operations; and

(*4*) Processes and systems to integrate risk management and associated controls with management goals and the compensation structure of the combined U.S. operations.

(iii) *Placement of the U.S. risk committee.* (A) A foreign banking organization that conducts its operations in the United States solely through a U.S. intermediate holding company must maintain its U.S. risk committee as a committee of the board of directors of its U.S. intermediate holding company (or equivalent thereof).

(B) A foreign banking organization that conducts its operations through U.S. branches or U.S. agencies (in addition to through its U.S. intermediate holding company, if any) may maintain its U.S. risk committee either:

(*1*) As a committee of the global board of directors (or equivalent thereof), on a standalone basis or as a joint committee with its enterprise-wide risk committee (or equivalent thereof); or

(*2*) As a committee of the board of directors of its U.S. intermediate holding company (or equivalent thereof), on a standalone basis or as a joint committee with the risk committee of its U.S. intermediate holding company required pursuant to § 252.147(e)(3).

(iv) *Corporate governance requirements.* The U.S. risk committee must meet at least quarterly and otherwise as needed, and must fully document and maintain records of its proceedings, including risk-management decisions.

(v) *Minimum member requirements.* The U.S. risk committee must:

(A) Include at least one member having experience in identifying, assessing, and managing risk exposures of large, complex financial firms; and

(B) Have at least one member who:

(*1*) Is not an officer or employee of the foreign banking organization or its affiliates and has not been an officer or employee of the foreign banking organization or its affiliates during the previous three years; and

(*2*) Is not a member of the immediate family, as defined in § 225.41(b)(3) of the Board's Regulation Y (12 CFR 225.41(b)(3)), of a person who is, or has been within the last three years, an executive officer, as defined in § 215.2(e)(1) of the Board's Regulation O

(12 CFR 215.2(e)(1)) of the foreign banking organization or its affiliates.

(2) [Reserved]

(c) *U.S. chief risk officer*—(1) *General.* A foreign banking organization with combined U.S. assets of more than $50 billion but less than $100 billion or its U.S. intermediate holding company, if any, must appoint a U.S. chief risk officer with experience in identifying, assessing, and managing risk exposures of large, complex financial firms.

(2) *Responsibilities.* (i) The U.S. chief risk officer is responsible for overseeing:

(A) The measurement, aggregation, and monitoring of risks undertaken by the combined U.S. operations;

(B) The implementation of and ongoing compliance with the policies and procedures for the foreign banking organization's combined U.S. operations set forth in paragraph (b)(1)(ii)(A) of this section and the development and implementation of processes and systems set forth in paragraph (b)(1)(ii)(B) of this section; and

(C) The management of risks and risk controls within the parameters of the risk-control framework for the combined U.S. operations, and the monitoring and testing of such risk controls.

(ii) The U.S. chief risk officer is responsible for reporting risks and risk-management deficiencies of the combined U.S. operations, and resolving such risk-management deficiencies in a timely manner.

(3) *Corporate governance and reporting.* The U.S. chief risk officer must:

(i) Receive compensation and other incentives consistent with providing an objective assessment of the risks taken by the combined U.S. operations of the foreign banking organization;

(ii) Be employed by and located in the U.S. branch, U.S. agency, U.S. intermediate holding company, if any, or another U.S. subsidiary;

(iii) Report directly to the U.S. risk committee and the global chief risk officer or equivalent management official (or officials) of the foreign banking organization who is responsible for overseeing, on an enterprise-wide basis, the implementation of and compliance with policies and procedures relating to risk-management governance, practices, and risk controls of the foreign banking organization, unless the Board approves an alternative reporting structure based on circumstances specific to the foreign banking organization;

(iv) Regularly provide information to the U.S. risk committee, global chief risk officer, and the Board regarding the nature of and changes to material risks undertaken by the foreign banking organization's combined U.S. operations, including risk-management deficiencies and emerging risks, and how such risks relate to the global operations of the foreign banking organization; and

(v) Meet regularly and as needed with the Board to assess compliance with the requirements of this section.

(d) *Responsibilities of the foreign banking organization.* The foreign banking organization must take appropriate measures to ensure that its combined U.S. operations implement the risk management policies overseen by the U.S. risk committee described in paragraphs (a) or (b) of this section, and its combined U.S. operations provide sufficient information to the U.S. risk committee to enable the U.S. risk committee to carry out the responsibilities of this subpart.

(e) *Noncompliance with this section.* If a foreign banking organization does not satisfy the requirements of this section, the Board may impose requirements, conditions, or restrictions relating to the activities or business operations of the combined U.S. operations of the foreign banking organization. The Board will coordinate with any relevant State or Federal regulator in the implementation of such requirements, conditions, or restrictions. If the Board determines to impose one or more requirements, conditions, or restrictions under this paragraph, the Board will notify the organization before it applies any requirement, condition, or restriction, and describe the basis for imposing such requirement, condition, or restriction. Within 14 calendar days of receipt of a notification under this paragraph, the organization may request in writing that the Board reconsider the requirement, condition, or restriction. The Board will respond in writing to the organization's request for reconsideration prior to applying the requirement, condition, or restriction.

■ 32. In § 252.145, revise the section heading and paragraph (a) to read as follows:

§ 252.145 Liquidity risk-management requirements for foreign banking organizations with total consolidated assets of $250 billion or more but combined U.S. assets of less than $100 billion.

(a) A foreign banking organization with total consolidated assets of $250 billion or more and combined U.S. assets of less than $100 billion must report to the Board on an annual basis the results of an internal liquidity stress test for either the consolidated operations of the foreign banking organization or the combined U.S. operations of the foreign banking organization. Such liquidity stress test must be conducted consistently with the Basel Committee principles for liquidity risk management and must incorporate 30-day, 90-day, and one-year stress-test horizons. The ''Basel Committee principles for liquidity risk management'' means the document titled ''Principles for Sound Liquidity Risk Management and Supervision'' (September 2008) as published by the Basel Committee on Banking Supervision, as supplemented and revised from time to time.

* * * * *

■ 33. In § 252.146, revise the section heading and paragraphs (b)(1) introductory text, (b)(2)(i), and (c)(1)(ii) and (iii) to read as follows:

§ 252.146 Capital stress testing requirements for foreign banking organizations with total consolidated assets of $100 billion or more but combined U.S. assets of less than $100 billion.

* * * * *

(b) *In general.* (1) A foreign banking organization with total consolidated assets of more than $100 billion and combined U.S. assets of less than $100 billion must:

* * * * *

(2) * * *

(i) A supervisory capital stress test conducted by the foreign banking organization's home-country supervisor or an evaluation and review by the foreign banking organization's home-country supervisor of an internal capital adequacy stress test conducted by the foreign banking organization, according to the frequency specified in the following paragraphs (b)(2)(i)(A) and (B):

(A) If the foreign banking organization has total consolidated assets of $250 billion or more, on at least an annual basis; or

(B) If the foreign banking organization has total consolidated assets of less than $250 billion, at least biennially; and

* * * * *

(c) * * *

(1) * * *

(ii) Conduct a stress test of its U.S. subsidiaries to determine whether those subsidiaries have the capital necessary to absorb losses as a result of adverse economic conditions, according to the frequency specified in the following paragraphs (c)(1)(ii)(A) and (B):

(A) If the foreign banking organization has total consolidated assets of $250 billion or more, on at least an annual basis; or

(B) If the foreign banking organization has total consolidated assets of less than $250 billion, at least biennially; and

(iii) Report a summary of the results of the stress test to the Board that includes a description of the types of risks included in the stress test, a description of the conditions or scenarios used in the stress test, a summary description of the methodologies used in the stress test, estimates of aggregate losses, pre-provision net revenue, total loan loss provisions, net income before taxes and pro forma regulatory capital ratios required to be computed by the home-country supervisor of the foreign banking organization and any other relevant capital ratios, and an explanation of the most significant causes for any changes in regulatory capital ratios.

* * * * *

■ 34. Add § 252.147 to read as follows:

§ 252.147 U.S. intermediate holding company requirement for foreign banking organizations with combined U.S. assets of less than $100 billion but U.S. non-branch assets of $50 billion or more.

(a) *Requirement to form a U.S. intermediate holding company.* (1) *Formation.* A foreign banking organization with U.S. non-branch assets of $50 billion or more must establish a U.S. intermediate holding company, or designate an existing subsidiary that meets the requirements of paragraph (a)(2) of this section, as its U.S. intermediate holding company.

(2) *Structure.* The U.S. intermediate holding company must be:

(i) Organized under the laws of the United States, any one of the fifty states of the United States, or the District of Columbia; and

(ii) Be governed by a board of directors or managers that is elected or appointed by the owners and that operates in an equivalent manner, and has equivalent rights, powers, privileges, duties, and responsibilities, to a board of directors of a company chartered as a corporation under the laws of the United States, any one of the fifty states of the United States, or the District of Columbia.

