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# Presidential Documents

**Title 3—**

## The President

**Proclamation 9896 of May 24, 2019**

## Prayer for Peace, Memorial Day, 2019

**By the President of the United States of America**

**A Proclamation**

Whether on the battlefields of Bunker Hill, on the beaches of Normandy, in the jungles of Vietnam, or in the mountains and deserts of the Middle East, brave Americans of every generation have given their last full measure of devotion in defense of our country, our liberty, and our founding ideals. On Memorial Day, we humbly honor these incredible patriots and firmly renew our abiding commitment to uphold the principles for which they laid down their lives.

As a free people, we have a sacred duty to remember the courageous warriors who have made the ultimate sacrifice to ensure that our great country would endure. It is our responsibility to strive to ensure that their noble acts of dedication to our country and the cause of freedom were not in vain and to comfort the families they have left behind, who bear the heartbreak of their loss. We must ensure that the light of our Republic, and all for which these most honorable Americans willingly died, continues to shine forth brightly into the world. As President Lincoln said in 1863 during the dedication of the Gettysburg National Military Cemetery: ''It is for us the living, rather, to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced.''

As we approach the 75th anniversary of D–Day, we proudly commemorate those heroic and honorable patriots who gave their all for the cause of freedom during some of history's darkest hours. Thousands of selfless members of our Armed Forces perished on the beaches of Normandy. They bravely gave their lives to pave the way for the Allied liberation of Europe and ultimately victory over the forces of evil. Their historic sacrifices and achievements secured the future of humanity and proved America's strength in defending freedom and defeating the enemies of civilization.

Those who rest in the hallowed grounds of our country's national cemeteries laid their lives upon the altar of freedom. Today, as we unite in eternal gratitude for the sacrifices of these extraordinary Americans, let us also offer a prayer for lasting peace. Let us renew our steadfast resolve to work toward a peaceful future, in which the horrors of war are a distant memory and our families, our communities, and our Nation need no longer confront the sorrow and pain of losing our beloved sons and daughters.

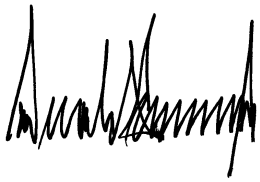
In honor and recognition of all of our fallen heroes, the Congress, by a joint resolution approved May 11, 1950, as amended (36 U.S.C. 116), has requested the President issue a proclamation calling on the people of the United States to observe each Memorial Day as a day of prayer for permanent peace and designating a period on that day when the people of the United States might unite in prayer. The Congress, by Public Law 106–579, has also designated 3:00 p.m. local time on that day as a time for all Americans to observe, in their own way, the National Moment of Remembrance.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, do hereby proclaim Memorial Day, May 27, 2019, as a day of prayer for permanent peace, and I designate the hour beginning in each locality at 11:00 a.m. of that day as a time when people might unite in prayer.

I further ask all Americans to observe the National Moment of Remembrance beginning at 3:00 p.m. local time on Memorial Day.

I also request the Governors of the United States and its Territories, and the appropriate officials of all units of government, to direct the flag be flown at half-staff until noon on this Memorial Day on all buildings, grounds, and naval vessels throughout the United States and in all areas under its jurisdiction and control. I also request the people of the United States to display the flag at half-staff from their homes for the customary forenoon period.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth 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. 2019–11413
Filed 5–29–19; 8:45 am]
Billing code 3295–F9–P

# Presidential Documents

**Memorandum of May 24, 2019**

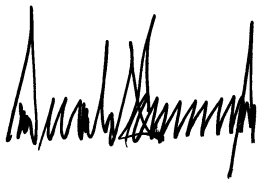
## Delegation of Function Under the Hizballah International Financing Prevention Act of 2015, as Amended

**Memorandum for the Secretary of State [and] the Secretary of the Treasury**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to the Secretary of the Treasury, in consultation with the Secretary of State, the function vested in the President by section 102(d) of the Hizballah International Financing Prevention Act of 2015 (Public Law 114–102), as amended by the Hizballah International Financing Prevention Amendments Act of 2018 (Public Law 115–272) (collectively, the ''Acts'').

The function delegated by this memorandum shall be exercised in coordination with departments and agencies through the National Security Presidential Memorandum-4 process. Any reference in this memorandum to the Acts shall be deemed to be a reference to any future Act that is the same or substantially the same as such provision.

The Secretary of the Treasury is authorized and directed to publish this memorandum in the *Federal Register.*



THE WHITE HOUSE,
*Washington, May 24, 2019*

[FR Doc. 2019–11416
Filed 5–29–19; 8:45 am]
Billing code 4811–33–P

# Presidential Documents

**Memorandum of May 24, 2019**

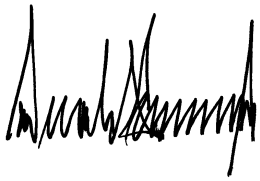
## Revisions to the 2017 Unified Command Plan

**Memorandum for the Secretary of Defense**

Pursuant to my authority as Commander in Chief, I hereby approve and direct the implementation of the revised Unified Command Plan.

Consistent with section 161(b)(2) of title 10, United States Code, and section 301 of title 3, United States Code, you are directed to notify the Congress on my behalf.

You are authorized and directed to publish this memorandum in the *Federal Register.*



THE WHITE HOUSE,
*Washington, May 24, 2019*

[FR Doc. 2019–11420
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# Rules and Regulations

Federal Register

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## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 72

**[NRC–2018–0221 and NRC–2019–0030]**

**RIN 3150–AK18 and 3150–AK28**

## List of Approved Spent Fuel Storage Casks: Holtec International HI–STORM 100 Multipurpose Canister Cask System, Certificate of Compliance No. 1014, Amendment Nos. 12 and 13; Corrections

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Correcting amendments.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) published two direct final rules in the **Federal Register**, on December 12, 2018, and February 26, 2019, which amended its spent fuel storage regulations by revising the Holtec International HI–STORM 100 Multipurpose Canister Cask System listing within the ''List of approved spent fuel storage casks'' to include Amendment Nos. 12 and 13 to Certificate of Compliance No. 1014 respectively. Amendment No. 12 became effective on February 25, 2019, and Amendment No. 13 became effective on May 13, 2019. The technical specifications for the HI–STORM Multipurpose Canister Cask 100 System, Amendment Nos. 12 and 13 contained a typographical error. The purpose of this action is to correct the error.

**DATES:** This rule is effective on May 30, 2019.

**ADDRESSES:** For Amendment No. 12, please refer to Docket ID NRC–2018–0221 and for Amendment No. 13, please refer to Docket ID NRC–2019–0030 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action using any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket IDs NRC–2018–0221 or NRC–2019–0030. 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.
- *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 the **SUPPLEMENTARY INFORMATION** section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Yen-Ju Chen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1018; email: *Yen-Ju.Chen@nrc.gov*.

**SUPPLEMENTARY INFORMATION:** The NRC published two direct final rules in the **Federal Register** on December 12, 2018 (83 FR 63794) and February 26, 2019 (84 FR 6055), amending its regulations in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) by revising the ''List of approved spent fuel storage casks'' to add Amendment Nos. 12 and 13, respectively, to Certificate of Compliance No. 1014 for the Holtec International HI–STORM 100 Multipurpose Canister Cask System listing. Amendment No. 12 became effective on February 25, 2019, and Amendment No. 13 became effective on May 13, 2019. The technical specifications for these direct final rules contained a typographical error. The NRC approved Holtec International's proposed changes to Table 3–1 in Appendix A, ''Technical Specifications for the HI–STORM 100 Multipurpose Canister Cask System,'' of Certificate of Compliance No. 1014, Amendment No. 12; however, the table was not correctly revised with all the intended changes. This error was carried forward to Amendment No. 13.

On April 17, 2019 (ADAMS Accession No. ML19126A008), the NRC received a request from Holtec International to correct the typographical error in Appendix A, ''Technical Specifications for the HI–STORM 100 Cask System,'' (ADAMS Accession No. ML19107A002). Holtec International requested that the unit value for all moderate burnup fuel in row 2 of Table 3–1 be corrected from the incorrect unit value of ''>'' to the correct unit value of ''≤.'' Specifically, Holtec International stated, ''that row always was ≤ 36.9 kW,'' in the amendment request.

The NRC is correcting the typographical error by replacing the incorrect unit value with the correct unit value in Appendix A, Table 3–1. The NRC is also revising Amendment Nos. 12 and 13 to Certificate of Compliance No. 1014 of the Holtec International HI–STORM 100 Multipurpose Canister Cask System listings within 10 CFR 72.214 to note the corrections.

### Rulemaking Procedure

Under the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive the normal notice and comment requirements if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest. As authorized by 5 U.S.C. 553(b)(3)(B), the NRC finds good cause to waive notice and opportunity for comment on the amendments because they will have no substantive impact and are of a minor and administrative nature dealing with a correction to a CFR section related to management, organization, procedure, and practice. Specifically, these amendments are to correct a minor editorial and non-substantive error. These amendments do not require action by any person or entity regulated by the NRC. Also, this final rule does not change the substantive responsibilities of any person or entity regulated by the NRC. Accordingly, for the reasons stated in this document, the NRC finds, pursuant to 5 U.S.C. 553(d)(3), that good cause exists to make this rule effective upon publication.

**List of Subjects in 10 CFR Part 72**

Administrative practice and procedures, 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 making the following correcting amendment 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 1014 is revised to read as follows:

### § 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1014.

Initial Certificate Effective Date: May 31, 2000.

Amendment Number 1 Effective Date: July 15, 2002.

Amendment Number 2 Effective Date: June 7, 2005.

Amendment Number 3 Effective Date: May 29, 2007.

Amendment Number 4 Effective Date: January 8, 2008.

Amendment Number 5 Effective Date: July 14, 2008.

Amendment Number 6 Effective Date: August 17, 2009.

Amendment Number 7 Effective Date: December 28, 2009.

Amendment Number 8 Effective Date: May 2, 2012, as corrected on November 16, 2012 (ADAMS Accession No. ML12213A170); superseded by Amendment 8, Revision 1 Effective Date: February 16, 2016.

Amendment Number 8, Revision 1 Effective Date: February 16, 2016.

Amendment Number 9 Effective Date: March 11, 2014, superseded by Amendment Number 9, Revision 1, on March 21, 2016.

Amendment Number 9, Revision 1, Effective Date: March 21, 2016, as corrected (ADAMS Accession No. ML17236A451).

Amendment Number 10 Effective Date: May 31, 2016, as corrected (ADAMS Accession No. ML17236A452).

Amendment Number 11 Effective Date: February 25, 2019.

Amendment Number 12 Effective Date: February 25, 2019, as corrected (ADAMS Accession No. ML19109A111).

Amendment Number 13 Effective Date: May 13, 2019, as corrected (ADAMS Accession No. ML19109A122).

Safety Analysis Report (SAR) Submitted by: Holtec International.

SAR Title: Final Safety Analysis Report for the HI–STORM 100 Cask System.

Docket Number: 72–1014.

Certificate Expiration Date: May 31, 2020.

Model Number: HI-STORM 100.

* * * * *

Dated at Rockville, Maryland, this 24th day of May 2019.

For the Nuclear Regulatory Commission.

**Pamela J. Shepherd-Vladimir,**

*Acting Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2019–11249 Filed 5–29–19; 8:45 am]

BILLING CODE 7590–01–P

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 100

**[Docket No. USCG–2019–0284]**

## Special Local Regulation; Marine Events Within the Fifth Coast Guard District

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation; change of enforcement date.

**SUMMARY:** The Coast Guard will enforce the special local regulation on the waters of the Atlantic Ocean, near Point Pleasant Beach, New Jersey, from 10 a.m. through 5 p.m. on June 15, 2019 and June 16, 2019. This action is necessary to ensure safety of life on the navigable waters of the United States during high speed boat racing. The purpose of this notice is to announce a change in the date in which the event is being held.

**DATES:** The regulations in 33 CFR 100.501 will be enforced from 10 a.m. through 5 p.m. on June 15, 2019 and June 16, 2019, for the special local regulation listed as (a)(7) in the Table to § 100.501.

**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 special local regulation in 33 CFR 100.501, table to § 100.501, (a)(7) for the regulated area located in the Atlantic Ocean near Point Pleasant Beach, NJ. The published enforcement period for this event is the 3rd Saturday and Sunday in May. We are announcing a change of enforcement date for this year's event with this notice of enforcement because the event will take place on the 3rd Saturday and Sunday in June. The Captain of the Port, Delaware Bay will be enforcing the Special Local Regulation as specified in § 100.501(c).

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, Local Notice to Mariners, and on-scene notice by designated representative.

Dated: May 23, 2019.

**Scott E. Anderson,**

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

[FR Doc. 2019–11244 Filed 5–29–19; 8:45 am]

BILLING CODE 9110–04–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R02–OAR–2018–0817; FRL–9994–39–Region 2]**

## Approval of Source Specific Air Quality Implementation Plans; New Jersey

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to

the New Jersey State Implementation Plan (SIP) for the 2008 8-hour ozone National Ambient Air Quality Standard in relation to a Source Specific SIP for Gerdau Ameristeel in Sayreville, New Jersey. On December 5, 2018, the New Jersey Department of Environmental Protection approved an administrative amendment reflecting new ownership and name change to Commercial Metals Company. The control options in the Source Specific SIP that address nitrogen oxide Reasonably Available Control Technology for the natural gas fired billet reheat furnace remain the same under the new ownership. The intended effect of this SIP revision is for the Sayreville facility to continue to operate under their facility specific maximum allowable nitrogen oxide emission rate. The affected source will not increase hourly nitrogen oxide emissions, therefore, the National Ambient Air Quality Standards for ozone is protected.

**DATES:** The final rule is effective on July 1, 2019.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID Number EPA–R02–OAR–2018–0817. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *http://www.regulations.gov*.

**FOR FURTHER INFORMATION CONTACT:** Linda Longo, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3565, or by email at *longo.linda@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

## Table of Contents

I. Background
II. The EPA's Evaluation of New Jersey's Submittals
III. Comments Received in Response to EPA's Proposed Action
IV. Summary of EPA Final Action
V. Incorporation by Reference
VI. Statutory and Executive Order Reviews

## I. Background

The Environmental Protection Agency (EPA) is approving the revision to the New Jersey State Implementation Plan (SIP) for attainment and maintenance of the 2008 ozone National Ambient Air Quality Standard (NAAQS). Specifically, under New Jersey Administrative Code, Title 7, Chapter 27, Subchapter 19, ''Control and Prohibition of Air Pollution from Oxides of Nitrogen'' (N.J.A.C. 7:27–19). The New Jersey Department of Environmental Protection (NJDEP) reviewed and approved the facility specific emission limit (FSEL) nitrogen oxide ($NO_X$) control plan and the associated Reasonably Available Control Technology (RACT) for the Gerdau Ameristeel facility located in Sayreville, New Jersey (Sayreville Facility). The RACT for this SIP revision is the lowest emission limitation economically feasible for controlling $NO_X$ emissions from the Sayreville Facility's billet reheat furnace (Sayerville BRF). The Sayreville BRF is used to raise the temperature of steel billets to the required level for hot rolling.

Subchapter N.J.A.C. 7:27–19.13(a)(1), ''Alternative and facility specific $NO_X$ emission limits,'' allows owners and operators of major sources of $NO_X$, upon approval of the NJDEP, to obtain FSELs for maximum allowable $NO_X$ emission rates by submitting a $NO_X$ control plan that meets the requirements of N.J.A.C. 7:27–19.13(b). Furthermore, Subchapter N.J.A.C. 7:27–19.13(a)(3) allows facilities that wish to continue to operate under existing $NO_X$ control plans that were approved prior to May 1, 2005 to make the request by submitting an updated proposed $NO_X$ control plan as required in N.J.A.C. 7:27–19.13. The Sayreville Facility wishes to continue to operate under its existing $NO_X$ control plan that was approved by the State on March 15, 2005. A full summary is included in the technical support document (TSD) that is contained in EPA's docket assigned to this **Federal Register** notice.

Please note that on December 5, 2018, the NJDEP approved an administrative amendment reflecting new ownership and name change of the Sayreville Facility from Gerdau Ameristeel to Commercial Metals Company. All control options for the Sayreville BRF and CAA permit limits (as approved by the NJDEP in the March 2005 $NO_X$ control plan) remain the same under the new ownership as were under the former owner Gerdau Ameristeel.

## II. The EPA's Evaluation of New Jersey's Submittals

N.J.A.C. 19.13(a)(3) sets forth requirements for facilities that wish to continue to operate under existing $NO_X$ control plans that were approved prior to May 1, 2005. The regulation requires such facilities to submit updated proposed $NO_X$ control plans to NJDEP for review. Gerdau Ameristeel originally submitted an FSEL $NO_X$ control plan for a BRF (old BRF) at the Sayreville Facility to NJDEP in 1995. In 2004, the facility submitted to NJDEP a proposed FSEL $NO_X$ control plan for a replacement BRF; the new unit was designed with 64 ultra-low $NO_X$ burners. On March 15, 2005, the NJDEP approved the $NO_X$ control plan by authorizing Gerdau Ameristeel to replace the old BRF with the ultra-low $NO_X$ burners.

On October 4, 2016, the Gerdau Ameristeel submitted an updated proposed $NO_X$ control plan to NJDEP requesting to continue to operate the March 15, 2005 $NO_X$ control plan for the Sayreville BRF that has 64 ultra-low $NO_X$ burners and maximum allowable $NO_X$ emission rate of 58.9 tons per year (TPY). On March 20, 2018, the NJDEP submitted to the EPA a proposal to allow the continued use of the control options as outlined in the State approved Gerdau Ameristeel March 15, 2005 $NO_X$ control plan.

The Sayreville BRF has a heat input rating of 172.8 million British Thermal Units per hour (MMBTU/hr) and is permitted under the facility's CAA Title V operating permit (*i.e.,* PI 18052, BOP 150001) for no more than 0.1 MMBTU/hr of $NO_X$ as a major source with FSEL not to exceed 17.3 pounds $NO_X$ per hour and 58.9 tons $NO_X$ per year. The Sayreville Facility is required to conduct annual emission testing to demonstrate compliance with 0.1 lb/MMBtu $NO_X$ emission rate limit. The EPA has determined that the Sayreville BRF identified in the SIP revision are consistent with New Jersey's $NO_X$ RACT regulation and the EPA's guidance.

## III. Comments Received in Response to EPA's Proposed Action

On March 21, 2019 (84 FR 10458) the EPA proposed approval of the source-specific revision to the New Jersey SIP for 8-hour ozone for Gerdau Ameristeel in Sayreville, New Jersey. The EPA received no public comments during the 30-day public comment period in response to the March 9, 2019 proposal.

## IV. Summary of EPA's Final Action

Gerdau Ameristeel reached agreement with the NJDEP to continue to operate under the approved March 15, 2005 $NO_X$ control plan that allowed the Sayreville BRF to operate using 64 ultra-low $NO_X$ burners. The Sayreville Facility underwent a change in ownership to the Commercial Metals Company without changing its production process or associated equipment. Moreover, the Sayreville Facility met the regulatory requirements under N.J.A.C. 19.13(a)(3) to submit and

obtain NJDEP approval for an updated proposed $NO_X$ control plan requesting to continue to operate under their 2005 $NO_X$ control plan approved prior to May 1, 2005. The updated $NO_X$ control plan demonstrates that the only technically feasible control technology currently not in use on the Sayreville BRF is the SCR option and concludes that it is not RACT. Therefore, the EPA is approving the NJDEP SIP revision for 8-hour ozone for Commercial Metals Company continuing to operate under the 2005 $NO_X$ Control Plan.

## V. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing incorporate by reference for the provisions described above in Section IV. Summary of the EPA's Final Action.

The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 2 Office. Copies of the materials incorporated may be inspected at the Environmental Protection Agency, Region 2, Air Programs Branch, 290 Broadway, New York, New York 10007. Please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information.

Therefore, these materials have been approved by the EPA for inclusion in the State implementation plan, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

## VI. Statutory and Executive Order Reviews

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

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

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

### List of Subjects 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen Dioxide, Intergovernmental Relations, Ozone, Reporting and recordkeeping requirements.

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

Dated: May 15, 2019.

**Peter D. Lopez,**

*Regional Administrator, Region 2.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

## Subpart FF—New Jersey

■ 2. Section 52.1570 (d) is amended by adding the entries for ''Gerdau Ameristeel Sayreville'' and ''CMC Steel New Jersey'' at the end of the table. The additions read as follows:

**§ 52.1570 Identification of plan.**

* * * * *

(d) * * *

EPA-APPROVED NEW JERSEY SOURCE-SPECIFIC PROVISIONS

| Name of source | Identifier No. | State effective date | EPA approval date | Comments |
|---|---|---|---|---|
| * | * | * | * | * |
| Gerdau Ameristeel Sayreville | Program Interest 18052; Activity Number BOP 150001; Emission Unit U2; Operating Scenario OS301; Ref #2. | March 26, 2018 | May 30, 2019, [Insert FR citation]. | None. |

EPA-APPROVED NEW JERSEY SOURCE-SPECIFIC PROVISIONS—Continued

| Name of source | Identifier No. | State effective date | EPA approval date | Comments |
|---|---|---|---|---|
| CMC Steel New Jersey ..... | Program Interest 18052; Activity Number BOP 180001; Emission Unit U2; Operating Scenario OS301; Ref #2. | December 5, 2018. | May 30, 2019, [Insert FR citation]. | New ownership from Gerdau Ameristeel Sayreville to Commercial Metal Company (CMC). |

[FR Doc. 2019–11181 Filed 5–29–19; 8:45 am]
BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

**[EPA–HQ–OPP–2018–0677; FRL–9993–11]**

### Pyriofenone; Pesticide Tolerances

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of pyriofenone in or on fruiting vegetable, crop group 8–10. ISK Biosciences Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective May 30, 2019. Objections and requests for hearings must be received on or before July 29, 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–2018–0677, 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 Publishing 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, 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–2018–0677 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 29, 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–2018–0677, 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 December 21, 2018 (83 FR 65660) (FRL–9985–67), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7F8647) by ISK Biosciences Corporation, 7470 Auburn Road, Suite A, Concord, Ohio 44077. The petition requested that 40 CFR 180.660 be amended by establishing tolerances for residues of the fungicide pyriofenone, in or on fruiting vegetable, crop group 8–10 at 0.30 parts per million (ppm). That document referenced a summary of the petition prepared by ISK Biosciences Corporation, the registrant, which is available in the docket, *http://www.regulations.gov*. There were no

comments received in response to the notice of filing. Based upon review of the data supporting the petition and under its authority in FFDCA section 408(d)(4)(A)(i), EPA is establishing a tolerance that varies slightly from what the petitioner sought. The reason for this change is explained in Unit IV.C.

## 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 pyriofenone including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with pyriofenone follows.

### *A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The liver (dog, rat, and mouse), kidney (rat and mouse), and cecum (rat) were the primary organs affected in toxicity studies associated with the species identified above. Indications of liver toxicity included increased weight, dark color, histological abnormalities, and serum hepatic enzyme changes. Indications of kidney toxicity included increased weight, coarse surface, histological abnormalities, increased urinary ketones, and perigenital staining. Cecum effects included increased weight; and enlarged, distended, and inflamed conditions. There are no inhalation risks of concern, due to high margins of exposure via the inhalation route as well as very low toxicity observed in the acute inhalation toxicity study (Toxicity Category IV). Based on a weight of evidence approach, it was determined that a subchronic inhalation study was not required. No dermal toxicity was noted at the limit dose. No developmental toxicity was noted at the limit dose in rats; abortions were noted in rabbits at 300 mg/kg/day. The rabbit abortions were associated with decreased maternal body weight gain and food consumption. There was no reproductive toxicity observed at the highest dose tested in rats (334 mg/kg/day), no neurotoxicity observed in the database, and no quantitative or qualitative sensitivity was noted in offspring. Based on a battery of mutagenicity studies, there was no evidence of genotoxicity nor an increased incidence of tumors. There was no evidence that pyriofenone directly targets the immune system based on the results of the immunotoxicity study and the other studies in the toxicity database. Based on a lack of evidence of carcinogenicity in available studies conducted with mice and rats, pyriofenone is classified as ''Not Likely to Be Carcinogenic to Humans.''

Specific information on the studies received and the nature of the adverse effects caused by pyriofenone as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document *Pyriofenone. Human Health Risk Assessment for the Section 3 Registration on Fruiting Vegetables (Crop Group 8–10)* on pages 29–37 in docket ID number EPA–HQ–OPP–2018–0677.

### *B. Toxicological Points of Departure/Levels of Concern*

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for pyriofenone used for human risk assessment is shown in Table 1 of this unit.

TABLE—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR PYRIOFENONE FOR USE IN HUMAN HEALTH RISK ASSESSMENT

| Exposure/scenario | Point of departure and uncertainty/ safety factors | RfD, PAD, LOC for risk assessment | Study and toxicological effects |
|---|---|---|---|
| Acute dietary (All populations) .. | A dose and endpoint of concern attributable to a single dose was not observed. | | |
| Chronic dietary (All populations) | NOAEL= 9.1 mg/kg/day.<br>$UF_A$ = 10x.<br>$UF_H$ = 10x.<br>FQPA SF = 1x. | Chronic RfD = cPAD = 0.091 mg/kg/day. | Carcinogenicity in rat.<br>LOAEL = 46.5 mg/kg/day based on chronic nephropathy in females. |
| Cancer (Oral, dermal, inhalation). | Classification: ''Not likely to be Carcinogenic to Humans''. | | |

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. $UF_A$ = extrapolation from animal to human (interspecies). $UF_H$ = potential variation in sensitivity among members of the human population (intraspecies).

*C. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to pyriofenone, EPA considered exposure under the petitioned-for tolerances as well as all existing pyriofenone tolerances in 40 CFR 180.660. EPA assessed dietary exposures from pyriofenone in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. No such effects were identified in the toxicological studies for pyriofenone; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In estimating chronic dietary exposure, EPA used food consumption information from the United States Department of Agriculture's National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA) as incorporated in the Dietary Exposure and Evaluation Model with Food Commodity Intake Database (DEEM–FCID) Version 3.16. As to residue levels in food, EPA assumed 100 percent crop treated (PCT) and tolerance-level residues. Potential residues in drinking water were included in the DEEM–FCID categories ''water, all sources'' and ''water, indirect all sources''. All populations were evaluated for chronic dietary exposure and risk from food and drinking water.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that pyriofenone is not likely to be carcinogenic; therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for pyriofenone. Tolerance level residues and 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for pyriofenone in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of pyriofenone. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Tier I Cranberry Model and Pesticide Root Zone Model Ground Water (PRZM GW), the estimated drinking water concentrations (EDWCs) of pyriofenone for chronic exposures for non-cancer assessments are estimated to be 2.7 ppb for surface water and 3.9 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For chronic dietary risk assessment, the water concentration value of 3.9 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Pyriofenone is not registered for any specific use patterns that would result in residential exposure. Therefore, a residential exposure assessment is not required.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' EPA has not found pyriofenone to share a common mechanism of toxicity with any other substances, and pyriofenone does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that pyriofenone does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

*D. Safety Factor for Infants and Children*

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different

additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* Exposure to pyriofenone did not result in any developmental effects at the limit dose in rats, but abortions were noted in rabbits at 300 mg/kg/day. EPA is regulating pyriofenone at doses that are protective of this effect. The abortions were associated with decreased maternal body weight gain and food consumption. There were no reproductive effects observed in rats at the highest tested dose (334 mg/kg/day), nor was any quantitative or qualitative sensitivity noted in offspring.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for pyriofenone is complete.

ii. There is no indication that pyriofenone is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional uncertainty factors (UFs) to account for neurotoxicity.

iii. There is no evidence that pyriofenone results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The chronic dietary food exposure assessment was performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to pyriofenone in drinking water. These assessments will not underestimate the exposure and risks posed by pyriofenone.