(3) *Notice.* Within 30 days of establishing or designating a U.S. intermediate holding company under this section, a foreign banking organization must provide to the Board:

(i) A description of the U.S. intermediate holding company, including its name, location, corporate form, and organizational structure;

(ii) A certification that the U.S. intermediate holding company meets the requirements of this section; and

(iii) Any other information that the Board determines is appropriate.

(b) *Holdings and regulation of the U.S. intermediate holding company*—(1) *General.* Subject to paragraph (c) of this section, a foreign banking organization that is required to form a U.S. intermediate holding company under paragraph (a) of this section must hold its entire ownership interest in any U.S. subsidiary (excluding each section 2(h)(2) company or DPC branch subsidiary, if any) through its U.S. intermediate holding company.

(2) *Reporting.* Each U.S. intermediate holding company shall submit information in the manner and form prescribed by the Board.

(3) *Examinations and inspections.* The Board may examine or inspect any U.S. intermediate holding company and each of its subsidiaries and prepare a report of their operations and activities.

(4) *Global systemically important banking organizations.* For purposes of this part, a top-tier foreign banking organization with U.S. non-branch assets that equal or exceed $50 billion is a global systemically important foreign banking organization if any of the following conditions are met:

(i) The top-tier foreign banking organization determines, pursuant to paragraph (b)(6) of this section, that the top-tier foreign banking organization has the characteristics of a global systemically important banking organization under the global methodology; or

(ii) The Board, using information available to the Board, determines:

(A) That the top-tier foreign banking organization would be a global systemically important banking organization under the global methodology;

(B) That the top-tier foreign banking organization, if it were subject to the Board's Regulation Q, would be identified as a global systemically important BHC under 12 CFR 217.402 of the Board's Regulation Q; or

(C) That the U.S. intermediate holding company, if it were subject to 12 CFR 217.402 of the Board's Regulation Q, would be identified as a global systemically important BHC.

(5) *Notice.* Each top-tier foreign banking organization that controls a U.S. intermediate holding company shall submit to the Board by January 1 of each calendar year through the U.S. intermediate holding company:

(i) Notice of whether the home-country supervisor (or other appropriate home country regulatory authority) of the top-tier foreign banking organization of the U.S. intermediate holding company has adopted standards consistent with the global methodology; and

(ii) Notice of whether the top-tier foreign banking organization prepares or reports the indicators used by the global methodology to identify a banking organization as a global systemically important banking organization and, if it does, whether the top-tier foreign banking organization has determined that it has the characteristics of a global systemically important banking organization under the global methodology pursuant to paragraph (b)(6) of this section.

(6) *Global systemically important banking organization under the global methodology.* A top-tier foreign banking organization that controls a U.S. intermediate holding company and prepares or reports for any purpose the indicator amounts necessary to determine whether the top-tier foreign banking organization is a global systemically important banking organization under the global methodology must use the data to determine whether the top-tier foreign banking organization has the characteristics of a global systemically important banking organization under the global methodology.

(c) *Alternative organizational structure*—(1) *General.* Upon a written request by a foreign banking organization, the Board may permit the foreign banking organization to establish or designate multiple U.S. intermediate holding companies; use an alternative organizational structure to hold its combined U.S. operations; or not transfer its ownership interests in certain subsidiaries to a U.S. intermediate holding company.

(2) *Factors.* In making a determination under paragraph (c)(1) of this section, the Board may consider whether applicable law would prohibit the foreign banking organization from owning or controlling one or more of its U.S. subsidiaries through a single U.S. intermediate holding company, or whether circumstances otherwise warrant an exception based on the foreign banking organization's activities, scope of operations, structure, or similar considerations.

(3) *Request*—(i) *Contents.* A request submitted under this section must include an explanation of why the request should be granted and any other information required by the Board.

(ii) *Timing.* The Board shall act on a request for an alternative organizational structure within 90 days of receipt of a complete request, unless the Board provides notice to the company that it is extending the period for action.

(4) *Conditions.* The Board may grant relief under this section upon such conditions as the Board deems appropriate, including, but not limited to, requiring the U.S. operations of the

foreign banking organization to comply with additional enhanced prudential standards, or requiring the foreign banking organization to enter into supervisory agreements governing such alternative organizational structure.

(d) *Modifications.* The Board may modify the application of any section of this subpart to a foreign banking organization that is required to form a U.S. intermediate holding company or to such U.S. intermediate holding company if appropriate to accommodate the organizational structure of the foreign banking organization or characteristics specific to such foreign banking organization and such modification is appropriate and consistent with the capital structure, size, complexity, risk profile, scope of operations, or financial condition of each U.S. intermediate holding company, safety and soundness, and the financial stability mandate of section 165 of the Dodd-Frank Act.

(e) *Enhanced prudential standards for U.S. intermediate holding companies*—(1) *Capital requirements for a U.S. intermediate holding company.* (i)(A) A U.S. intermediate holding company must comply with 12 CFR part 217, other than subpart E of 12 CFR part 217, in the same manner as a bank holding company.

(B) A U.S. intermediate holding company may choose to comply with subpart E of 12 CFR part 217.

(ii) A U.S. intermediate holding company must comply with capital adequacy standards beginning on the date it is required to established under this subpart, or if the U.S. intermediate holding company is subject to capital adequacy standards on the date that the foreign banking organization becomes subject to § 252.142(a)(3), on the date that the foreign banking organization becomes subject to this subpart.

(2) *Risk-management and risk committee requirements*—(i) *General.* A U.S. intermediate holding company must establish and maintain a risk committee that approves and periodically reviews the risk management policies and oversees the risk-management framework of the U.S. intermediate holding company. The risk committee must be a committee of the board of directors of the U.S. intermediate holding company (or equivalent thereof). The risk committee may also serve as the U.S. risk committee for the combined U.S. operations required pursuant to § 252.144(b).

(ii) *Risk-management framework.* The U.S. intermediate holding company's risk-management framework must be commensurate with the structure, risk profile, complexity, activities, and size of the U.S. intermediate holding company and consistent with the risk management policies for the combined U.S. operations of the foreign banking organization. The framework must include:

(A) Policies and procedures establishing risk-management governance, risk-management procedures, and risk-control infrastructure for the U.S. intermediate holding company; and

(B) Processes and systems for implementing and monitoring compliance with such policies and procedures, including:

(*1*) Processes and systems for identifying and reporting risks and risk-management deficiencies at the U.S. intermediate holding company, including regarding emerging risks and ensuring effective and timely implementation of actions to address emerging risks and risk-management deficiencies;

(*2*) Processes and systems for establishing managerial and employee responsibility for risk management of the U.S. intermediate holding company;

(*3*) Processes and systems for ensuring the independence of the risk-management function of the U.S. intermediate holding company; and

(*4*) Processes and systems to integrate risk management and associated controls with management goals and the compensation structure of the U.S. intermediate holding company.

(iii) *Corporate governance requirements.* The risk committee of the U.S. intermediate holding company must meet at least quarterly and otherwise as needed, and must fully document and maintain records of its proceedings, including risk-management decisions.

(iv) *Minimum member requirements.* The risk committee must:

(A) Include at least one member having experience in identifying, assessing, and managing risk exposures of large, complex financial firms; and

(B) Have at least one member who:

(*1*) Is not an officer or employee of the foreign banking organization or its affiliates and has not been an officer or employee of the foreign banking organization or its affiliates during the previous three years; and

(*2*) Is not a member of the immediate family, as defined in § 225.41(b)(3) of the Board's Regulation Y (12 CFR 225.41(b)(3)), of a person who is, or has been within the last three years, an executive officer, as defined in § 215.2(e)(1) of the Board's Regulation O (12 CFR 215.2(e)(1)) of the foreign banking organization or its affiliates.

(v) The U.S. intermediate holding company must take appropriate measures to ensure that it implements the risk management policies for the U.S. intermediate holding company and it provides sufficient information to the U.S. risk committee to enable the U.S. risk committee to carry out the responsibilities of this subpart;

(vi) A U.S. intermediate holding company must comply with risk committee and risk management requirements beginning on the date that it is required to established under this subpart or, if the U.S. intermediate holding company is subject to risk committee and risk management requirements on the date that the foreign banking organization becomes subject to § 252.147(a)(3), on the date that the foreign banking organization becomes subject to this subpart.

Subpart O—Enhanced Prudential Standards for Foreign Banking Organizations With Total Consolidated Assets of $100 Billion or More and Combined U.S. Assets of $100 Billion or More

■ 35. Revise § 252.150 to read as follows:

§ 252.150 Scope.

This subpart applies to foreign banking organizations with total consolidated assets of $100 billion or more and combined U.S. assets of $100 billion or more.