*E. Aggregate Risks and Determination of Safety*

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, pyriofenone is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to pyriofenone from food and water will utilize 6.9% of the cPAD for children 1–2 years old the population group receiving the greatest exposure. There are no residential uses for pyriofenone, therefore, the chronic aggregate risk is limited to the chronic dietary risk and is not of concern.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). There are no residential uses for pyriofenone; therefore, short-term aggregate risks are addressed by the chronic aggregate risk estimates and are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). There are no residential uses for pyriofenone; therefore, intermediate-term aggregate risks are addressed by the chronic aggregate risk estimates and are not of concern.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, pyriofenone is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to pyriofenone residues.

## IV. Other Considerations

*A. Analytical Enforcement Methodology*

Adequate enforcement methodology (liquid chromatography method with tandem mass spectrometric detection [LC–MS/MS]) is available to enforce the tolerance expression. The method was independently validated to a limit of quantitation (LOQ) of 0.01 ppm in grapes, wheat grain, and wheat straw.

*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 pyriofenone.

*C. Revisions to Petitioned-For Tolerances*

Under FFDCA section 408(d)(4)(A)(i), EPA may establish tolerances that vary from those sought by the petition. EPA has modified the commodity definition to be consistent with Agency nomenclature. Additionally, the tolerance level has been modified to be consistent with the Agency's rounding class practice.

## V. Conclusion

Therefore, tolerances are established for residues of pyriofenone, including its metabolites and degradates in or on fruiting vegetable, crop group 8–10 at 0.3 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), nor is it a regulatory action under Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act

(PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance 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: May 22, 2019.

**Michael Goodis,**

*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 § 180.660, add alphabetically ''Vegetable, fruiting, group 8–10'' to the table in paragraph (a) to read as follows:

**§ 180.660 Pyriofenone; tolerances for residues.**

(a) * * *

| Commodity | Parts per million |
|---|---|
| * * * * * | |
| Vegetable, fruiting, group 8–10 .. | 0.3 |
| * * * * * | |

* * * * *

[FR Doc. 2019–11261 Filed 5–29–19; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

**[Docket No. FWS–R4–ES–2013–0010; 4500090023]**

**RIN 1018–BD54**

## Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Spring Pygmy Sunfish

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), designate critical habitat for the spring pygmy sunfish (*Elassoma alabamae*) under the Endangered Species Act of 1973 (Act), as amended. In total, approximately 10.9 kilometers (6.7 miles) of streams and 1,330 acres (538 hectares) in Limestone and Madison Counties, Alabama, fall within the boundaries of the critical habitat designation.

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

**ADDRESSES:** This final rule is available on the internet at *http://www.regulations.gov* and *http://www.fws.gov/daphne*. Comments and materials we received, as well as some supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov*. All of the comments, materials, and documentation that we considered in this rulemaking are available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Alabama Ecological Services Field Office, 1208 Main Street, Daphne, AL 36526; telephone 251–441–5184.

The coordinates or plot points or both from which the maps are generated are included in the administrative record for this critical habitat designation and are available at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2013–0010, and at the Alabama Ecological Services Field Office (*https://www.fws.gov/daphne*) (see **FOR FURTHER INFORMATION CONTACT**). Any additional tools or supporting information that we developed for this critical habitat designation will also be available at the Fish and Wildlife Service website and Field Office identified above, and may also be included in the preamble and at *http://www.regulations.gov*.

**FOR FURTHER INFORMATION CONTACT:** William Pearson, Field Supervisor, U.S. Fish and Wildlife Service, telephone 251–441–5184. If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

### Executive Summary

*Why we need to publish a rule.* Under the Endangered Species Act of 1973 (Act), as amended, if we determine that a species is an endangered or threatened species, we must designate critical habitat to the maximum extent prudent and determinable. We listed the spring pygmy sunfish as a threatened species on October 2, 2013 (78 FR 60766). Designations of critical habitat can only be completed by issuing a rule.

*Basis for this rule.* Section 4(b)(2) of the Act states that the Secretary shall designate critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat.

This rule designates critical habitat for the spring pygmy sunfish. The critical habitat areas we are designating in this rule constitute our current best

assessment of the areas that meet the definition of critical habitat for spring pygmy sunfish. This rule designates approximately 10.9 kilometers (6.7 miles) of streams and 1,330 acres (538 hectares) of adjacent lands as critical habitat for the spring pygmy sunfish in three units.

*Peer review and public comment.* We sought comments from independent specialists to ensure that our designation is based on scientifically sound data and analyses. We obtained opinions from three knowledgeable individuals with scientific expertise to review our technical assumptions, analysis, and whether or not we had used the best scientific data available. These peer reviewers generally concurred with our methods and conclusions, and provided additional information, clarifications, and suggestions to improve this final rule. Information we received from peer review is incorporated into this final designation of critical habitat. We also considered all comments and information we received from the public during the comment periods for the proposed designation.

**Previous Federal Actions**

On October 2, 2012, we published in the **Federal Register** (77 FR 60180) a proposed rule to list the spring pygmy sunfish (*Elassoma alabamae*) as threatened under the Act (16 U.S.C. 1531 *et seq.*). Together with the proposed listing, we proposed designation of two critical habitat units in Limestone County, Alabama.

On April 29, 2013, we published in the **Federal Register** (78 FR 25033) a document that: (1) Reopened the comment period on the October 2, 2012, proposed rule for an additional 30 days, ending May 29, 2013; and (2) proposed a small reduction to the size of critical habitat Unit 1 based on public input.

On October 2, 2013, we published the final rule listing the species as threatened (78 FR 60766).

On February 5, 2014, we published in the **Federal Register** (79 FR 6871) a document that: (1) Reopened the comment period on the proposed designation of critical habitat for the spring pygmy sunfish for an additional 30 days, ending March 7, 2014; and (2) described potential exclusions to the proposed critical habitat designation for lands covered by candidate conservation agreements with assurances (CCAAs).

On November 5, 2018, we published in the **Federal Register** (83 FR 55341) a document that: (1) Reopened the comment period on the proposed designation of critical habitat for the spring pygmy sunfish for an additional 30 days, ending December 5, 2018; and (2) proposed to add Unit 3, an area where a population of the spring pygmy sunfish was discovered in 2015, in Madison County, Alabama, to the critical habitat designation.

**Summary of Comments and Recommendations**

We requested written comments from the public on the proposed designation of critical habitat for the spring pygmy sunfish during four comment periods, totaling 150 days (see Previous Federal Actions, above). We also contacted appropriate Federal, State, and local agencies; scientific organizations; and other interested parties and invited them to comment on the proposed rule and draft economic analysis during these comment periods.

During the comment periods, we received 31 comments in response to the proposed critical habitat designation. We did not receive any requests for a public hearing.

*Peer Review*

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinions from three knowledgeable individuals with scientific expertise that included familiarity with the species, the geographic region in which the species occurs, and conservation biology. We received responses from all three peer reviewers.

We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding critical habitat for the spring pygmy sunfish. Two peer reviewers that commented on critical habitat concurred with our proposed designation of Unit 2 (Pryor Spring), which was unoccupied at the time of listing. All substantive information provided to us during comment periods has either been incorporated directly into this final rule or is addressed below.

Peer Reviewer Comments

(1) *Comment:* There are three areas under candidate conservation agreements with assurances (CCAAs) specifically designed for the spring pygmy sunfish (Belle Mina Farms Ltd., McDonald Farms, and Horton Farm), all in proposed Unit 1. One peer reviewer and five public commenters stated that these areas should not be excluded from the critical habitat designation, because exclusion would be less protective of the sunfish and its habitat.

*Our Response:* Under section 4(b)(2) of the Act, the Secretary may exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific and commercial data available, that the failure to designate such area as critical habitat will result in the extinction of the species concerned.

We find that the areas under the three CCAAs meet the above criteria for exclusion. Under the CCAAs, the landowners implement conservation measures to address threats to the species' habitat from agriculture, which is the land use adjacent to a majority of the habitat in Unit 1. These measures (described in greater detail in our final rule listing the spring pygmy sunfish as a threatened species at 78 FR 60766 (October 2, 2013)) include maintaining vegetated buffer zones; restricting timber harvest and cattle grazing; and refraining from any deforestation, industrial or residential development, aquaculture, temporary or permanent ground-water removal installations, and other potentially damaging actions without prior consultation with the Service. With a critical habitat designation but without CCAAs in place, conservation of the species' habitat on private lands would not be assured except when projects that are federally authorized, funded, or carried out (those with a Federal nexus) occur within the area of the critical habitat designation. In practice, projects with a Federal nexus occur primarily on Federal lands or for projects undertaken by Federal agencies. Because projects in spring pygmy sunfish habitat on private lands are not likely to have a Federal nexus, the benefit of the CCAAs outweighs the designation of critical habitat (see discussion under *Exclusions Based on Other Relevant Impacts,* below).

(2) *Comment:* One peer reviewer, as well as several other commenters, noted that the CCAAs were voluntary and of short duration (20 to 25 years), and landowners could opt out of the agreements at any time, which could diminish protection of spring pygmy sunfish habitat.

*Our Response:* We acknowledge that the CCAAs are voluntary and could be terminated by the landowners at any time, although there are no current plans to terminate any of the agreements prior to their expiration date. Should termination of a CCAA occur, the area previously covered by that CCAA could be reproposed for addition to the critical habitat designation. We acknowledge that, in the absence of a critical habitat designation or a CCAA, private

landowners may not actively conserve critical habitat as they would if a CCAA were in place. However, habitat would still be protected through sections 7 and 9 of the Act. Because the habitat currently under the CCAAs is occupied by the species, any consultation prompted by Federal actions will need to ensure minimization of take and that the species will not be likely to become extinct as a result of those activities, which will require measures to protect the habitat that supports the species. It would not be legal for private landowners to intentionally destroy the occupied habitat because that would result in take prohibited by section 9 of the Act.

(3) *Comment:* One peer reviewer and one other individual commented that the list of plant species identified as providing important habitat for the spring pygmy sunfish in our October 2, 2012, proposed rule was incorrect. The peer reviewer stated that information indicates that the nonindigenous parrot feather, *Myriophyllum* spp., may be detrimental to the spring pygmy sunfish and should not be considered important habitat for the species. The other commenter suggested we should emphasize the importance of fine filamentous-leaved vegetation and its use by the spring pygmy sunfish for foraging, spawning, and providing protection from predators.

*Our Response:* We have made corrections in the discussion under Physical or Biological Features (which were also referred to as primary constituent elements in our October 2, 2012, proposed rule), below, and in all discussions related to suitable plant habitat for the spring pygmy sunfish, based on these comments. We revised the list of plant species and identified those most important to the sunfish, including *Ceratophyllum echinatum* (spineless hornwort), *Myriophyllum heterophyllum* (two-leaf water milfoil), and *Hydrilla verticillata* (native hydrilla), and we removed the reference to *Myriophyllum* spp., which could be mistakenly referenced to the nonindigenous parrot feather that is in the same genus as the native two-leaf water milfoil. We also noted the importance of the presence of fine filamentous-leaved vegetation to the spring pygmy sunfish for breeding, rearing young, foraging, and providing protection from predators in our discussion of habitat (see Physical or Biological Features, below, for more information).

(4) *Comment:* One peer reviewer questioned our use of 80 degrees Fahrenheit (°F) as the upper limit of a suitable water temperature for the spring pygmy sunfish in the description of physical or biological features essential to the conservation of the species. The commenter stated that prolonged exposure to such high temperatures can shorten the spring pygmy sunfish's lifespan, to the point of potentially interfering with successful reproduction and recruitment.

*Our Response:* We agree with the peer reviewer, and we have removed the reference to 80 °F from our description of physical or biological features essential to the conservation of the species (see Physical or Biological Features, below).

*Public Comments*

(5) *Comment:* One commenter asserted that the spring pygmy sunfish would likely become extinct if the CCAA areas were not included in the critical habitat designation, as omitting these areas from the critical habitat designation would not adequately protect the species' habitat.

*Our Response:* We have concluded that the existing protections under the Act, plus the protections afforded by the CCAAs, will be sufficient to prevent extinction of the spring pygmy sunfish. As discussed above (see *Peer Review*), in currently occupied habitat, even in the absence of a critical habitat designation, the species is protected through sections 7 and 9 of the Act because it is listed as a threatened species. The CCAAs provide additional protections because conservation measures to protect habitat are implemented for the duration of the CCAA; without a CCAA, measures to protect the species' habitat in designated critical habitat or in occupied habitat occur only when there is a project with Federal nexus, which will be a rare occurrence on private lands. Additionally, the entire population in Blackwell Swamp and a portion of the population in Beaverdam Creek, adjacent to the CCAA areas, will remain within designated critical habitat.

(6) *Comment:* One commenter was concerned that the draft economic analysis ''concedes key uncertainties which would result in a major underestimation of costs particularly if additional restrictions such as groundwater or surface water withdrawal limits are included.''

*Our Response:* As described in section 2.3 of the final economic analysis (FEA), there is currently limited information regarding the regional hydrology of the study area. In order for the Service to determine whether a particular withdrawal may affect the sunfish or its critical habitat, and to subsequently recommend how adverse modification of the critical habitat can be avoided, additional information would be required clarifying how the location and volume of withdrawals affects the hydrologic flow regime (magnitude, frequency, duration, and seasonality of discharge over time) within the streams and springs designated as critical habitat. As described in the text box titled ''Incremental Effects of Critical Habitat on Water Extraction Activities'' in section 2.3 of the FEA, until such a time that this information is available, the Service does not anticipate that the listing or this critical habitat designation for the sunfish will result in limitations on water withdrawals within the study area. Considering this, attempting to monetize costs associated with limitations on water withdrawals would be speculative.

(7) *Comment:* One commenter provided information on the potential benefits of the proposed critical habitat designation, stating that the Service should take into consideration the economic benefits of protecting habitat for the sunfish, such as ecosystem services and preservation of riparian buffers.

*Our Response:* As detailed in section 2.5 of the FEA, the Service does not forecast additional conservation efforts being implemented due to critical habitat designation for the sunfish. As a result, no changes in economic activity or land or water management are expected to result from this critical habitat designation. Absent these changes, the FEA does not forecast incremental economic benefits from this rulemaking.

*Comments From States*

Section 4(i) of the Act states, ''the Secretary [of the Interior] shall submit to the State agency a written justification for his failure to adopt regulations consistent with the agency's comments or petition.'' We received two comments from individuals who are employees of a State agency (Geological Survey of Alabama). One of these individuals was also a peer reviewer (see ''Peer Reviewer Comments,'' above). The State provided additional information on the species' habitat, specifically related to hydrology, but did not state a position on the critical habitat designation. State comments regarding the species' habitat in general and the efficacy of CCAAs as a conservation instrument given the threat of urban growth were addressed in our final listing rule published on October 2, 2013 (78 FR 60766).

**Summary of Changes From Proposed Rule**

In preparing this final rule, we reviewed and fully considered comments from the public and peer reviewers that we received concerning the proposed critical habitat designation. Based on information we received from a private landowner and the discovery of a boundary error in Unit 1, followed by further biological examination of the land, we removed approximately 67.6 acres (ac) (27.3 hectares (ha)) from proposed Unit 1. The rationale for this change is described in more detail in our April 29, 2013, **Federal Register** publication (78 FR 25033).

Under section 4(b)(2) of the Act, we are excluding from critical habitat designation areas in Unit 1 that are covered under the Belle Mina Farms Ltd., McDonald Farms, and Horton Farm CCAAs, as proposed in our February 5, 2014, **Federal Register** document (79 FR 6871), because the Secretary finds that the benefits of excluding these areas outweigh the benefits of including them in the critical habitat designation. In total, these three exclusions reduce the critical habitat in Unit 1 from approximately 546 ha (1,348 ac) to 342 ha (845 ac).

Based on discovery of a previously unknown population of the spring pygmy sunfish in Blackwell Swamp, we are designating as critical habitat an additional unit, Unit 3, as we proposed on November 5, 2018 (83 FR 55341). Unit 3 contains 123 ha (303 ac) wholly within the Wheeler National Wildlife Refuge.

We have revised two of the physical or biological features (formerly primary constituent elements) based on information we received from peer reviewers and other commenters. In the physical or biological feature concerning water quality, we changed the temperature parameters for the spring pygmy sunfish as a result of comments we received from a peer reviewer who stated that the upper temperature range was incorrect (see Comment 4, above, for more information). We also removed the conductivity measurement from this physical or biological feature because, upon further analysis, we determined it did not accurately reflect the life parameters for the species. In addition, we have revised the associated vegetation described under the relevant physical or biological feature to identify plant species most important to spring pygmy sunfish habitat, as a result of comments from a peer reviewer and another commenter (see Comment 3, above, for more information). Finally, for clarity, we present the prey base, or food, for the spring pygmy sunfish as a separate physical or biological feature in this final rule rather than grouping it with the vegetation feature.

**Background**

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as an area that may generally be delineated around species' occurrences, as determined by the Secretary (*i.e.,* range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (*e.g.,* migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals).

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of section 7(a)(2) of the Act would apply, but even in the event of a destruction or adverse modification finding, the obligation of the Federal action agency and the landowner is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat). In identifying those physical or biological features within an area, we focus on the specific features that support the life-history needs of the species, including but not limited to, water characteristics, soil type, geological features, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic, or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity.

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. For example, an area currently occupied by the species but that was not occupied at the time of listing may be essential to the conservation of the species and may be included in the critical habitat designation.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information developed during the listing process for the species. Additional information sources may include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, other unpublished materials, or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act, (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species, and (3) section 9 of the Act's prohibitions on taking any individual of the species, including taking caused by actions that affect habitat. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of this species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

**Physical or Biological Features**

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12(b), in determining which areas within the geographical area occupied by the species at the time of listing to designate as critical habitat, we consider the physical or biological features (PBFs) that are essential to the conservation of the species and which may require special management considerations or protection. For example, physical features might include gravel of a particular size required for spawning, alkali soil for seed germination, protective cover for migration, or susceptibility to flooding or fire that maintains necessary early-successional habitat characteristics. Biological features might include prey species, forage grasses, specific kinds or ages of trees for roosting or nesting, symbiotic fungi, or a particular level of nonnative species consistent with conservation needs of the listed species. The features may also be combinations of habitat characteristics and may encompass the relationship between characteristics or the necessary amount of a characteristic needed to support the life history of the species. In considering whether features are essential to the conservation of the species, the Service may consider an appropriate quality, quantity, and spatial and temporal arrangement of habitat characteristics in the context of the life-history needs, condition, and status of the species. These characteristics include, but are not limited to, space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing (or development) of offspring; and habitats that are protected from disturbance.

We derived the specific PBFs for the spring pygmy sunfish from studies of this species' habitat, ecology, and life history as described in the final listing rule (78 FR 60766; October 2, 2013) and in the information presented below. There is limited information on this species' specific habitat requirements, other than that it requires springs and connecting spring-fed reaches and wetlands; an adequate groundwater and surface water hydrology; and clean, cool water and associated vegetation and invertebrates. To identify the physical and biological needs of the species, we have relied on current conditions at the locations where the species exists today and the limited information we have on historical sites available on this species and its close relatives, and factors associated with the decline and extirpation of this and other spring-associated fish species. We have determined that the spring pygmy sunfish requires the following PBFs.

*Space for Individual and Population Growth and for Normal Behavior*

Spring pygmy sunfish depend on geomorphically stable spring systems including the spring head (water source), spring run, and spring pools. The spring systems used by the species also include transition zones between these features on moderately low-gradient topographic slopes that feather out into spring-fed wetland pools. The spring pygmy sunfish inhabits spring pools, spring runs, and spring-fed streams and pools with substrates of silt, sand, and gravel.

The current range of the spring pygmy sunfish is reduced to localized sites due to fragmentation of the spring systems on which it depends. Fragmentation of the species' habitat has changed the aquatic vegetation composition of the species' habitat; has isolated populations; and has reduced available space for spawning, rearing of young, concealment, and foraging. As a result, the spring pygmy sunfish's adaptive capability has been reduced, and the possibility of local extinctions has increased (Burkhead *et al.* 1997, pp. 397–399; Hallerman 2003, pp. 363–364). Connectivity of spring systems maintains spawning, foraging, and resting sites, and allows for gene flow throughout the population. The spring pygmy sunfish exhibits greatest relative abundance nearest the spring emergence, and reproduction is restricted, or closely tied, to localized conditions at spring emergences (Sandel *et al.* 2008, pp. 7–15). Genetic variation and diversity within a species are essential for recovery, adaptation to environmental changes, and long-term viability (capability to live, reproduce, and develop) (Harris 1984, pp. 93–107; Noss and Cooperrider 1994, pp. 282–297; Fluker *et al.* 2007, p. 2). Long-term viability is founded on space for numerous interbreeding, local populations throughout the range (Harris 1984, pp. 93–107).

Therefore, based on the information above, we identify springs and connecting spring-fed reaches and wetlands of geomorphically stable, relatively low-gradient, headwater springs with spring heads (water sources), spring runs, and spring pools that filter into shallow vegetated wetlands to be an essential PBF for the spring pygmy sunfish. The connectivity of these habitats is essential in accommodating feeding, breeding, growth, and other normal behaviors of the spring pygmy sunfish and in promoting gene flow within the populations.

*Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements*

Water Quality

Exceptional water quality at the spring heads (water source) and pools, and adequate water quality throughout the habitat, maintained by unobstructed water flow through connected spring habitats, are essential for normal behavior, growth, and viability during all life stages of the spring pygmy sunfish. Suitable habitat conditions for the spring pygmy sunfish have not been investigated thoroughly; however, some data specific to the species are available for the following water quality parameters: pH, water temperature, and alkalinity (capacity of solutes in an aqueous system to neutralize acid as bicarbonate (HCO3)). Spring pygmy sunfish males establish territories and begin spawning in March and April, when water quality parameters are within a suitable pH range of 6.0 to 7.7, and water temperatures are from 57.2 to 68° F (14 and 20° C) (Sandel 2007, p. 2; Mettee 2008, p. 36; Petty *et al.* 2011, p. 4).

Essential water quality attributes for the spring pygmy sunfish may be inferred from those of other fish species living in medium water flow streams along with baseline spring and subsurface water quality information obtained from systems within Limestone County, adjacent counties, and elsewhere. Based on yearly averages, which may not reflect optimal conditions, these include: (1) Dissolved oxygen levels greater than 6 parts per million (ppm); (2) water temperatures of 57.2 to 68 °F (15 to 20 °C); and (3) water clarity (particulates in water column) less than 15 Nephelometric Turbidity Units (NTU) and 20 milligrams per liter (mg/l) total suspended solids (TSS) (Teels *et al.* 1975, pp. 8–9; Ultschet *et al.* 1978, pp. 99–101; Ingersoll *et al.* 1984, pp. 131–138; Chandler *et al.* 1987, pp. 56–57; Kundell and Rasmussen 1995, pp. 211–212; Henley *et al.* 2000, pp. 125–139; Meyer and Sutherland 2005, pp. 43–64; Sandel 2007, p. 2; McGregor *et al.* 2008, pp. 7–9; Mettee 2008, p. 36; Knight 2011, pp. 3–8; Rakes *et al.* 2011, p. 4).

Temperature greatly influences the form and toxicity of ammonia and chlorine. Higher temperatures result in a shift from the nontoxic ammonium ion (NH4\+\) to highly toxic ammonia (NH3). Chlorine is also more toxic at higher temperatures (Hoffman *et al.* 2003, p. 681). Thus, higher temperatures during the summer, along with drought and reduced spring flows, may intensify impacts from these two chemicals on the life stages and habitats of the spring pygmy sunfish.

Therefore, we identify the following water quality parameters to be an essential PBF for the spring pygmy sunfish, based on yearly averages: Optimal temperatures of 57.2 to 68 °F (14 to 20 °C); pH of 6.0 to 7.7; dissolved oxygen of 6.0 ppm or greater; and low concentrations of free or suspended solids with turbidity measuring less than 15 NTU and 20 mg/l TSS.

Water Quantity

Water flow and water quantity may also vary according to season, precipitation events, and human activities, such as groundwater and surface water extraction, within the recharge area of the spring system. Agriculture, industrial or human consumption, silviculture, maintenance of roadways and utilities, and urbanization and industrialization projects are activities that may use water that would otherwise recharge spring systems. Connectivity of spring systems is also important for maintaining water quality. Adequate groundwater and recharge rates, and spring water outflow, are important to the conservation of the spring pygmy sunfish.

Therefore, based on the information above, we identify a hydrologic flow regime (magnitude, frequency, duration, and seasonality of discharge overtime) necessary to maintain spring habitats to be an essential PBF for the spring pygmy sunfish. The instream flow from groundwater sources (spring and seep) maintains a velocity and a continuous daily discharge from the aquifer that allows for connectivity between habitats. Instream flow is stable and does not vary during water extraction, and the aquifer recharge maintains adequate levels to supply water flow to the spring head. The flow regime does not significantly change during storm events.

Food

All pygmy sunfish species stalk invertebrates by using the dense submergent vegetation within the spring system to conceal their foraging activity (Walsh and Burr 1984, pp. 45–46). The aquatic vegetation provides a ready source of food (Petty *et al.* 2011, p. 2) and habitat for invertebrates. Daphnia, amphipods, chironomid larvae, and small snails are the major components of the spring pygmy sunfish's diet (Slate 1993, p. 3; Sandel 2009, p. 9). Therefore, we identify these food items as a PBF for the species.

*Cover or Shelter and Sites for Breeding, Reproduction, or Rearing*

The spring pygmy sunfish relies heavily on aquatic and emergent vegetation in the shallow water within the runs and pools of the spring systems. The species has an affinity for patches of dense filamentous submergent vegetation for breeding, reproduction and growth of offspring; concealment from predators; and foraging (Sandel 2008, pp. 3–4; Kuhajda *in litt.* 2012). Important species of aquatic filamentous submergent vegetation include *Ceratophyllum echinatum* (spineless hornwort), *Myriophyllum heterophyllum* (two-leaf water milfoil), and *Hydrilla verticillata* (native hydrilla); emergent vegetation includes clumps and stands of *Sparganium* spp. (bur reed), *Polygonum* spp. (smartweed), *Nasturtium officinale* (watercress), *Juncus* spp. (rush), and *Carex* spp. (sedges); semi-emergent vegetation includes *Nuphar luteum* (yellow pond lily), *Utricularia* spp. (bladderwort), and *Callitriche* spp. (water starwort) (Mayden 1993, p. 11; Jandebeur 1997, pp. 42–44; Sandel 2011, pp. 3–5, 9–11). Sandel (2009, p. 14) noted that the concentration of spring pygmy sunfish was greatest in association with thick and abundant *Ceratophyllum echinatum* within the spring pool and that the species' abundance decreased as the distances from the spring pools increased.