■ 36. Revise § 252.152 to read as follows:

§ 252.152 Applicability.

(a) *General applicability.* (1) A foreign banking organization must:

(i) Comply with the requirements of this subpart (other than the U.S. intermediate holding company requirement set forth in § 252.153) beginning on the first day of the ninth quarter following the date on which its combined U.S. assets equal or exceed $100 billion; and

(ii) Comply with the requirement to establish or designate a U.S. intermediate holding company requirement set forth in § 252.153(a) beginning on the first day of the ninth quarter following the date on which its U.S. non-branch assets equal or exceed $50 billion or, if the foreign banking organization has established or designated a U.S. intermediate holding company pursuant to § 252.147, beginning on the first day following the date on which the foreign banking organization's combined U.S. assets equal or exceed $100 billion.

(2) *Changes in requirements following a change in category.* A foreign banking

organization that changes from one category of banking organization described in § 252.5(c) through (e) to another of such categories must comply with the requirements applicable to the new category under this subpart no later than on the first day of the second quarter following the change in the foreign banking organization's category.

(b) *Asset measures*—(1) *Combined U.S. assets.* Combined U.S. assets of a foreign banking organization are equal to the sum of the consolidated assets of each top-tier U.S. subsidiary of the foreign banking organization (excluding any section 2(h)(2) company, if applicable) and the total assets of each U.S. branch and U.S. agency of the foreign banking organization. For purposes of this subpart, ''combined U.S. assets'' are calculated as the average of the total combined assets of U.S. operations for the four most recent consecutive quarters as reported by the foreign banking organization on the FR Y–7Q, or, if the foreign banking organization has not reported this information on the FR Y–7Q for each of the four most recent consecutive quarters, the average of the combined U.S. assets for the most recent quarter or consecutive quarters as reported on the FR Y–7Q. Combined U.S. assets are measured on the as-of date of the most recent FR Y–7Q used in the calculation of the average.

(2) *U.S. non-branch assets.* U.S. non-branch assets are equal to the sum of the consolidated assets of each top-tier U.S. subsidiary of the foreign banking organization (excluding any section 2(h)(2) company and DPC branch subsidiary, if applicable).

(i) For purposes of this subpart, U.S. non-branch assets of a foreign banking organization are calculated as the average of the sum of the total consolidated assets of the top-tier U.S. subsidiaries of the foreign banking organization (excluding any section 2(h)(2) company and DPC branch subsidiary) for the four most recent consecutive quarters, as reported to the Board on the FR Y–7Q, or, if the foreign banking organization has not reported this information on the FR Y–7Q for each of the four most recent consecutive quarters, the average for the most recent quarter or consecutive quarters as reported on the FR Y–7Q.

(ii) In calculating U.S. non-branch assets, a foreign banking organization must reduce its U.S. non-branch assets calculated under this paragraph by the amount corresponding to balances and transactions between a top-tier U.S. subsidiary and any other top-tier U.S. subsidiary (excluding any 2(h)(2) company or DPC branch subsidiary) to the extent such items are not already eliminated in consolidation.

(iii) U.S. non-branch assets are measured on the as-of date of the most recent FR Y–7Q used in the calculation of the average.

(3) *Total consolidated assets.* (i) Total consolidated assets of a foreign banking organization are equal to the consolidated assets of the foreign banking organization. For purposes of this subpart, ''total consolidated assets'' are calculated as the average of the foreign banking organization's total assets for the four most recent calendar quarters as reported by the foreign banking organization on the FR Y–7Q. If the foreign banking organization has not filed the FR Y–7Q for the four most recent calendar quarters, the Board shall use an average of the foreign banking organization's total consolidated assets reported on its most recent two FR Y–7Qs. Total consolidated assets are measured on the as-of date of the most recent FR Y–7Q used in the calculation of the average.

(ii) Total consolidated assets of a U.S. intermediate holding company purposes of this subpart are equal to its consolidated assets, calculated based on the average of the holding company's total consolidated assets in the four most recent quarters as reported quarterly on the FR Y–9C. If the holding company has not filed the FR Y–9C for each of the four most recent calendar quarters, total consolidated assets means the average of its total consolidated assets, as reported on the FR Y–9C, for the most recent quarter or quarters, as applicable. Total consolidated assets are measured on the as-of date of the most recent FR Y–9C used in the calculation of the average to its total consolidated assets, as reported on the FR Y–9C;

(c) *Cessation of requirements*—(1) *Enhanced prudential standards applicable to the foreign banking organization.* Subject to paragraph (c)(2) of this section, a foreign banking organization will remain subject to the applicable requirements of this subpart until its reported combined U.S. assets on the FR Y–7Q are below $100 billion for each of four consecutive calendar quarters.

(2) *Intermediate holding company requirement.* A foreign banking organization will remain subject to the U.S. intermediate holding company requirement set forth in § 252.153 until the sum of the total consolidated assets of the top-tier U.S. subsidiaries of the foreign banking organization (excluding any section 2(h)(2) company and DPC branch subsidiary) is below $50 billion for each of four consecutive calendar quarters, or until the foreign banking organization is subject to subpart N of this part and is in compliance with the U.S. intermediate holding company requirements as set forth in § 252.147.

■ 37. In § 252.153, revise paragraphs (a)(1) and (3) and (c) through (e) to read as follows:

§ 252.153 U.S. intermediate holding company requirement for foreign banking organizations with U.S. non-branch assets of $50 billion or more.

(a) * * *

(1) A foreign banking organization with U.S. non-branch assets of $50 billion or more must establish a U.S. intermediate holding company, or designate an existing subsidiary that meets the requirements of paragraph (a)(2) of this section, as its U.S. intermediate holding company.

* * * * *

(3) *Notice.* Within 30 days of establishing or designating a U.S. intermediate holding company under this section, a foreign banking organization must provide to the Board:

(i) A description of the U.S. intermediate holding company, including its name, location, corporate form, and organizational structure;

(ii) A certification that the U.S. intermediate holding company meets the requirements of this section; and

(iii) Any other information that the Board determines is appropriate.

* * * * *

(c) *Alternative organizational structure*—(1) *General.* Upon a written request by a foreign banking organization, the Board may permit the foreign banking organization to establish or designate multiple U.S. intermediate holding companies; use an alternative organizational structure to hold its combined U.S. operations; or not transfer its ownership interests in certain subsidiaries to a U.S. intermediate holding company.

(2) *Factors.* In making a determination under paragraph (c)(1) of this section, the Board may consider whether applicable law would prohibit the foreign banking organization from owning or controlling one or more of its U.S. subsidiaries through a single U.S. intermediate holding company, or whether circumstances otherwise warrant an exception based on the foreign banking organization's activities, scope of operations, structure, or similar considerations.

(3) *Request*—(i) *Contents.* A request submitted under this section must include an explanation of why the request should be granted and any other information required by the Board.

(ii) *Timing.* The Board shall act on a request for an alternative organizational

structure within 90 days of receipt of a complete request, unless the Board provides notice to the company that it is extending the period for action.

(4) *Conditions.* (i) The Board may grant relief under this section upon such conditions as the Board deems appropriate, including, but not limited to, requiring the U.S. operations of the foreign banking organization to comply with additional enhanced prudential standards, or requiring the foreign banking organization to enter into supervisory agreements governing such alternative organizational structure.

(ii) If the Board permits a foreign banking organization to form two or more U.S. intermediate holding companies under this section, each U.S. intermediate holding company must determine its category pursuant to section 252.5 of this part as though the U.S. intermediate holding companies were a consolidated company.

(d) *Modifications.* The Board may modify the application of any section of this subpart to a foreign banking organization that is required to form a U.S. intermediate holding company or to such U.S. intermediate holding company if appropriate to accommodate the organizational structure of the foreign banking organization or characteristics specific to such foreign banking organization and such modification is appropriate and consistent with the capital structure, size, complexity, risk profile, scope of operations, or financial condition of each U.S. intermediate holding company, safety and soundness, and the financial stability mandate of section 165 of the Dodd-Frank Act.

(e) *Enhanced prudential standards for U.S. intermediate holding companies*—(1) *Capital requirements for a U.S. intermediate holding company.* (i)(A) A U.S. intermediate holding company must comply with 12 CFR part 217, other than subpart E of 12 CFR part 217, in the same manner as a bank holding company.

(B) A U.S. intermediate holding company may choose to comply with subpart E of 12 CFR part 217.

(ii) A U.S. intermediate holding company must comply with capital adequacy standards beginning on the date that it is required to established under this subpart or, if the U.S. intermediate holding company is subject to capital adequacy standards on the date that the foreign banking organization becomes subject to section 252.153(a)(1)(ii), on the date that the foreign banking organization becomes subject to this subpart.

(2) *Capital planning.* (i) A U.S. intermediate holding company with total consolidated assets of $100 billion or more must comply with 12 CFR 225.8 in the same manner as a bank holding company.