Therefore, based on the information above, we identify aquatic, emergent and semi-emergent vegetation within the spring runs and submergent vegetation that is adequate for breeding, reproducing, and rearing young; providing cover and shelter from predators; and supporting the prey base of aquatic macroinvertebrates eaten by spring pygmy sunfish to be an essential PBF for the spring pygmy sunfish.

*Summary of Essential Physical or Biological Features*

We have determined that the following PBFs are essential to the conservation of the spring pygmy sunfish:

(1) *Spring system.* Springs, and connecting spring-fed reaches and wetlands, that are geomorphically stable and relatively low-gradient. This includes headwater springs with spring heads (water source), spring runs, and spring pools that filter into shallow, vegetated wetlands.

(2) *Water quality.* Yearly averages of water quality with optimal temperatures of 57.2 to 68 °F (14 to 20 °C); pH of 6.0 to 7.7; dissolved oxygen of 6.0 parts per million (ppm) or greater; low concentrations of free or suspended solids with turbidity measuring less than 15 NTU and 20 mg/l TSS.

(3) *Hydrology.* A hydrologic flow regime (magnitude, frequency, duration, and seasonality of discharge over time) necessary to maintain spring habitats. The instream flow from groundwater sources (springs and seeps) maintains an adequate velocity and a continuous daily discharge from the aquifer that allows for connectivity between habitats. Instream flow is stable and does not vary during water extraction, and the aquifer recharge maintains adequate levels to supply water flow to the spring head. The flow regime does not significantly change during storm events.

(4) *Prey base, or food.* Macroinvertebrates including *Daphnia* spp., amphipods, chironomids (non-biting midges), or small snails.

(5) *Vegetation.* Aquatic, emergent and semi-emergent vegetation along the margins of spring runs and submergent vegetation that is adequate for breeding, reproducing, and rearing young; providing cover and shelter from predators; and supporting the macroinvertebrate prey base. Important species include:

(a) Submergent filamentous vegetation such as *Ceratophyllum echinatum* (spineless hornwort), *Myriophyllum heterophyllum* (two-leaf water milfoil), and *Hydrilla verticillata* (native hydrilla);

(b) Emergent vegetation such as *Sparganium* spp. (bur reed), *Polygonum* spp. (smartweed), *Nasturtium officinale* (watercress), *Juncus* spp. (rush), and *Carex* spp. (sedges); and

(c) Semi-emergent vegetation such as *Nuphar luteum* (yellow pond lily), *Utricularia* spp. (bladderwort), and *Callitriche* spp. (water starwort).

*Special Management Considerations or Protection*

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain features that are essential to the conservation of the species and which may require special management considerations or protection.

The above-described PBFs may require special management considerations or protection to reduce the following threats or potential threats: Reduced groundwater/surface flow from water extraction; changes in the composition and abundance of vegetation in the spring system; alteration of the bottom substrate and normal sinuosity stream channels from fill material within the spring system and spring-fed wetlands for development projects; degradation of water quality from uncontrolled discharge of stormwater draining agricultural fields, roads, bridges, and urban areas; careless agricultural practices, including unmanaged livestock grazing; and road, bridge, and utility easement maintenance (*e.g.,* use of herbicides and resurfacing or sealant materials).

Special management considerations or protection are required within critical habitat areas to address these threats. Management activities that could ameliorate these threats include (but are not limited to) the following: Establishing permanent conservation easements or land acquisition to protect the species on private lands; minimizing habitat disturbance, fragmentation, and destruction by maintaining suitable fish passage structures under roads; providing significant buffers around the spring components such as the spring head (water source), spring pool, and spring run; monitoring and regulating the withdrawal and use of groundwater and surface water; preserving recharge areas by increasing the permeable area for percolation of rainfall back into the aquifer; limiting impervious substrates; and minimizing water quality degradation by stormwater runoff with catchment basins, vegetated buffers along streams, and other appropriate best management practices.

**Criteria Used To Identify Critical Habitat**

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b), we review available information pertaining to the habitat requirements of the species and identify specific areas within the geographical area occupied by the species at the time of listing and any specific areas outside the geographical area occupied by the species to be considered for designation as critical habitat. We are designating critical habitat in areas within the geographical area occupied by the species at the time of listing in 2013. We also are designating specific areas outside the geographical area occupied by the species at the time of listing (in Pryor Spring), which were historically occupied, but are presently unoccupied, because we have determined that such areas are essential for the conservation of the species.

We began our determination of which areas to propose for critical habitat with an assessment of the critical life-history components of the spring pygmy sunfish, as they relate to habitat. We then evaluated current and historical sites to establish what areas are currently occupied and contain the PBFs that are essential to the conservation of the species and that may require special management considerations or protection, as well as unoccupied sites that might be essential for the conservation of the species. We reviewed the available information pertaining to historical and current distributions, life histories, and habitat requirements of this species. Our sources included surveys, unpublished reports, and peer-reviewed scientific literature prepared by the Alabama Department of Conservation and Natural Resources, Alabama Geological Survey, Limestone County Revenue Office, Athens State University, University of Alabama, the Service, and spring pygmy sunfish researchers and others, as well as information available on the Virtual Alabama website (*https://virtual.alabama.gov/*) and Geographic Information System (GIS) data (such as species occurrence data, habitat data, land use topography, digital aerial photography, and ownership maps).

Currently, occupied habitat is confined to two populations in Alabama: One in the upper Beaver Dam Spring/Creek complex in Limestone County, and one in Blackwell Swamp in Madison County. These two areas contain all of the PBFs to support life-history functions essential to the conservation of the species. However, these populations are at risk of extirpation from stochastic events such as periodic droughts and from existing or potential human-induced events (*i.e.,* development, excessive water extraction, chemical contamination). To reduce the risk of losing either population through these processes, it is

important to establish and re-establish additional populations in areas where suitable habitat exists. Therefore, we attempted to identify unoccupied spring/stream reaches that could be essential for the conservation of the spring pygmy sunfish. In doing so, we first considered the availability of potential habitat throughout the historical range that may be suitable for the survival and persistence of the species. We eliminated from consideration spring/stream reaches without any historical records of spring pygmy sunfish occurrences. We identified two sites with recorded historical occurrences of the spring pygmy sunfish: One in Pryor Springs in Limestone County, Alabama, and a second in Cave Springs in Lauderdale County, Alabama. The Cave Spring site was excluded from consideration because it was inundated with the formation of Wheeler Reservoir in 1939. However, the Pryor Spring/Branch site, which, prior to 2007, supported a population of spring pygmy sunfish west of Highway 31, was determined to have habitat sufficient to support the species' life-history functions and the only portion of the historical range in a position to support a reintroduction.

The currently unoccupied Pryor Spring/Branch system provides habitat for population reintroduction into a separate geographic area, which would increase population redundancy. Establishment of a third population would reduce the level of threat from stochastic events, thereby decreasing the risk of extinction and contributing toward the species' eventual recovery. Accordingly, we determined that the Pryor Spring/Branch is essential for the conservation of the species and designate it as critical habitat.

We delineated the critical habitat unit boundaries by determining the appropriate length within these streams by identifying the upper spring head (water source), spring pool, spring run, spring-fed wetlands, seeps, and ephemeral streams draining into the spring systems. We digitized the area boundary based upon visual interpretation of wetland vegetation using ARCGIS. The high water mark in springs indicates stable flow under normal conditions. As defined at 33 CFR 329.11, the ordinary high water mark on nontidal rivers and streams is the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural water line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas. For the spring pools and associated spring-fed wetlands, the area was determined and delineated by the presence of emergent vegetation patterns and topography as noted on aerial photographs and topographical maps, and during field visits. In order to set the upstream and downstream limits of these critical habitat units, we used the spring head (water source) as the uppermost point, identified by topographic maps, field visits, and available landmarks (*i.e.,* bridges and road crossings). Locations of the spring pygmy sunfish below or downstream of the spring head (water source) were included in order to ensure incorporation of all potential sites of occurrence. These stream reaches were then digitized using 7.5' topographic maps and ARCGIS to produce the critical habitat maps.

When determining critical habitat boundaries, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features for spring pygmy sunfish. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this final rule have been excluded by text in the rule and are not designated as critical habitat. Therefore, a Federal action involving these lands will not trigger a section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological features in the adjacent critical habitat.

We are designating as critical habitat lands that we have determined are occupied at the time of listing, contain sufficient physical or biological features to support life-history processes essential for the conservation of the species and may require special management, and lands outside of the geographical area occupied at the time of listing that we have determined are essential for the conservation of the species.

The critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document under Regulation Promulgation. We include more detailed information on the boundaries of the critical habitat designation in this preamble of this document. We will make the coordinates or plot points or both on which each map is based available to the public on *http://www.regulations.gov* at Docket No. FWS–R4–ES–2013–0010, on our website, *https://www.fws.gov/daphne,* and at the Alabama Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**, above).

## Final Critical Habitat Designation

We are designating three units as critical habitat for spring pygmy sunfish. Those three units are: (1) Beaverdam Spring/Creek, (2) Pryor Spring/Branch, and (3) Blackwell Swamp/Run. Units 1 and 3 were occupied at the time of listing, and Unit 2 was not occupied at the time of listing. Table 1 shows the approximate size and ownership of the units designated as critical habitat for the spring pygmy sunfish.

TABLE 1—OWNERSHIP OF THE PROPOSED CRITICAL HABITAT UNITS FOR THE SPRING PYGMY SUNFISH

| Unit | Location | Private ownership skm (smi); ha (ac) | Federal ownership skm (smi); ha (ac) | Total length skm (smi) | Total area ha (ac) |
|---|---|---|---|---|---|
| 1 | Beaverdam Spring/Creek | 0.8 (0.5); 41 (101) | 4.4 (2.7); 301 (744) | 5.2 (3.2) | 342 (845) |
| 2 | Pryor Spring/Branch | 0.2 (0.15); 8.1 (20) | 3.1 (1.9); 65.6 (162) | 3.4 (2.1) | 73 (182) |
| 3 | Blackwell Swamp/Run | 0 (0); 0 (0) | 2.3 (1.4); 123 (303) | 2.3 (1.4) | 123 (303) |

TABLE 1—OWNERSHIP OF THE PROPOSED CRITICAL HABITAT UNITS FOR THE SPRING PYGMY SUNFISH—Continued

| Unit | Location | Private ownership skm (smi); ha (ac) | Federal ownership skm (smi); ha (ac) | Total length skm (smi) | Total area ha (ac) |
|---|---|---|---|---|---|
| Total | ..... | 1.0 (0.7); 49.1 (121) | 9.8 (6.0); 489.6 (1,209) | 10.9 (6.7) | 538 (1,330) |

**Note:** Sizes may not sum due to rounding; ''skm'' means stream kilometers, and ''smi'' means stream miles.

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for the spring pygmy sunfish, below.

*Unit 1: Beaverdam Spring/Creek, Limestone County, Alabama*

Unit 1 includes a total of 5.2 km (3.2 mi) of Beaverdam Spring/Creek, northeast of Greenbrier, Alabama, from the spring head (water source), 5.6 km (3.5 mi) north of Interstate 565, to 3.9 km (2.4 mi) south of Interstate 565. Unit 1 encompasses Moss, Horton, and Thorsen springs. This unit includes a total of 342 ha (845 ac). A majority of this unit is composed of 4.4 km (2.7 mi) of stream and 301 ha (744 ac) of spring/creek complex owned by the Service as part of the Wheeler National Wildlife Refuge. A portion of Unit 1, consisting of 0.8 km (0.5 mi) of stream and a total area of 41 ha (101 ac), is privately owned.

To describe the layout of Unit 1, we have separated it into three subunits. Subunit A is a small, narrow strip of wetlands in an area of 7.2 ha (17.9 ac) on the northeastern side of the Unit 1. Subunit B covers 69 ha (170.4 ac) just to the north of I–565, and Subunit C covers 265.7 ha (656.6 ac) just to the south of I–565.

Unit 1 is currently occupied by the species and contains all of the PBFs essential to its conservation. This unit provides habitat for the spring pygmy sunfish with adequate numbers of spring pools, spring fed wetlands, and spring runs (PBF 1). Submergent, emergent, and semi-emergent types of aquatic vegetation are present in this unit (PBF 5), providing sites for shelter, spawning, and other essential life-history processes for the spring pygmy sunfish, as well as for the prey items for the species, which also are present in the unit (PBF 4). All water quality parameters (PBF 2) and instream flow levels (PBF 3) in Unit 1 are within a suitable range to support the species' needs for survival.

Special management considerations or protection may be required within Unit 1 to address reduced groundwater or surface flows, degradation of water quality, and sedimentation, which can change the composition and reduce abundance of native vegetation, alter bottom substrates, and, through deposition over time, modify the natural sinuosity or form of stream channels within the spring system. Sources of these stressors to spring pygmy sunfish are encroaching urbanization, industrialization activities, inadequate stormwater management, water diversion, construction projects and maintenance activities, culvert and pipe installation, and other watershed and floodplain disturbances that increase erosion and release sediments or nutrients into the water.

*Unit 2: Pryor Spring/Branch, Limestone County, Alabama*

Unit 2 includes 3.4 km (2.1 mi) of Pryor Spring and Pryor Branch from the spring head, about 3.7 mi (5.9 km) south of Tanner, Alabama, and just east of Highway 31, downstream to the bridge where it intersects with Harris Station/Thomas L. Hammons Road. This also includes a total of 73.6 ha (182 ac) in area. Within this unit, almost 3.1 km (1.9 mi) of the stream reach (93 percent), and 65.6 ha (162 ac) of the land area (89 percent), are federally owned by the Tennessee Valley Authority and managed by the State as the Swan Creek Wildlife Management Area. The remaining 0.2 km (0.15 mi) of stream reach (7 percent) and 8.1 ha (20 ac) (11 percent) of land are privately owned.

Unit 2 is currently unoccupied but historically was a location for the spring pygmy sunfish. The Pryor Spring/Branch system contains scattered spring-influenced wetlands, spring pools, spring runs, and shallow water wetlands on the margins of small tributaries. Populations of spring pygmy sunfish were historically noted as small and isolated within specific habitat sites of Pryor Spring/Branch.

A portion of the spring head has been mechanically deepened and the banks steepened in order to promote water extraction for cropland irrigation. Nevertheless, there is significant flow of groundwater entering the system throughout the year from the springhead. Adequate aquatic vegetation occurs in areas throughout this spring system, providing potential habitat for the normal life stages and behavior of the spring pygmy sunfish and the species' prey sources. Water flow from the main springhead (water source), along with other unidentified springs and seeps within the system, provides sufficient water quantity to allow for connectivity between spawning, rearing, foraging, and resting sites, promoting gene flow throughout the spring system. While the existence of PBFs is not necessary for the designation of unoccupied habitat, the presence of PBFs, even though not all are in optimal form, in portions of Unit 2 indicates Pryor Spring/Branch is a valuable site that can contribute toward conservation of the spring pygmy sunfish. Further, as this species is only known from two populations, it is important that additional populations be established as a buffer against extirpation at either known site from stochastic events, such as drought, or a catastrophic event, such as an accidental contaminant spill.

Therefore, we have determined this unit is essential for the conservation of the species because it provides potential for the re-establishment of an additional population of the spring pygmy sunfish, thereby reducing this species' risk of extinction and contributing its eventual recovery.

*Unit 3: Blackwell Swamp/Run, Madison County, Alabama*

Unit 3 includes a total of 123 ha (303 ac) of land and 2.3 stream km (1.4 stream mi), all of which is federally owned within the Wheeler National Wildlife Refuge in Madison County, Alabama. This unit is located about 4.3 km (2.7 mi) due west of the town of Triana. This unit is 0.96 km (0.6 mi) north of Blackwell Run's confluence with the Tennessee River; approximately 1 km (0.5 mi) south of Swancott Road SW; about 1 km (0.5 mi) west of Landess Circle; and just to the east of B. Road/County Line Road SW. Unit 3 is currently occupied by spring pygmy sunfish. The spring pygmy sunfish was not known from Blackwell Swamp until it was captured during surveys in 2015. Based on the proximity of Blackwell Swamp to other localities

where the species occurs or did occur, and the shared connection of these localities to the Tennessee River, we presume that the spring pygmy sunfish was present at the time of listing and that the population is native to the site. Unit 3 provides habitat for the spring pygmy sunfish via the spring systems of Blackwell Swamp, which include spring runs and a large spring-fed pool that was enlarged after Blackwell Spring Run was impounded.

Unit 3 contains all of the PBFs essential to the species' survival and eventual recovery. It is a spring system (PBF1) with adequate water quality (PBF 2), water quantity and flow (PBF 3), and a diversity of aquatic vegetation (PBF 5) to support the normal life stages and behavior of the spring pygmy sunfish and its prey sources (PBF 4). Wheeler National Wildlife Refuge actively manages water levels in Unit 3 to enhance use by waterfowl. The water in the unit is replenished by surface flow from runoff, a small stream in the northeast corner, and numerous spring seeps of the Blackwell Spring system. The Tennessee River does not influence the spring pool unless allowed to enter the pool through a water control structure, which may occur in the course of waterfowl management.

Special management considerations or protection may be required in Unit 3 to address degradation of water quality, and sedimentation, which can change the composition and reduce abundance of native vegetation, alter bottom substrates, and, through deposition over time, modify the natural sinuosity or form of stream channels within the spring system. Potential stressors to the spring pygmy sunfish and its habitat in this unit include structures, such as boat ramps; an unpaved, gravel-maintained, refuge road (11.7 km; 7.3 mi) circling the unit; and sewer, gas, and water easements, including a City of Huntsville sewer line right-of-way to the east. Additional stressors outside and adjacent to the unit are the same as described for Unit 1.

## Effects of Critical Habitat Designation

### *Section 7 Consultation*

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of proposed critical habitat.

We published a final rule with a new definition of destruction or adverse modification on February 11, 2016 (81 FR 7214). Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of a listed species. Such alterations may include, but are not limited to, those that alter the physical or biological features essential to the conservation of a species or that preclude or significantly delay development of such features.

If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Examples of actions that are subject to the section 7 consultation process are actions on State, tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local, or private lands that are not federally funded or authorized, do not require section 7 consultation.

As a result of section 7 consultation, we document compliance with the requirements of section 7(a)(2) through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define ''reasonable and prudent alternatives'' (at 50 CFR 402.02) as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Service Director's opinion, avoid the likelihood of jeopardizing the continued existence of the listed species and/or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where we have listed a new species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law). Consequently, Federal agencies sometimes may need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

### *Application of the ''Adverse Modification'' Standard*

The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species. Activities that may destroy or adversely modify critical habitat are those that result in a direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of the spring pygmy sunfish. Such alterations may include, but are not limited to, those that alter the physical or biological features essential to the conservation of these species or that preclude or significantly delay development of such features. As discussed above, the role of critical habitat is to support physical or biological features essential to the conservation of a listed species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any

proposed or final regulation that designates critical habitat, activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation.

Activities that may affect critical habitat, when carried out, funded, or authorized by a Federal agency, should result in consultation for the spring pygmy sunfish. These activities include, but are not limited to:

(1) Actions that would alter the geomorphology of the spring system and its associated habitats. Such activities could include, but are not limited to, instream excavation or dredging, impoundment, channelization, and discharge of fill materials. These activities could cause aggradation or degradation of the channel bed elevation or significant bank erosion and result in entrainment or burial of this species, destruction of associated aquatic vegetation, and other direct or cumulative adverse effects to this species and its life cycle.

(2) Actions that would significantly alter the existing flow regime, related aquifer, and recharge areas. Such activities could include, but are not limited to, impoundments; water diversion; channel constriction or widening; placement of pipes, culverts, or bridges; and groundwater and surface water extraction. These activities could eliminate or reduce the habitat necessary for growth, reproduction, and connectivity of spring pygmy sunfish populations.

(3) Actions that would significantly alter water chemistry or water quality (*e.g.,* temperature, pH, contaminants, and excess nutrients). Such activities could include, but are not limited to, the unsustainable use or release of chemicals, such as pesticides and fertilizers and biological pollutants, into surface water or groundwater. These activities could alter water conditions that are beyond the tolerances of this species and result in direct or cumulative adverse effects to the species and its life cycle.

(4) Actions that would significantly alter streambed material composition and quality by increasing sediment deposition or filamentous algal growth. Such activities could include, but are not limited to, construction and maintenance projects of subdivisions, roads, bridges, stormwater systems, and utility easements; unsustainable livestock grazing and timber harvest; off-road vehicle use; and other watershed and floodplain disturbances that release sediments or nutrients into the water through stormwater runoff. These activities could eliminate or reduce habitats necessary for the growth and reproduction of the spring pygmy sunfish by causing excessive sedimentation and a decrease in water quality for the species and associated vegetation and prey base by nitrification, leading to excessive filamentous algal growth, turbidity, and an increase in water temperatures.

## Exemptions

### *Application of Section 4(a)(3) of the Act*

Section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) provides that: ''The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan [INRMP] prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.'' There are no Department of Defense lands with a completed INRMP within the final critical habitat designation.

## Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the statute on its face, as well as the legislative history are clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

When identifying the benefits of inclusion for an area, we consider the additional regulatory benefits that area would receive due to the protection from destruction of adverse modification as a result of actions with a Federal nexus, the educational benefits of mapping essential habitat for recovery of the listed species, and any benefits that may result from a designation due to State or Federal laws that may apply to critical habitat.

When identifying the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation, and the continuation, strengthening, or encouragement of partnerships.

In the case of the spring pygmy sunfish, the benefits of critical habitat include public awareness of the presence of the species and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for the spring pygmy sunfish due to the protection from destruction or adverse modification of critical habitat. Additionally, continued implementation of an ongoing management plan that provides conservation equal to or greater than a critical habitat designation reduces the benefits of including that specific area in the critical habitat designation.

We evaluate existing conservation plans when considering the benefits of exclusion. We consider a variety of factors including, but not limited to, whether the plan is finalized, how it provides for the conservation of the essential physical or biological features, whether there is a reasonable expectation that the conservation management strategies and actions contained in a management plan will be implemented into the future, whether the conservation strategies in the plan are likely to be effective, and whether the plan contains a monitoring program or adaptive management to ensure that the conservation measures are effective and can be adapted in the future in response to new information.

After identifying the benefits of inclusion and the benefits of exclusion, we carefully weigh the two to determine whether the benefits of exclusion outweigh those of inclusion. If our analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, we then determine whether exclusion would result in extinction of the species. If exclusion of an area from critical habitat will result in extinction, we will not exclude it from the designation.

### *Consideration of Economic Impacts*

Section 4(b)(2) of the Act and its implementing regulations require that we consider the economic impact that may result from a designation of critical habitat. In order to consider economic impacts, we prepared an incremental effects memorandum (IEM) and screening analysis which, together with our narrative and interpretation of effects, constituted our draft economic analysis (DEA) of the proposed critical habitat designation and related factors (Industrial Economics, Inc. (IEc) 2013a).

The analysis, dated March 14, 2013, was made available for public review and comment from April 29, 2013, through May 29, 2013 (78 FR 25033; April 29, 2013). The DEA addressed probable economic impacts of critical habitat designation for the spring pygmy sunfish. Following the close of the comment period, we reviewed and evaluated all information submitted during the comment period that may pertain to our consideration of the probable incremental economic impacts of this critical habitat designation. Additional information relevant to the probable incremental economic impacts of critical habitat designation for the spring pygmy sunfish is summarized below and available in the final economic analysis (FEA, or screening analysis) for the spring pygmy sunfish (IEc 2013b), available at *http://www.regulations.gov*.

The intent of the FEA is to quantify the economic impacts generated by the critical habitat designation for the spring pygmy. The economic impact of the final critical habitat designation is analyzed by comparing scenarios both ''with critical habitat'' and ''without critical habitat.'' The ''without critical habitat'' scenario represents the baseline for the analysis, considering protections already in place for the species (*e.g.,* under the Federal listing and other Federal, State, and local regulations). The baseline, therefore, represents the costs incurred regardless of whether critical habitat is designated. The ''with critical habitat'' scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts are those not expected to occur absent the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat above and beyond the baseline costs; these are the costs we consider in the final designation of critical habitat.

The FEA also addresses how potential economic impacts are likely to be distributed, including an assessment of any local or regional impacts of habitat conservation and the potential effects of conservation activities on government agencies, private businesses, and individuals. The FEA measures lost economic efficiency associated with residential and commercial development and public projects and activities, such as economic impacts on water management and transportation projects, Federal lands, small entities, and the energy industry. Decision-makers can use this information to assess whether the effects of the designation might unduly burden a particular group or economic sector. The FEA considers those costs likely to occur in the 20 years following the designation of critical habitat, which was determined to be the appropriate period for analysis because limited planning information was available for most activities to forecast activity levels for projects beyond a 20-year timeframe. The FEA quantifies economic impacts of the spring pygmy sunfish's conservation efforts associated with the following categories of activity: (1) Residential, commercial, and industrial development; (2) transportation and utilities; (3) groundwater and surface water extraction; (4) silviculture, agriculture, and grazing; and (5) dredging, impoundment, and channelization.

The FEA estimates the present value of the total incremental cost of critical habitat designation is $160,000 over the next 20 years (assuming a 7 percent discount rate), or $15,000 on an annualized basis. The incremental impacts of critical habitat designation in Units 1 and 2 (Unit 3 is discussed below) will be limited to additional administrative costs to the Service, Federal agencies, and private third parties. Transportation and utility activities are likely to be subject to the greatest incremental administrative impacts (forecast to be $85,000), followed by development ($62,000) and silviculture, agriculture, and grazing ($18,000) (all estimates expressed as present values over 20 years, assuming a 7 percent discount rate). No incremental impacts are anticipated for dredging, impoundment, and channelization, as these activities have not occurred within the study area for the past 10 years and are not forecast to occur in the future.

The overarching uncertainty in this analysis is the potential future effect of the critical habitat designation on water withdrawals. There is currently insufficient hydrological information to link particular withdrawal events (*e.g.,* irrigated agriculture or municipal and industrial uses) with the PBFs of the critical habitat for the spring pygmy sunfish. As such, we are unable to determine the potential for a withdrawal to generate adverse modification of critical habitat at this time.

After the spring pygmy sunfish was discovered in Blackwell Swamp on Wheeler National Wildlife Refuge, we proposed to add Unit 3 to the critical habitat designation (83 FR 55341; November 5, 2018), which occurred after the FEA was complete. In areas where the spring pygmy sunfish is present, Federal agencies already are required to consult with the Service under section 7 of the Act on activities they authorize, fund, or carry out that may affect the species. Therefore, the FEA prepared for Units 1 and 2 is not significantly affected by the addition of Unit 3 to critical habitat.

A copy of the IEM and screening analysis with supporting documents may be obtained by contacting the Alabama Ecological Services Field Office (see **ADDRESSES**) or by downloading from the internet at *http://www.regulations.gov*.