(ii) A U.S. intermediate holding company with total consolidated assets of $100 billion or more must comply with 12 CFR 225.8 in accordance with the transition provisions of 12 CFR 225.8 of Regulation Y.

(3) *Risk-management and risk committee requirements*—(i) *General.* A U.S. intermediate holding company must establish and maintain a risk committee that approves and periodically reviews the risk management policies and oversees the risk-management framework of the U.S. intermediate holding company. The risk committee must be a committee of the board of directors of the U.S. intermediate holding company (or equivalent thereof). The risk committee may also serve as the U.S. risk committee for the combined U.S. operations required pursuant to § 252.155(a).

(ii) *Risk-management framework.* The U.S. intermediate holding company's risk-management framework must be commensurate with the structure, risk profile, complexity, activities, and size of the U.S. intermediate holding company and consistent with the risk management policies for the combined U.S. operations of the foreign banking organization. The framework must include:

(A) Policies and procedures establishing risk-management governance, risk-management procedures, and risk-control infrastructure for the U.S. intermediate holding company; and

(B) Processes and systems for implementing and monitoring compliance with such policies and procedures, including:

(*1*) Processes and systems for identifying and reporting risks and risk-management deficiencies at the U.S. intermediate holding company, including regarding emerging risks and ensuring effective and timely implementation of actions to address emerging risks and risk-management deficiencies;

(*2*) Processes and systems for establishing managerial and employee responsibility for risk management of the U.S. intermediate holding company;

(*3*) Processes and systems for ensuring the independence of the risk-management function of the U.S. intermediate holding company; and

(*4*) Processes and systems to integrate risk management and associated controls with management goals and the compensation structure of the U.S. intermediate holding company.

(iii) *Corporate governance requirements.* The risk committee of the U.S. intermediate holding company must meet at least quarterly and otherwise as needed, and must fully document and maintain records of its proceedings, including risk-management decisions.

(iv) *Minimum member requirements.* The risk committee must:

(A) Include at least one member having experience in identifying, assessing, and managing risk exposures of large, complex financial firms; and

(B) Have at least one member who:

(*1*) Is not an officer or employee of the foreign banking organization or its affiliates and has not been an officer or employee of the foreign banking organization or its affiliates during the previous three years; and

(*2*) Is not a member of the immediate family, as defined in § 225.41(b)(3) of the Board's Regulation Y (12 CFR 225.41(b)(3)), of a person who is, or has been within the last three years, an executive officer, as defined in § 215.2(e)(1) of the Board's Regulation O (12 CFR 215.2(e)(1)) of the foreign banking organization or its affiliates.

(v) The U.S. intermediate holding company must take appropriate measures to ensure that it implements the risk management policies for the U.S. intermediate holding company and it provides sufficient information to the U.S. risk committee to enable the U.S. risk committee to carry out the responsibilities of this subpart.

(vi) A U.S. intermediate holding company must comply with risk committee and risk management requirements beginning on the date that it is required to established under this subpart or, if the U.S. intermediate holding company is subject to risk committee and risk management requirements on the date that the foreign banking organization becomes subject to § 252.153(a)(1)(ii), on the date that the foreign banking organization becomes subject to this subpart.

(4) *Liquidity requirements.* (i) A U.S. intermediate holding company must comply with the liquidity risk-management requirements in § 252.156 and conduct liquidity stress tests and hold a liquidity buffer pursuant to § 252.157.

(ii) A U.S. intermediate holding company must comply with liquidity risk-management, liquidity stress test, and liquidity buffer requirements beginning on the date that it is required to established under this subpart.

(5) *Stress test requirements.* (i)(A) A U.S. intermediate holding company

with total consolidated assets of $100 billion or more must comply with the requirements of subpart E of this part in the same manner as a bank holding company;

(B) A U.S. intermediate holding company must comply with the requirements of subpart E beginning the later of:

(*1*) The stress test cycle of the calendar year after the calendar year in which it becomes subject to regulatory capital requirements; or

(*2*) In accordance with the transition provisions of subpart E.

(ii)(A) A Category II U.S. intermediate holding company and a Category III U.S. intermediate holding company must comply with the requirements of subpart F of this part in the same manner as a bank holding company;

(B) A U.S. intermediate holding company must comply with the requirements of subpart F beginning the later of:

(*1*) The stress test cycle of the calendar year after the calendar year in which it becomes subject to regulatory capital requirements; or

(*2*) In accordance with the transition provisions of subpart F.

■ 38. In § 252.154 revise the section heading and paragraphs (a)(1), (b), and (c) to read as follows:

§ 252.154 Risk-based and leverage capital requirements for foreign banking organizations with combined U.S. assets of $100 billion or more.

(a) * * *

(1) A foreign banking organization with combined U.S. assets of $100 billion or more must certify to the Board that it meets capital adequacy standards on a consolidated basis established by its home-country supervisor that are consistent with the regulatory capital framework published by the Basel Committee on Banking Supervision, as amended from time to time (Basel Capital Framework).

* * * * *

(b) *Reporting.* A foreign banking organization with combined U.S. assets of $100 billion or more must provide to the Board reports relating to its compliance with the capital adequacy measures described in paragraph (a) of this section concurrently with filing the FR Y–7Q.

(c) *Noncompliance with the Basel Capital Framework.* If a foreign banking organization does not satisfy the requirements of this section, the Board may impose requirements, conditions, or restrictions relating to the activities or business operations of the U.S. operations of the foreign banking organization. The Board will coordinate with any relevant State or Federal regulator in the implementation of such requirements, conditions, or restrictions. If the Board determines to impose one or more requirements, conditions, or restrictions under this paragraph, the Board will notify the organization before it applies any requirement, condition or restriction, and describe the basis for imposing such requirement, condition, or restriction. Within 14 calendar days of receipt of a notification under this paragraph, the company may request in writing that the Board reconsider the requirement, condition, or restriction. The Board will respond in writing to the organizations request for reconsideration prior to applying the requirement, condition, or restriction.

■ 39. In § 252.155 revise the section heading and paragraphs (a)(1) and (3) and (b)(1) to read as follows:

§ 252.155 Risk-management and risk-committee requirements for foreign banking organizations with combined U.S. assets of $100 billion or more.

(a) * * *

(1) *General.* Each foreign banking organization with combined U.S. assets of $100 billion or more must maintain a U.S. risk committee that approves and periodically reviews the risk management policies of the combined U.S. operations of the foreign banking organization and oversees the risk-management framework of such combined U.S. operations. The U.S. risk committee's responsibilities include the liquidity risk-management responsibilities set forth in § 252.156(a).

* * * * *

(3) *Placement of the U.S. risk committee.* (i) A foreign banking organization that conducts its operations in the United States solely through a U.S. intermediate holding company must maintain its U.S. risk committee as a committee of the board of directors of its U.S. intermediate holding company (or equivalent thereof).

(ii) A foreign banking organization that conducts its operations through U.S. branches or U.S. agencies (in addition to through its U.S. intermediate holding company, if any) may maintain its U.S. risk committee either:

(A) As a committee of the global board of directors (or equivalent thereof), on a standalone basis or as a joint committee with its enterprise-wide risk committee (or equivalent thereof); or

(B) As a committee of the board of directors of its U.S. intermediate holding company (or equivalent thereof), on a standalone basis or as a joint committee with the risk committee of its U.S. intermediate holding company required pursuant to § 252.153(e)(3).

* * * * *

(b) * * *

(1) *General.* A foreign banking organization with combined U.S. assets of $100 billion or more or its U.S. intermediate holding company, if any, must appoint a U.S. chief risk officer with experience in identifying, assessing, and managing risk exposures of large, complex financial firms.

* * * * *

■ 40. In § 252.156, revise the section heading and paragraphs (a)(1), (b)(1) and (2), (b)(3)(i), (b)(4) through (6), (c)(1), (c)(2)(ii), (d)(1), (e)(1), (e)(2)(i)(A) and (C), (e)(2)(ii)(A), (f), (g) introductory text, (g)(1) introductory text, (g)(1)(i), (g)(3) introductory text, (g)(3)(i), (ii) and (iv), and republish (g)(3)(v) to read as follows:

§ 252.156 Liquidity risk-management requirements for foreign banking organizations with combined U.S. assets of $100 billion or more.

(a) * * *

(1) The U.S. risk committee established by a foreign banking organization pursuant to § 252.155(a) (or a designated subcommittee of such committee composed of members of the board of directors (or equivalent thereof)) of the U.S. intermediate holding company or the foreign banking organization, as appropriate must:

* * * * *

(b) * * *

(1) *Liquidity risk.* The U.S. chief risk officer of a foreign banking organization with combined U.S. assets of $100 billion or more must review the strategies and policies and procedures established by senior management of the U.S. operations for managing the risk that the financial condition or safety and soundness of the foreign banking organization's combined U.S. operations would be adversely affected by its inability or the market's perception of its inability to meet its cash and collateral obligations (liquidity risk).