## Exclusions

### *Exclusions Based on Economic Impacts*

The Service considered the economic impacts of the critical habitat designation. The Secretary is not exercising his discretion to exclude any areas from this designation of critical habitat for the spring pygmy sunfish based on economic impacts.

### *Exclusions Based on Impacts on National Security and Homeland Security*

Section 4(a)(3)(B)(i) of the Act (see above) may not cover all Department of Defense (DoD) lands or areas that pose potential national-security concerns (*e.g.,* a DoD installation that is in the process of revising its INRMP for a newly listed species or a species previously not covered). If a particular area is not covered under section 4(a)(3)(B)(i), national security or homeland security concerns are not a factor in the process of determining which areas meet the definition of ''critical habitat.'' Nevertheless, when designating critical habitat under section 4(b)(2), the Service must consider impacts on national security, including homeland security, on lands or areas not covered by section 4(a)(3)(B)(i). Accordingly, we will always consider for exclusion from the designation areas for which DoD, Department of Homeland Security, or another Federal agency has requested exclusion based on an assertion of national-security or homeland-security concerns. No such requests have been made for this species. Consequently, the Secretary is not exerting his discretion to exclude any areas from the final designation based on impacts on national security or homeland-security concerns.

### *Exclusions Based on Other Relevant Impacts*

Under section 4(b)(2) of the Act, we consider any other relevant impacts, in addition to economic impacts and

impacts on national security. We consider a number of factors, including whether there are permitted conservation plans covering the species in the area such as HCPs, safe harbor agreements, or candidate conservation agreements with assurances (CCAAs), or whether there are non-permitted conservation agreements and partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at the existence of tribal conservation plans and partnerships and consider the government-to-government relationship of the United States with tribal entities. We also consider any social impacts that might occur because of the designation.

Private or Other Non-Federal Conservation Plans Related to Permits Under Section 10 of the Act

CCAAs are voluntary agreements designed to conserve candidate and listed species on non-Federal lands. In exchange for actions that contribute to the conservation of species on non-Federal lands, participating property owners are covered by an ''enhancement of survival'' permit under section 10(a)(1)(A) of the Act, which authorizes incidental take of the covered species that may result from implementation of conservation actions and specific land uses The Service also provides enrollees assurances that we will not impose further land, water, or resource-use restrictions, or require additional commitments of land, water, or finances, beyond those agreed to in the agreements.

When we undertake a discretionary section 4(b)(2) exclusion analysis, we will always consider areas covered by an approved CCAA, and generally exclude such areas from a designation of critical habitat if three conditions are met:

(1) The permittee is properly implementing the CCAA, and is expected to continue to do so for its entire term. A CCAA is properly implemented if the permittee is, and has been, fully implementing the commitments and provisions in the CCAA, implementing agreement, and permit.

(2) The species for which critical habitat is being designated is a covered species in the CCAA, or very similar in its habitat requirements to a covered species. The recognition that the Service extends to an agreement for a similar species depends on the degree to which the conservation measures undertaken in the CCAA would also protect the habitat features of the similar species.

(3) The CCAA specifically addresses the habitat of the species for which critical habitat is being designated and meets the conservation needs of the species in the planning area.

We have determined that three CCAAs (Belle Mina Farms Ltd., McDonald Farms, and Horton Farm) fulfill all the above criteria, and thus, we are excluding from critical habitat designation non-Federal lands covered by these plans that provide for the conservation of the spring pygmy sunfish. These CCAAs cover 37 percent of the habitat for the species in the Beaverdam Spring/Creek complex (Unit 1). They ensure that, as long as the CCAAs are in existence, about 88 percent of the recently delineated recharge zone for Beaverdam Spring will remain in its present state as agricultural lands. The CCAAs outline a variety of conservation measures that are being implemented, ranging from restriction of cattle access to protection of the riparian buffer adjacent to the spring and spring run habitat.

Benefits of Inclusion

By being included in critical habitat, the areas would be subject to consultation for Federal actions under the adverse modification standard. Activities with a Federal nexus outside of the purview of the CCAA activities would require section 7 consultation. These could include activities carried out by parties other than the permit holders, and projects such as road and right-of-way construction, stream channelization, and culvert construction. As previously noted, the spring pygmy sunfish faces threats from water withdrawal, and from potential large-scale industrial urbanization and residential development planned adjacent to its habitat from entities other than the CCAA permit holders. The use of best management practices outlined in the CCAA is an important measure in conserving the spring pygmy sunfish, particularly in situations of agricultural land use within the watershed and with the current landowners. However, if and when land use changes to industrialization and urbanization, as is planned in part of this area, the best management practices included in these CCAAs by themselves are inadequate to address the complex issues that can impact the spring pygmy sunfish and its habitat such as aquifer recharge, stormwater management, and chemical transport in association with development. Therefore, the primary benefit of section 7 consultation and any critical habitat designation is to address actions outside the scope of the CCAAs and the control of the permit holders (*e.g.,* industrial and residential development adjacent to CCAA controlled lands, utility line and road development, and adjacent water withdrawal).

As mentioned earlier in this document and in the FEA, the Service does not anticipate additional requirements for critical habitat beyond those required for the species being listed. However there could be an incremental benefit to the species from the resultant section 7 consultation required by projects other than those conducted in accordance with the CCAAs. Any additional benefits of critical habitat inclusion in the CCAA areas would be small, because those benefits would be added to the benefits of the best management practices already required by the CCAAs, and a section 7 consultation within a CCAA area will be, at most, a rare occurrence (see *our response* to comment 1, under Peer Review Comments).

An additional benefit of inclusion of CCAA-enrolled lands in critical habitat is that the critical habitat (and its incremental benefit under section 7) will remain in place regardless of whether or not the CCAAs persist. Final critical habitat designation becomes Federal regulation, while these CCAAs can be terminated with 30-days' written notice. If the CCAAs are terminated, the associated permit would no longer be valid, and the full protection of sections 7 and 9 of the Act would be in effect in the areas currently covered. However, there would nonetheless be a slight incremental benefit to having critical habitat in this scenario through the benefits critical habitat provides under section 7 of the Act.

An additional benefit of including these CCAA-enrolled lands in a critical habitat designation is that the designation could serve to educate landowners, State and local governments, and the public regarding the importance of this area to spring pygmy sunfish conservation. Critical habitat designation, including the CCAA-enrolled lands, and publication of the maps identifying the area that contains the physical and biological features needed for the species' life-history processes, could be beneficial as we work with our partners to avoid and minimize the impact of any development on this species and its habitat early in the process. However, through the publication of the proposed critical habitat rule and this final critical habitat rule, we have publicly identified the areas that are essential to the conservation of the spring pygmy sunfish, and we will continue to work closely with the City of Huntsville and project applicants.

Benefits of Exclusion

The large majority of occupied habitat for this species remains on privately owned lands enrolled under these CCAAs. Partnership with these landowners is absolutely essential to conserving the spring pygmy sunfish. The benefits of excluding the CCAA-enrolled lands from critical habitat can strengthen the existing relationship between these landowners and the Service, which, as outlined above, has already led to many conservation benefits for the species. Exclusion will likewise improve the potential to enroll other landowners who own land essential to the spring pygmy sunfish.

Additionally, the designation of critical habitat could have an unintended negative effect on the Service's relationship with other non-Federal landowners that own areas identified as essential to the spring pygmy sunfish but that are not enrolled in CCAAs due to the perceived imposition of redundant government regulation. If lands within the area covered by the CCAA for the benefit of the species are designated as critical habitat, it could have a dampening effect on our continued ability to form new partnerships with future participants, including States, counties, local jurisdictions, conservation organizations, and private landowners, which together can implement various conservation actions (such as CCAAs) and other conservation plans (particularly large, regional conservation plans that involve numerous participants or address landscape-level conservation of species and habitats) that we would be unable to accomplish otherwise.

When we evaluate whether a current land management or conservation plan provides adequate management or protection, we consider a variety of factors, including, but not limited to, whether the plan is finalized, how it provides for the conservation of the essential physical or biological features, whether there is reasonable expectation that the conservation management strategies actions contained in a management plan are likely to be effective, and whether the plan contains a monitoring program or adaptive management to ensure that the conservation measures are effective and can be adapted in the future in response to new information. These CCAAs actively protect the spring pygmy sunfish from many of the current threats the species faces. The CCAAs have been in place for approximately 5 years, and thus far, the terms and conditions of the agreements have been met. Therefore, the plans are currently providing a benefit to the spring pygmy sunfish, and it is expected that they will continue to do so for their duration.

Benefits of Exclusion Outweigh Benefits of Inclusion

The Secretary has determined that the benefits of excluding the areas covered by the Belle Mina Farms Ltd., McDonald Farms, and Horton Farm CCAAs from the designation of critical habitat for the species outweigh the benefits of including the covered areas in critical habitat. Since these CCAAs were approved in early 2014, the landowners have been carrying out conservation activities benefitting the spring pygmy sunfish that may not have been carried out otherwise (benefits that are not related to section 7 protection under the Act). The landowners are committed to the CCAAs, and through monitoring and collaboration, we are securing data and scientific information to better inform decisions. The CCAAs cover only non-Federal lands. Any Federal nexus on these lands would likely result from actions not covered by the CCAA. Thus, there would still be need for section 7 consultation on projects outside of the purview of the CCAA activities that have a Federal nexus as a result of Federal actions, authorizations, or funding. However, the benefits of inclusion in critical habitat at these sites would be minimized because they are occupied by the species and section 7 consultation will still be invoked to consider the project effects on the species.

Exclusion of these lands from critical habitat will help foster the partnership we have developed with the landowners that own the majority of occupied spring pygmy sunfish habitat. Recognizing the important contributions of our conservation partners through exclusion from critical habitat helps to preserve these partnerships, and helps foster future partnerships for the benefit of this and other listed species, the majority of which do not occur on Federal lands; we consider this to be a substantial benefit of exclusion. For these reasons, we have determined that the benefits of exclusion of these CCAAs outweigh the benefits of inclusion for the spring pygmy sunfish.

Exclusion Will Not Result in the Extinction of the Species

We have concluded that the existing protections under the Act, plus the protections afforded by the CCAAs, will be sufficient to prevent extinction of the spring pygmy sunfish. In the absence of critical habitat, the areas will still be protected through sections 7 and 9 of the Act due to the presence of the species. The CCAAs provide an additional protection to the species because conservation measures to protect habitat are implemented for the duration of the CCAA, whereas without a CCAA, measures to protect the species' habitat in critical habitat or in occupied habitat occur only when there is a project with Federal nexus, which will be a rare occurrence on private lands. Additionally, one population and a portion of another population will remain within designated critical habitat.

Based on the information provided by entities seeking exclusion, as well as any additional public comments we received, we evaluated whether certain lands in the proposed critical habitat were appropriate for exclusion from this final designation pursuant to section 4(b)(2) of the Act. All areas considered were within Unit 1. As shown in Table 2, we are excluding the following areas from critical habitat designation for the spring pygmy sunfish because of their enrollment in CCAAs:

TABLE 2—AREAS INCLUDED AND EXCLUDED FROM CRITICAL HABITAT DESIGNATION IN UNIT 1

| Specific area | Areas meeting the definition of critical habitat, ha (ac) | Areas excluded from critical habitat, ha (ac) |
|---|---|---|
| Subunit A | 7.2 (17.9) | 0 (0) |
| Subunit B | 69.0 (170.4) | 0 (0) |
| Subunit C | 265.7 (656.6) | 0 (0) |
| Belle Mina Farms CCAA | 62.7 (155) | 62.7 (155) |
| McDonald Farms CCAA | 81.7 (202) | 81.7 (202) |

TABLE 2—AREAS INCLUDED AND EXCLUDED FROM CRITICAL HABITAT DESIGNATION IN UNIT 1—Continued

| Specific area | Areas meeting the definition of critical habitat, ha (ac) | Areas excluded from critical habitat, ha (ac) |
|---|---|---|
| Horton Farm CCAA | 59.1 (146) | 59.1 (146) |

**Required Determinations**

*Regulatory Planning and Review (Executive Orders 12866 and 13563)*

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order (E.O.) 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

*Executive Order 13771*

This rule is not an E.O. 13771 (''Reducing Regulation and Controlling Regulatory Costs'') (82 FR 9339, February 3, 2017) regulatory action because this rule is not significant under E.O. 12866.

*Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

The Service's current understanding of the requirements under the RFA, as amended, and following recent court decisions, is that Federal agencies are only required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself and, therefore, are not required to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried out by the agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7, only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Consequently, it is our position that only Federal action agencies will be directly regulated by this designation. There is no requirement under the RFA to evaluate the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities. Therefore, because no small entities are directly regulated by this rulemaking, the Service certifies that this critical habitat designation will not have a significant economic impact on a substantial number of small entities.

During the development of this final rule, we reviewed and evaluated all information submitted to us during the comment period that may pertain to our consideration of the probable incremental economic impacts of this critical habitat designation. Based on this information, we affirm our certification that this critical habitat designation will not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

*Energy Supply, Distribution, or Use—Executive Order 13211*

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. OMB has provided guidance for implementing this E.O. that outlines nine outcomes that may constitute ''a significant adverse effect'' when compared to not taking the regulatory action under consideration.

The economic analysis finds that none of these criteria is relevant to this analysis. Thus, based on information in the economic analysis, energy-related impacts associated with spring pygmy sunfish conservation activities within critical habitat are not expected. As such, the designation of critical habitat is not expected to significantly affect energy supplies, distribution, or use.

Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

*Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following findings:

(1) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this rule will significantly or uniquely affect small governments because it will not produce a Federal mandate of $100 million or greater in any year; that is, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments. By definition, Federal agencies are not considered small entities, although the activities they fund or permit may be proposed or carried out by small entities. Consequently, we do not believe that the critical habitat designation will significantly or uniquely affect small government entities. As such, a Small Government Agency Plan is not required.