(2) *Liquidity risk tolerance.* The U.S. chief risk officer of a foreign banking organization with combined U.S. assets of $100 billion or more must review information provided by the senior management of the U.S. operations to determine whether the combined U.S. operations are operating in accordance with the established liquidity risk tolerance. The U.S. chief risk officer must regularly, and, at least semi-annually, report to the foreign banking organization's U.S. risk committee and enterprise-wide risk committee, or the equivalent thereof (if any) (or a

designated subcommittee of such committee composed of members of the relevant board of directors (or equivalent thereof)) on the liquidity risk profile of the foreign banking organization's combined U.S. operations and whether it is operating in accordance with the established liquidity risk tolerance for the U.S. operations, and must establish procedures governing the content of such reports.

(3) * * *

(i) The U.S. chief risk officer of a foreign banking organization with combined U.S. assets of $100 billion or more must approve new products and business lines and evaluate the liquidity costs, benefits, and risks of each new business line and each new product offered, managed or sold through the foreign banking organization's combined U.S. operations that could have a significant effect on the liquidity risk profile of the U.S. operations of the foreign banking organization. The approval is required before the foreign banking organization implements the business line or offers the product through its combined U.S. operations. In determining whether to approve the new business line or product, the U.S. chief risk officer must consider whether the liquidity risk of the new business line or product (under both current and stressed conditions) is within the foreign banking organization's established liquidity risk tolerance for its combined U.S. operations.

* * * * *

(4) *Cash-flow projections.* The U.S. chief risk officer of a foreign banking organization with combined U.S. assets of $100 billion or more must review the cash-flow projections produced under paragraph (d) of this section at least quarterly (or more often, if changes in market conditions or the liquidity position, risk profile, or financial condition of the foreign banking organization or the U.S. operations warrant) to ensure that the liquidity risk of the foreign banking organization's combined U.S. operations is within the established liquidity risk tolerance.

(5) *Liquidity risk limits.* The U.S. chief risk officer of a foreign banking organization with combined U.S. assets of $100 billion or more must establish liquidity risk limits as set forth in paragraph (f) of this section and review the foreign banking organization's compliance with those limits at least quarterly (or more often, if changes in market conditions or the liquidity position, risk profile, or financial condition of the U.S. operations of the foreign banking organization warrant).

(6) *Liquidity stress testing.* The U.S. chief risk officer of a foreign banking organization with combined U.S. assets of $100 billion or more must:

(i) Approve the liquidity stress testing practices, methodologies, and assumptions required in § 252.157(a) at least quarterly, and whenever the foreign banking organization materially revises its liquidity stress testing practices, methodologies or assumptions;

(ii) Review the liquidity stress testing results produced under § 252.157(a) of this subpart at least quarterly; and

(iii) Approve the size and composition of the liquidity buffer established under § 252.157(c) of this subpart at least quarterly.

(c) * * *

(1) A foreign banking organization with combined U.S. assets of $100 billion or more must establish and maintain a review function that is independent of the management functions that execute funding for its combined U.S. operations to evaluate the liquidity risk management for its combined U.S. operations.

(2) * * *

(ii) Assess whether the foreign banking organization's liquidity risk management function of its combined U.S. operations complies with applicable laws and regulations, and sound business practices; and

* * * * *

(d) * * *

(1) A foreign banking organization with combined U.S. assets of $100 billion or more must produce comprehensive cash-flow projections for its combined U.S. operations that project cash flows arising from assets, liabilities, and off-balance sheet exposures over, at a minimum, short- and long-term time horizons. The foreign banking organization must update short-term cash-flow projections daily and must update longer-term cash-flow projections at least monthly.

* * * * *

(e) * * *

(1) A foreign banking organization with combined U.S. assets of $100 billion or more must establish and maintain a contingency funding plan for its combined U.S. operations that sets out the foreign banking organization's strategies for addressing liquidity needs during liquidity stress events. The contingency funding plan must be commensurate with the capital structure, risk profile, complexity, activities, size, and the established liquidity risk tolerance for the combined U.S. operations. The foreign banking organization must update the contingency funding plan for its combined U.S. operations at least annually, and when changes to market and idiosyncratic conditions warrant.

(2) * * *

(i) * * *

(A) Identify liquidity stress events that could have a significant impact on the liquidity of the foreign banking organization or its combined U.S. operations;

* * * * *

(C) Identify the circumstances in which the foreign banking organization would implement its action plan described in paragraph (e)(2)(ii)(A) of this section, which circumstances must include failure to meet any minimum liquidity requirement imposed by the Board on the foreign banking organization's combined U.S. operations;

* * * * *

(ii) * * *

(A) Include an action plan that clearly describes the strategies that the foreign banking organization will use to respond to liquidity shortfalls in its combined U.S. operations for identified liquidity stress events, including the methods that the organization or the combined U.S. operations will use to access alternative funding sources;

* * * * *

(f) *Liquidity risk limits*—(1) *Liquidity risk limits for Category II and III foreign banking organizations.* A Category II foreign banking organization or Category III foreign banking organization must monitor sources of liquidity risk and establish limits on liquidity risk, including limits on:

(A) Concentrations in sources of funding by instrument type, single counterparty, counterparty type, secured and unsecured funding, and as applicable, other forms of liquidity risk;

(B) The amount of liabilities that mature within various time horizons; and

(C) Off-balance sheet exposures and other exposures that could create funding needs during liquidity stress events.

(ii) Each limit established pursuant to paragraph (g)(1) of this section must be consistent with the company's established liquidity risk tolerance and must reflect the organization's capital structure, risk profile, complexity, activities, and size.

(2) *Liquidity risk limits for Category IV foreign banking organizations.* A Category IV foreign banking organization must monitor sources of liquidity risk and establish limits on liquidity risk that are consistent with the organization's established liquidity

risk tolerance and that reflect the organization's capital structure, risk profile, complexity, activities, and size.

(g) *Collateral, legal entity, and intraday liquidity risk monitoring.* A foreign banking organization with combined U.S. assets of $100 billion or more must establish and maintain procedures for monitoring liquidity risk as set forth in this paragraph.

(1) *Collateral.* The foreign banking organization must establish and maintain policies and procedures to monitor assets that have been or are available to be pledged as collateral in connection with transactions to which entities in its U.S. operations are counterparties. These policies and procedures must provide that the foreign banking organization:

(i) Calculates all of the collateral positions for its combined U.S. operations according to the frequency specified in paragraphs (g)(1)(i)(A) and (B) or as directed by the Board, specifying the value of pledged assets relative to the amount of security required under the relevant contracts and the value of unencumbered assets available to be pledged:

(A) If the foreign banking organization is not a Category IV foreign banking organization, on a weekly basis; or

(B) If the foreign banking organization is a Category IV foreign banking organization, on a monthly basis;

* * * * *

(3) *Intraday exposure.* The foreign banking organization must establish and maintain procedures for monitoring intraday liquidity risk exposure for its combined U.S. operations that are consistent with the capital structure, risk profile, complexity, activities, and size of the foreign banking organization and its combined U.S. operations. If the foreign banking organization is a Category II foreign banking organization or a Category III foreign banking organization these procedures must address how the management of the combined U.S. operations will:

(i) Monitor and measure expected gross daily inflows and outflows;

(ii) Manage and transfer collateral to obtain intraday credit;

* * * * *

(iv) Manage the issuance of credit to customers where necessary; and

(v) Consider the amounts of collateral and liquidity needed to meet payment systems obligations when assessing the overall liquidity needs of the combined U.S. operations.

■ 41. Amend § 252.157 by:

■ a. Revising the section heading and paragraphs (a)(1)(i) introductory text, (a)(1)(ii) through (iv), (a)(2), and (a)(7)(i) and (ii);

■ b. Adding paragraph (a)(8); and

■ c. Revising paragraphs (b) and (c)(1).

The revisions and addition read as follows:

§ 252.157 Liquidity stress testing and buffer requirements for foreign banking organizations with combined U.S. assets of $100 billion or more.

(a) * * *

(1) * * *

(i) A foreign banking organization with combined U.S. assets of $100 billion or more must conduct stress tests to separately assess the potential impact of liquidity stress scenarios on the cash flows, liquidity position, profitability, and solvency of:

* * * * *

(ii) Each liquidity stress test required under this paragraph (a)(1) must use the stress scenarios described in paragraph (a)(3) of this section and take into account the current liquidity condition, risks, exposures, strategies, and activities of the combined U.S. operations.

(iii) The liquidity stress tests required under this paragraph (a)(1) must take into consideration the balance sheet exposures, off-balance sheet exposures, size, risk profile, complexity, business lines, organizational structure and other characteristics of the foreign banking organization and its combined U.S. operations that affect the liquidity risk profile of the combined U.S. operations.

(iv) In conducting a liquidity stress test using the scenarios described in paragraphs (a)(3)(i) and (iii) of this section, the foreign banking organization must address the potential direct adverse impact of associated market disruptions on the foreign banking organization's combined U.S. operations and the related indirect effect such impact could have on the combined U.S. operations of the foreign banking organization and incorporate the potential actions of other market participants experiencing liquidity stresses under the market disruptions that would adversely affect the foreign banking organization or its combined U.S. operations.

(2) *Frequency.* The foreign banking organization must perform the liquidity stress tests required under paragraph (a)(1) according to the frequency specified in paragraphs (a)(2)(i) and (ii) or as directed by the Board:

(i) If the foreign banking organization is not a Category IV foreign banking organization, at least monthly; or

(ii) If the foreign banking organization is a Category IV foreign banking organization, at least quarterly.

* * * * *

(7) * * *

(i) *Stress test function.* A foreign banking organization with combined U.S. assets of $100 billion or more, within its combined U.S. operations and its enterprise-wide risk management, must establish and maintain policies and procedures governing its liquidity stress testing practices, methodologies, and assumptions that provide for the incorporation of the results of liquidity stress tests in future stress testing and for the enhancement of stress testing practices over time.

(ii) *Controls and oversight.* The foreign banking organization must establish and maintain a system of controls and oversight that is designed to ensure that its liquidity stress testing processes are effective in meeting the requirements of this section. The controls and oversight must ensure that each liquidity stress test appropriately incorporates conservative assumptions with respect to the stress scenario in paragraph (a)(3) of this section and other elements of the stress-test process, taking into consideration the capital structure, risk profile, complexity, activities, size, and other relevant factors of the combined U.S. operations. These assumptions must be approved by U.S. chief risk officer and subject to independent review consistent with the standards set out in § 252.156(c).

* * * * *

(8) *Notice and response.* If the Board determines that a foreign banking organization must conduct liquidity stress tests according to a frequency other than the frequency provided in paragraphs (a)(2)(i) and (ii) of this section, the Board will notify the foreign banking organization before the change in frequency takes effect, and describe the basis for its determination. Within 14 calendar days of receipt of a notification under this paragraph, the foreign banking organization may request in writing that the Board reconsider the requirement. The Board will respond in writing to the organization's request for reconsideration prior to requiring the foreign banking organization to conduct liquidity stress tests according to a frequency other than the frequency provided in paragraphs (a)(2)(i) and (ii) of this section.

(b) *Reporting of liquidity stress tests required by home-country regulators.* A foreign banking organization with combined U.S. assets of $100 billion or more must make available to the Board, in a timely manner, the results of any liquidity internal stress tests and establishment of liquidity buffers required by regulators in its home jurisdiction. The report required under

this paragraph must include the results of its liquidity stress test and liquidity buffer, if required by the laws or regulations implemented in the home jurisdiction, or expected under supervisory guidance.

(c) * * *

(1) *General.* A foreign banking organization with combined U.S. assets of $100 billion or more must maintain a liquidity buffer for its U.S. intermediate holding company, if any, calculated in accordance with paragraph (c)(2) of this section, and a separate liquidity buffer for its U.S. branches and agencies, if any, calculated in accordance with paragraph (c)(3) of this section.

* * * * *

■ 42. In § 252.158, revise the section heading and paragraphs (b)(1) introductory text, (b)(2)(i), (c)(1) introductory text and (c)(2) introductory text to read as follows:

§ 252.158 Capital stress testing requirements for foreign banking organizations with combined U.S. assets of $100 billion or more.

* * * * *

(b) * * *

(1) A foreign banking organization with combined U.S. assets of $100 billion or more and that has a U.S. branch or U.S. agency must:

* * * * *

(2) * * *

(i) A supervisory capital stress test conducted by the foreign banking organization's home-country supervisor or an evaluation and review by the foreign banking organization's home-country supervisor of an internal capital adequacy stress test conducted by the foreign banking organization, according to the frequency specified in paragraphs (b)(2)(A) and (B):

(A) If the foreign banking organization is not a Category IV foreign banking organization, on at least an annual basis; or

(B) If the foreign banking organization is a Category IV foreign banking organization, at least biennially; and

* * * * *

(c) * * *

(1) *In general.* A foreign banking organization with combined U.S. assets of $100 billion or more must report to the Board by January 5 of each calendar year, unless such date is extended by the Board, summary information about its stress-testing activities and results, including the following quantitative and qualitative information:

* * * * *

(2) *Additional information required for foreign banking organizations in a net due from position.* If, on a net basis, the U.S. branches and agencies of a foreign banking organization with combined U.S. assets of $100 billion or more provide funding to the foreign banking organization's non-U.S. offices and non-U.S. affiliates, calculated as the average daily position over a stress test cycle for a given year, the foreign banking organization must report the following information to the Board by January 5 of each calendar year, unless such date is extended by the Board:

* * * * *

Subpart Q—Single-Counterparty Credit Limits

■ 43. Revise § 252.170 to read as follows:

§ 252.170 Applicability and general provisions.

(a) *In general.* (1) This subpart establishes single counterparty credit limits for a covered foreign entity.

(2) For purposes of this subpart:

(i) *Covered foreign entity* means:

(A) A Category II foreign banking organization;

(B) A Category III foreign banking organization;

(C) A foreign banking organization with total consolidated assets that equal or exceed $250 billion with respect to its combined U.S. operations; and

(D) Any U.S. intermediate holding company of a Category II foreign banking organization or a Category III foreign banking organization.

(ii) *Major foreign banking organization* means a foreign banking organization that is a covered foreign entity and meets the requirements of § 252.172(c)(3) through (5).

(b) *Credit exposure limits.* (1) Section 252.172 establishes credit exposure limits for covered foreign entities and major foreign banking organizations.

(2) A covered foreign entity is required to calculate its aggregate net credit exposure, gross credit exposure, and net credit exposure to a counterparty using the methods in this subpart.

(c) *Applicability of this subpart*—(1) *Foreign banking organizations.* (i) A foreign banking organization that is a covered foreign entity as of October 5, 2018, must comply with the requirements of this subpart, including but not limited to § 252.172, beginning on July 1, 2020, unless that time is extended by the Board in writing.

(ii) Notwithstanding paragraph (c)(1)(i) of this section, a foreign banking organization that is a major foreign banking organization as of October 5, 2018, must comply with the requirements of this subpart, including but not limited to § 252.172, beginning on January 1, 2020, unless that time is extended by the Board in writing.

(iii) A foreign banking organization that becomes a covered foreign entity subject to this subpart after October 5, 2018, must comply with the requirements of this subpart beginning on the first day of the ninth calendar quarter after it becomes a covered foreign entity, unless that time is accelerated or extended by the Board in writing.

(2) *U.S. intermediate holding companies.* (i) A U.S. intermediate holding company that is a covered foreign entity as of October 5, 2018, must comply with the requirements of this subpart, including but not limited to § 252.172, beginning on July 1, 2020, unless that time is extended by the Board in writing.

(ii) [Reserved]

(iii) A U.S. intermediate holding company that becomes a covered foreign entity subject to this subpart after October 5, 2018, must comply with the requirements of this subpart beginning on the first day of the ninth calendar quarter after it becomes a covered foreign entity, unless that time is accelerated or extended by the Board in writing.

(d) *Cessation of requirements*—(1) *Foreign banking organizations.* (i) Any foreign banking organization that becomes a covered foreign entity will remain subject to the requirements of this subpart unless and until:

(A) The covered foreign entity is not a Category II foreign banking organization;

(B) The covered foreign entity is not a Category III foreign banking organization; and

(C) Its total consolidated assets fall below $250 billion for each of four consecutive quarters, as reported on the covered foreign entity's FR Y–7Q, effective on the as-of date of the fourth consecutive FR Y–7Q.

(ii) A foreign banking organization that is a covered foreign entity and that has ceased to be a major foreign banking organization for purposes of § 252.172(c) is no longer subject to the requirements of § 252.172(c) beginning on the first day of the calendar quarter following the reporting date on which it ceased to be a major foreign banking organization; provided that the foreign banking organization remains subject to the requirements of this subpart, unless it ceases to be a foreign banking organization that is a covered foreign entity pursuant to paragraph (d)(1)(i) of this section.

(2) *U.S. intermediate holding companies.* (i) Any U.S. intermediate holding company that becomes a covered foreign entity will remain subject to the requirements of this subpart unless and until:

(A) The covered foreign entity is not the subsidiary of a Category II foreign banking organization;

(B) The covered foreign entity is not the subsidiary of a Category III foreign banking organization; or

(C) The covered foreign entity's total consolidated assets fall below $50 billion for each of four consecutive quarters, as reported on the covered foreign entity's FR Y–9C, effective on the as-of date of the fourth consecutive FR Y–9C.

■ 44. Amend § 252.171 by;

■ a. Revising paragraph (f)(1);

■ b. Removing paragraph (aa); and

■ c. Redesignating paragraphs (bb) through (ll) as (aa) through (kk) respectively.

The revision reads as follows:

§ 252.171 Definitions.

* * * * *

(f) * * *

(1) With respect to a natural person, the natural person, and, if the credit exposure of the covered foreign entity to such natural person exceeds 5 percent of its tier 1 capital, the natural person and members of the person's immediate family collectively;

* * * * *

■ 45. Amend § 252.172 by:

■ a. Removing and reserving paragraph (a);

■ b. Revising paragraph (b);

■ c. Removing and reserving paragraph (c)(1); and

■ d. Revising paragraph (c)(2).

The revisions read as follows:

§ 252.172 Credit exposure limits.

* * * * *

(b) *Limit on aggregate net credit exposure for covered foreign entities.* (1) No U.S. intermediate holding company that is a covered foreign entity may have an aggregate net credit exposure to any counterparty that exceeds 25 percent of the tier 1 capital of the U.S. intermediate holding company.

(2) No foreign banking organization that is a covered foreign entity may permit its combined U.S. operations to have aggregate net credit exposure to any counterparty that exceeds 25 percent of the tier 1 capital of the foreign banking organization.

(c) * * *

(2) No major foreign banking organization may permit its combined U.S. operations to have aggregate net credit exposure to any major counterparty that exceeds 15 percent of the tier 1 capital of the major foreign banking organization.

* * * * *

■ 46. Amend § 252.173 by removing and reserving paragraph (b)(1) and revising paragraph (b)(2) to read as follows:

§ 252.173 Gross credit exposure.

* * * * *

(b) * * *

(2) A covered foreign entity must calculate pursuant to § 252.175 its gross credit exposure due to any investment in the debt or equity of, and any credit derivative or equity derivative between the covered foreign entity and a third party where the covered foreign entity is the protection provider and the reference asset is an obligation or equity security of, or equity investment in, a securitization vehicle, investment fund, and other special purpose vehicle that is not an affiliate of the covered foreign entity.

* * * * *

§ 252.175 [Amended]

■ 47. In § 252.175, remove and reserve paragraph (a)(1) to read as follows:

■ 48. In § 252.176 remove and reserve paragraph (a)(1) and revise paragraph (a)(2)(i) to read as follows:

§ 252.176 Aggregation of exposures to more than one counterparty due to economic interdependence or control relationships.

(a) * * *

(2)(i) If a covered foreign entity has an aggregate net credit exposure to any counterparty that exceeds 5 percent of its tier 1 capital, the covered foreign entity must assess its relationship with the counterparty under paragraph (b)(2) of this section to determine whether the counterparty is economically interdependent with one or more other counterparties of the covered foreign entity and under paragraph (c)(1) of this section to determine whether the counterparty is connected by a control relationship with one or more other counterparties.

* * * * *

■ 49. Amend § 252.178 by:

■ a. Revising paragraph (a)(1);

■ b. Removing and reserving paragraph (a)(2); and

■ c. Revising paragraph (c)(2).

The revisions read as follows:

§ 252.178 Compliance.

(a) * * *

(1) Using all available data, including any data required to be maintained or reported to the Federal Reserve under this subpart, a covered foreign entity must comply with the requirements of this subpart on a daily basis at the end of each business day.

* * * * *

(c) * * *

(2) A covered foreign entity may request a special temporary credit exposure limit exemption from the Board. The Board may grant approval for such exemption in cases where the Board determines that such credit transactions are necessary or appropriate to preserve the safety and soundness of the covered foreign entity or U.S. financial stability. In acting on a request for an exemption, the Board will consider the following:

(i) A decrease in the covered foreign entity's tier 1 capital;

(ii) The merger of the covered foreign entity with another covered foreign entity;

(iii) A merger of two counterparties; or

(iv) An unforeseen and abrupt change in the status of a counterparty as a result of which the covered foreign entity's credit exposure to the counterparty becomes limited by the requirements of this section; or

(v) Any other factor(s) the Board determines, in its discretion, is appropriate.

* * * * *

By order of the Board of Governors of the Federal Reserve System.

Ann Misback,

Secretary of the Board.

[FR Doc. 2019–07895 Filed 5–14–19; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL REGISTER

Vol. 84 Wednesday,

No. 94 May 15, 2019

Part IV

The President

Proclamation 9882—National Charter Schools Week, 2019
Proclamation 9883—National Defense Transportation Day and Transportation Week, 2019
Proclamation 9884—Peace Officers Memorial Day and Police Week, 2019
Proclamation 9885—Mother's Day, 2019
Notice of May 13, 2019—Continuation of the National Emergency With Respect to Yemen

Federal Register
Vol. 84, No. 94
Wednesday, May 15, 2019

Presidential Documents

Title 3—

The President

Proclamation 9882 of May 10, 2019

National Charter Schools Week, 2019

By the President of the United States of America

A Proclamation

During National Charter Schools Week, we recognize the important contributions public charter schools make by providing American families with the freedom to choose high-quality education options that meet their children's needs. For more than a quarter century, charter schools—tuition-free public schools of choice—have been incubators of educational innovations, while being accountable for student achievement and outcomes. Today, what began as a grassroots movement now flourishes in 44 States, the District of Columbia, Guam, and Puerto Rico, with more than 7,000 schools serving approximately 3.2 million students.

Charter schools empower families to pursue the right educational fit for their children, helping ensure that there are paths to the American Dream that match the needs of students striving to achieve it. The unique needs of students, rather than address or family income, should determine where they learn. My Administration is committed to reducing the outsized Federal footprint in education and to empowering families, as well as State and local policymakers and educators, with the flexibility to adapt to student needs.

Public charter schools work for students, teachers, and communities. The Center for Research on Education Outcomes found that charter schools better serve low-income students, minority students, and students learning English than neighboring public schools. The success of our Nation's public charter schools in helping students of all backgrounds thrive and in addressing the needs of local education confirms what Americans have always known: those who are closest to students know best how to prepare them to reach their full potential.

Nothing better proves the value of and need for charter schools than the ever-growing demand from students and families. Although charter school enrollment has increased at least sevenfold in the past 18 years, more than one million students remain on charter school waiting lists today. A recent survey found that 59 percent of parents would prefer to send their child to a different type of school than the one to which they have been assigned.

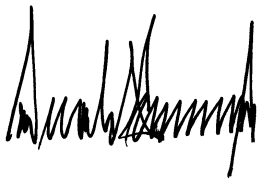
Because of the success of and demand for public charter schools, each year since taking office, I have proposed to increase and improve funding for them as a key part of my Administration's ambitious efforts to expand every family's access to all types of high-quality education opportunities. In my fiscal year 2020 budget request, I called on the Congress to increase funding for the Federal Charter Schools Program to $500 million, an increase of $60 million over the current level.

No matter where they live or how much their parents earn, all children deserve access to education that enriches their minds. This week, we celebrate all the students, families, teachers, administrators, and community leaders who support public charter schools and education freedom. We reaffirm our commitment to expanding every family's access to high-quality

education opportunities and to supporting educational excellence and innovation for the benefit of every student and for the continued prosperity of our great Nation.

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 May 12 through May 18, 2019, as National Charter Schools Week. I commend our Nation's successful public charter schools, teachers, and administrators, and I call on States and communities to help students and empower parents and families by supporting high-quality charter schools as an important school choice option.

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



[FR Doc. 2019–10255
Filed 5–14–19; 11:15 am]
Billing code 3295–F9–P

Presidential Documents

Proclamation 9883 of May 10, 2019

National Defense Transportation Day and National Transportation Week, 2019

By the President of the United States of America

A Proclamation

The capability to move and travel freely and efficiently by land, air, and sea is critical to our economic strength, vital to our national defense, and essential to the American way of life. On National Defense Transportation Day and during National Transportation Week, we recognize the dedicated professionals who ensure our transportation infrastructure system is safe, convenient, reliable, and fully prepared to support our national defense.

America's infrastructure systems help sustain our competitive edge and military readiness. After many decades of constant and increasing use, much of our Nation's infrastructure has fallen into disrepair. More than 25 percent of our Nation's bridges are structurally deficient; more than 20 percent of our roads are in poor condition; and drivers lose nearly $160 billion annually because of congestion and delays. If left unaddressed by 2025, our Nation's deteriorating infrastructure will drain our economy of nearly 2.5 million jobs and $4 trillion in gross domestic product.

As a Nation, we cannot afford to wait additional decades to address these critical issues and fix our transportation system. Our country forged its path to global economic dominance through an efficient and hard-nosed determination to build. In 1933, we summoned our most gifted engineers and workers to construct the Golden Gate Bridge; they finished it in 4 years. Three years earlier, in 1930, construction began on the Empire State Building; it took about 1 year to complete. Decades of bureaucratic and regulatory roadblocks have sapped us of that zeal to build. These self-imposed obstacles regularly stall and delay even the most important of infrastructure projects. The environmental review process for some improvement projects can take more than 20 years to complete.

Improving our infrastructure will enhance quality of life, productivity, and the competitiveness of American workers and families. For this reason, I have called on the Congress to pass legislation that provides the funding required to rebuild our roads and bridges. These funds will catalyze new State and local investments in infrastructure, and focus resources on rural communities. By repairing our existing infrastructure and by building bold new projects, we will reduce traffic congestion, improve road conditions, and boost commerce throughout our country.

We cannot fully tackle our infrastructure needs until we commit to meaningful regulatory reform. Last year, we made important strides by establishing a coordinated and timely environmental review process through the One Federal Decision Memorandum of Understanding. This policy sets a Government-wide goal of completing Federal environmental reviews for major infrastructure projects in 2 years—not 10 or 20. We will move more quickly, ensuring sound environmental, community, and economic outcomes in the process.

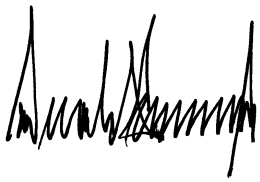
Finally, maintaining and improving our infrastructure is a matter of economic and national security. It is central to our ability to manufacture and export

goods, execute emergency responses, achieve energy independence, and secure our Nation. It sustains our military readiness and capabilities, facilitating the safe and expeditious movement of our troops and the transport of their supplies and equipment to locations in America and around the world. Our men and women in uniform deserve to be safe and well-stocked as they put their lives on the line to defend our freedoms and way of life.

To recognize the men and women who work in the transportation industry and who contribute to our Nation's well-being and defense, the Congress, by joint resolution approved May 16, 1957, as amended (36 U.S.C. 120), has designated the third Friday in May of each year as ''National Defense Transportation Day,'' and, by joint resolution approved May 14, 1962, as amended (36 U.S.C. 133), has declared that the week during which that Friday falls be designated as ''National Transportation Week.''

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, do hereby proclaim Friday, May 17, 2019, as National Defense Transportation Day and May 12 through May 18, 2019, as National Transportation Week. I encourage all Americans to celebrate these observances with appropriate ceremonies and activities to learn more about how our transportation system contributes to the security of our citizens and the prosperity of our Nation.

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



[FR Doc. 2019–10257
Filed 5–14–19; 11:15 am]
Billing code 3295–F9–P

Presidential Documents

Proclamation 9884 of May 10, 2019

Peace Officers Memorial Day and Police Week, 2019

By the President of the United States of America

A Proclamation

On Peace Officers Memorial Day and throughout Police Week, we express our unending gratitude to our Nation's law enforcement officers. Those brave men and women selflessly confront danger to protect our families and defend our communities. We also honor those in blue who have been killed or disabled in the line of duty. We are especially mindful of the tremendous sacrifices of the 106 heroes who laid down their lives last year while protecting their communities.

My Administration is working on several fronts to enhance the health and safety of our Nation's law enforcement officers. The Department of Justice (DOJ) continues to promote initiatives that provide funding for bulletproof vests, active shooter training, the National Blue Alert System, and other programs that bolster the physical and mental health of those who protect us. We are making surplus military equipment available to law enforcement agencies. We are implementing the Law Enforcement Mental Health and Wellness Act, which I signed into law last year, to improve the delivery of and access to mental health and wellness services. And when tragedy does strike, DOJ's Public Safety Officers' Benefits Program stands ready and able to assist the families of the fallen and catastrophically injured.

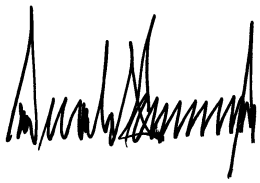
The best way we can support law enforcement is to reduce violent crime. My Administration has secured $50 million in funding for one of the most effective crime prevention strategies in America, the Project Safe Neighborhoods initiative. This results-based and data-proven initiative is reducing violent crime nationwide by leveraging local law enforcement and community partnerships, along with strategic enforcement efforts, to arrest the most violent criminals in the most violent locations. Through the combined efforts of all levels of law enforcement, violent crime in our country is falling.

Our Nation's law enforcement officers serve with courage, dedication, and strength. They fearlessly enforce our laws, even at the risk of personal peril, safeguarding our property, our liberty, and our lives. We owe them, and their families, our full and enduring support.

By a joint resolution approved October 1, 1962, as amended (76 Stat. 676), and by Public Law 103–322, as amended (36 U.S.C. 136–137), the President has been authorized and requested to designate May 15 of each year as ''Peace Officers Memorial Day'' and the week in which it falls as ''Police Week.''

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, do hereby proclaim May 15, 2019, as Peace Officers Memorial Day and May 12 through May 18, 2019, as Police Week. In humble appreciation of our hardworking law enforcement officers, Melania and I will light the White House in blue on May 15. I call upon all Americans to observe Peace Officers Memorial Day and Police Week with appropriate ceremonies and activities. I also call on the Governors of the States and Territories and officials of other areas subject to the jurisdiction of the United States, to direct that the flag be flown at half-staff on Peace Officers Memorial Day. I further encourage all Americans to display the flag from their homes and businesses on that day.

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



[FR Doc. 2019–10262
Filed 5–14–19; 11:15 am]
Billing code 3295–F9–P

Presidential Documents

Proclamation 9885 of May 10, 2019

Mother's Day, 2019

By the President of the United States of America

A Proclamation

For more than a century, Americans have set aside the second Sunday in May to honor, celebrate, and thank the inspirational mothers in our lives. In 1914, the Congress, by joint resolution (38 Stat. 770), designated this day as Mother's Day and requested the President to call for its appropriate observance. Today, we recognize mothers everywhere who inspire us to dream big and to never give up.

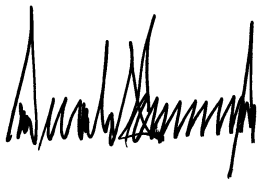
Mothers have always played an integral role in shaping our great Nation. Even before our country was founded, mothers inspired sons and daughters to patriotism and devotion to the ideal of freedom for all. After First Lady Abigail Adams died in 1818, her son, President John Quincy Adams, wrote: ''She had been, during the war of our Revolution, an ardent patriot, and the earliest lesson of unbounded devotion to the cause of their country that her children received was from her.'' Inspirational mothers across America continue to pass on this same lesson, encouraging their children to become leaders in their own families and great citizens in their communities and this Nation.

Even in our lowest moments, mothers see the best in their children. Through their guidance and unwavering love, they prepare us for the challenges of adulthood and provide us with the confidence we need to reach our full potential. They are some of the best examples of everyday heroes, and their consistent devotion to family and grace under pressure too often go overlooked. At any stage in life, we find comfort in knowing that we can call on our mothers and grandmothers or reflect on our wonderful memories of them to find wisdom and strength.

On this Mother's Day, we pay tribute to our mothers, whether we are their children by birth, adoption, or foster care, for their devotion to seeing us lead happy and successful lives. Today, and every day, let us ensure that our mothers know and feel our deep gratitude for the gift of life and for their unmatched sacrifices to strengthen our families and our Nation.

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 May 12, 2019, as Mother's Day. I encourage all Americans to express their love and respect for their mothers or beloved mother figures, whether with us in person or in spirit, and to reflect on the importance of motherhood to the prosperity of our families, communities, and Nation.

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



[FR Doc. 2019–10263
Filed 5–14–19; 11:15 am]
Billing code 3295–F9–P

Presidential Documents

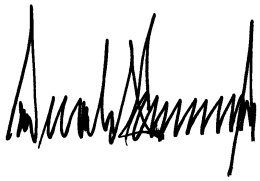
Notice of May 13, 2019

Continuation of the National Emergency With Respect to Yemen

On May 16, 2012, by Executive Order 13611, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of certain former members of the Government of Yemen and others that threaten Yemen's peace, security, and stability. These actions include obstructing the political process in Yemen and blocking implementation of the agreement of November 23, 2011, between the Government of Yemen and those in opposition to it, which provided for a peaceful transition of power that meets the legitimate demands and aspirations of the Yemeni people.

The actions and policies of certain former members of the Government of Yemen and others in threatening Yemen's peace, security, and stability continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on May 16, 2012, to deal with that threat must continue in effect beyond May 16, 2019. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13611.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,

May 13, 2019.

[FR Doc. 2019–10264

Filed 5–14–19; 11:15 am]

Billing code 3295–F9–P

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