*Takings—Executive Order 12630*

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for the spring pygmy sunfish in a takings implications assessment. The Act does not authorize the Service to regulate private actions on private lands or confiscate private property as a result of critical habitat designation. Designation of critical habitat does not affect land ownership, or establish any closures, or restrictions on use of or access to the designated areas. Furthermore, the designation of critical habitat does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. However, Federal agencies are prohibited from carrying out, funding, or authorizing actions that would destroy or adversely modify critical habitat. A takings implications assessment has been completed and concludes that this designation of critical habitat for the spring pygmy sunfish does not pose significant takings implications for lands within or affected by the designation.

*Federalism—Executive Order 13132*

In accordance with E.O. 13132 (Federalism), this rule does not have significant federalism effects. A federalism summary impact statement is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of this critical habitat designation with, appropriate State resource agencies in Alabama. We received comments from the Geological Survey of Alabama and have addressed them under Summary of Comments and Recommendations, above. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, this rule does not have substantial direct effects either on the States, or on the relationship between the national government and the States, or on the distribution of powers and responsibilities among the various levels of government. The designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more clearly defined, and the physical and biological features of the habitat necessary to the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist these local governments in long-range planning (because these local governments no longer have to wait for case-by-case section 7 consultations to occur).

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) will be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

*Civil Justice Reform—Executive Order 12988*

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial

system and that it meets the applicable standards set forth in sections 3(a) and 3(b)(2) of the Order. We are designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, the rule identifies the elements of physical or biological features essential to the conservation of the spring pygmy sunfish. The designated areas of critical habitat are presented on maps, and the rule provides several options for the interested public to obtain more detailed location information, if desired.

*Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)*

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*National Environmental Policy Act (42 U.S.C. 4321 et seq.)*

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

*Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. We determined that there are no tribal lands affected by this designation.

## References Cited

A complete list of all references cited is available on the internet at *http://www.regulations.gov* and upon request from the Alabama Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

## Authors

The primary authors of this rulemaking are the staff members of the Alabama Ecological Services Field Office.

## List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

## Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

## PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

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

**Authority:** 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h) by revising the entry for ''Sunfish, spring pygmy'' under FISHES in the List of Endangered and Threatened Wildlife to read as follows:

**§ 17.11 Endangered and threatened wildlife.**

* * * * *

(h) * * *

| Common name | Scientific name | Where listed | Status | Listing citations and applicable rules |
|---|---|---|---|---|
| **Fishes** | | | | |
| * | * | * | * | * |
| Sunfish, spring pygmy ..... | *Elassoma alabamae* ..... | Wherever found ..... | T | 78 FR 60766, 10/2/2013; 50 CFR 17.95(e).CH. |
| * | * | * | * | * |

■ 3. In § 17.95, amend paragraph (e) by adding an entry for ''Spring Pygmy Sunfish (*Elassoma alabamae*)'', in the same order that the species appears in the table at § 17.11(h), to read as follows:

**§ 17.95 Critical habitat—fish and wildlife.**

* * * * *

(e) *Fishes.*

* * * * *

Spring Pygmy Sunfish (*Elassoma alabamae*)

(1) Critical habitat units are depicted for Limestone and Madison Counties, Alabama, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of the spring pygmy sunfish consist of the following components:

(i) *Spring system.* Springs, and connecting spring-fed reaches and wetlands, that are geomorphically stable and relatively low-gradient. This includes headwater springs with spring heads (water source), spring runs, and spring pools that filter into shallow, vegetated wetlands.

(ii) *Water quality.* Yearly averages of water quality with optimal temperatures of 57.2 to 68 °F (14 to 20 °C); pH of 6.0 to 7.7; dissolved oxygen of 6.0 parts per million (ppm) or greater; low concentrations of free or suspended solids with turbidity measuring less than 15 Nephelometric Turbidity Units (NTU) and 20 milligrams per liter (mg/l) total suspended solids (TSS).

(iii) *Hydrology.* A hydrologic flow regime (magnitude, frequency, duration, and seasonality of discharge over time) necessary to maintain spring habitats. The instream flow from groundwater sources (springs and seeps) maintains an adequate velocity and a continuous daily discharge from the aquifer that allows for connectivity between habitats. Instream flow is stable and does not vary during water extraction,

and the aquifer recharge maintains adequate levels to supply water flow to the spring head. The flow regime does not significantly change during storm events.

(iv) *Prey base, or food.* Macroinvertebrates including *Daphnia* spp., amphipods, chironomids (non-biting midges), or small snails.

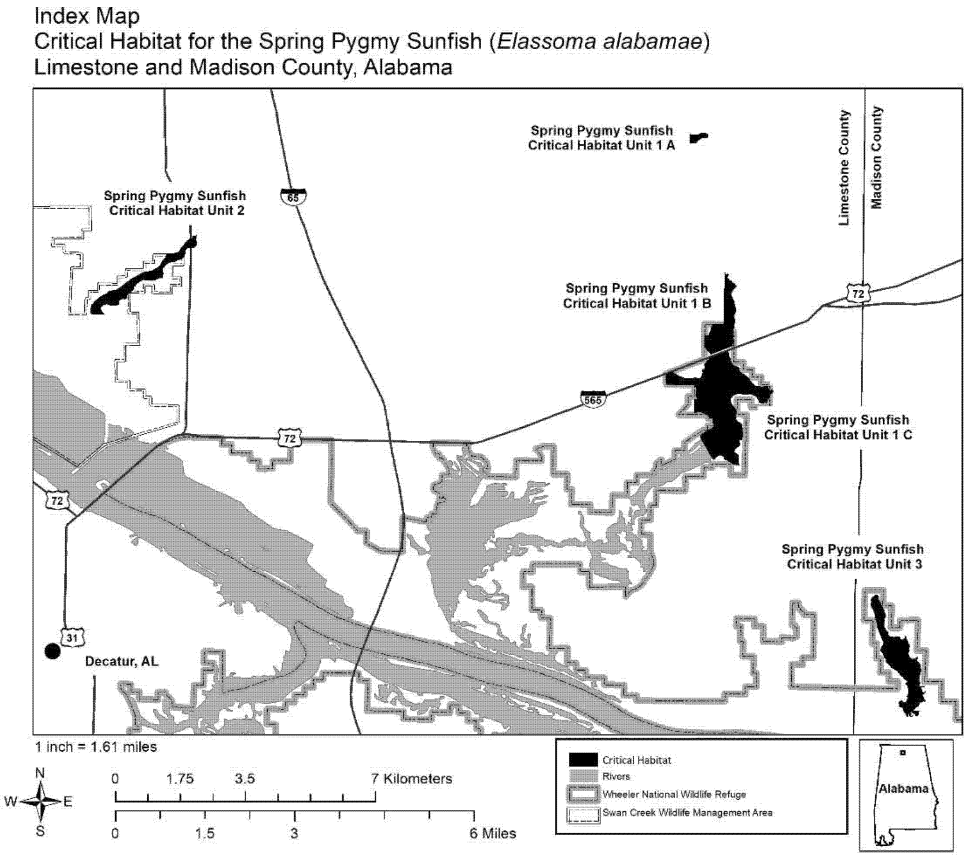
(v) *Vegetation.* Aquatic, emergent and semi-emergent vegetation along the margins of spring runs and submergent vegetation that is adequate for breeding, reproducing, and rearing young; providing cover and shelter from predators; and supporting the macroinvertebrate prey base. Important species include submergent filamentous vegetation such as *Ceratophyllum echinatum* (spineless hornwort), *Myriophyllum heterophyllum* (two-leaf water milfoil), and *Hydrilla verticillata* (native hydrilla); emergent vegetation such as *Sparganium* spp. (bur reed), *Polygonum* spp. (smartweed), *Nasturtium officinale* (watercress), *Juncus* spp. (rush), and *Carex* spp. (sedges); and semi-emergent vegetation such as *Nuphar luteum* (yellow pond lily), *Utricularia* spp. (bladderwort), and *Callitriche* spp. (water starwort).

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on July 1, 2019.

(4) *Critical habitat map units.* Data layers defining map units were created on a base of U.S. Geological Survey digital topographic map quadrangle (Greenbrier and Mason Ridge) and a U.S. Department of Agriculture 2007 digital ortho-photo mosaic, in addition to National Wetland Inventory maps. The resulting critical habitat unit was then mapped using State Plane North American Datum (NAD) 83 coordinates. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *http://www.fws.gov/daphne,* at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2013–0010, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) *Note:* Index map follows:

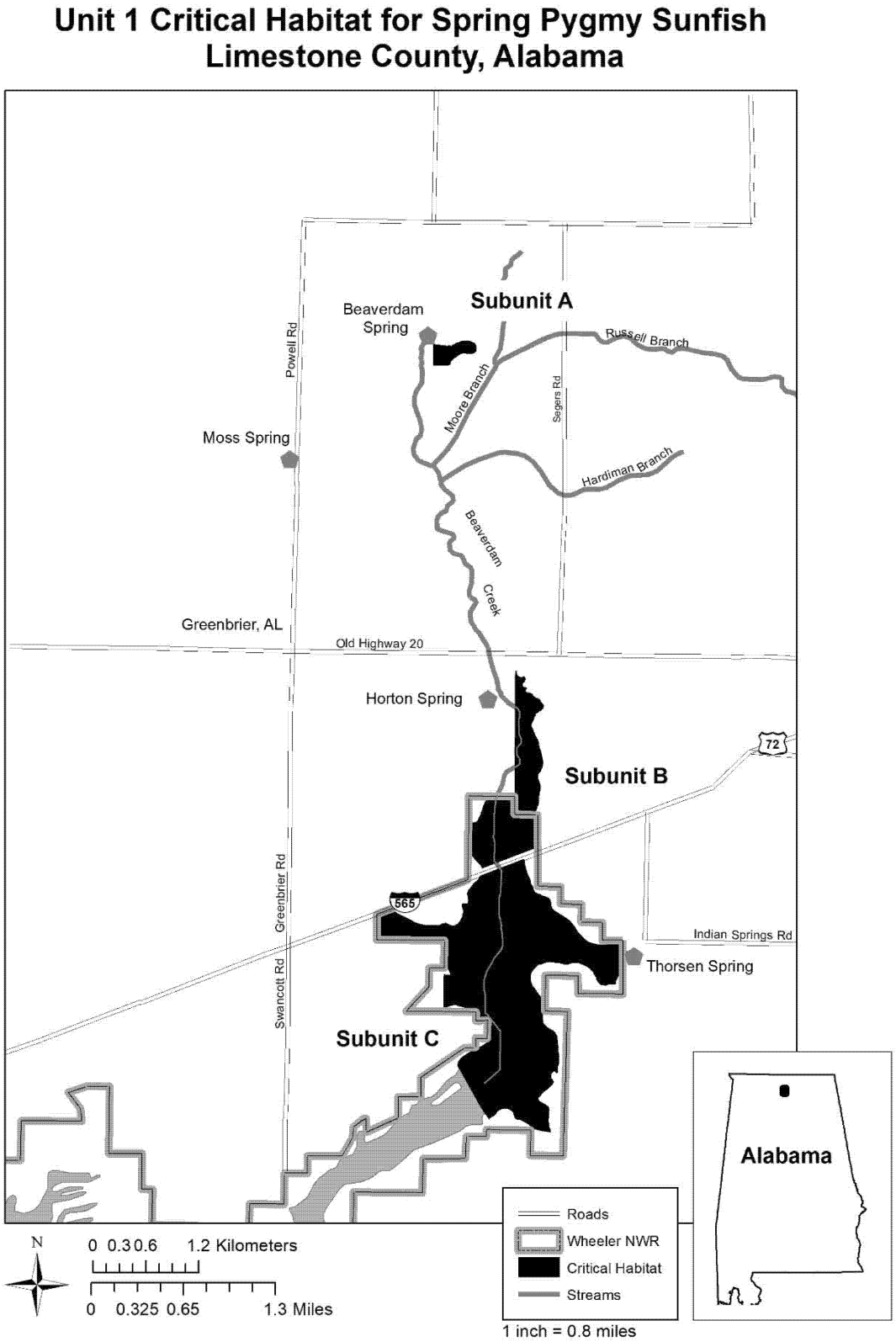
BILLING CODE 4333–15–P




(6) Unit 1: Beaverdam Spring/Creek, Limestone County, Alabama.

(i) *General description.* Unit 1 consists of 342 hectares (845 acres) and includes a total of 5.2 kilometers (3.2 miles) of spring/stream complex in Limestone County, Alabama, northeast of Greenbrier. Unit 1 includes three subunits. Subunit A is a privately owned wetland, with an area of approximately 7.2 hectares (17.9 acres), located 0.38 kilometers (0.23 miles) west of Chestnut Heath Drive. Subunit B consists of 69 hectares (170.4 acres) and is located partly in Wheeler National Wildlife Refuge (36.7 hectares (90.6 acres)), north of the edge of I–565. The private portion of Subunit B (32.3 hectares (79.8 acres)) extends northward, from the northeast refuge boundary along the east side of the Beaverdam Spring complex, to 0.2 kilometers (0.12 miles) south of Old Highway 20. Subunit C is approximately 265.7 hectares (656.6 acres) and is located in Wheeler National Wildlife Refuge, extending 3.9 kilometers (2.4 miles) south from I–565. All of Subunit C is on refuge land except Thorsen Spring Pool (1.2 hectares (3.0 acres)), which is privately held. In total, the privately owned portion of Unit 1 consists of 0.8 kilometers (0.5 miles) of stream in an area of 41 hectares (101 acres).

(ii) Map of Unit 1 follows:

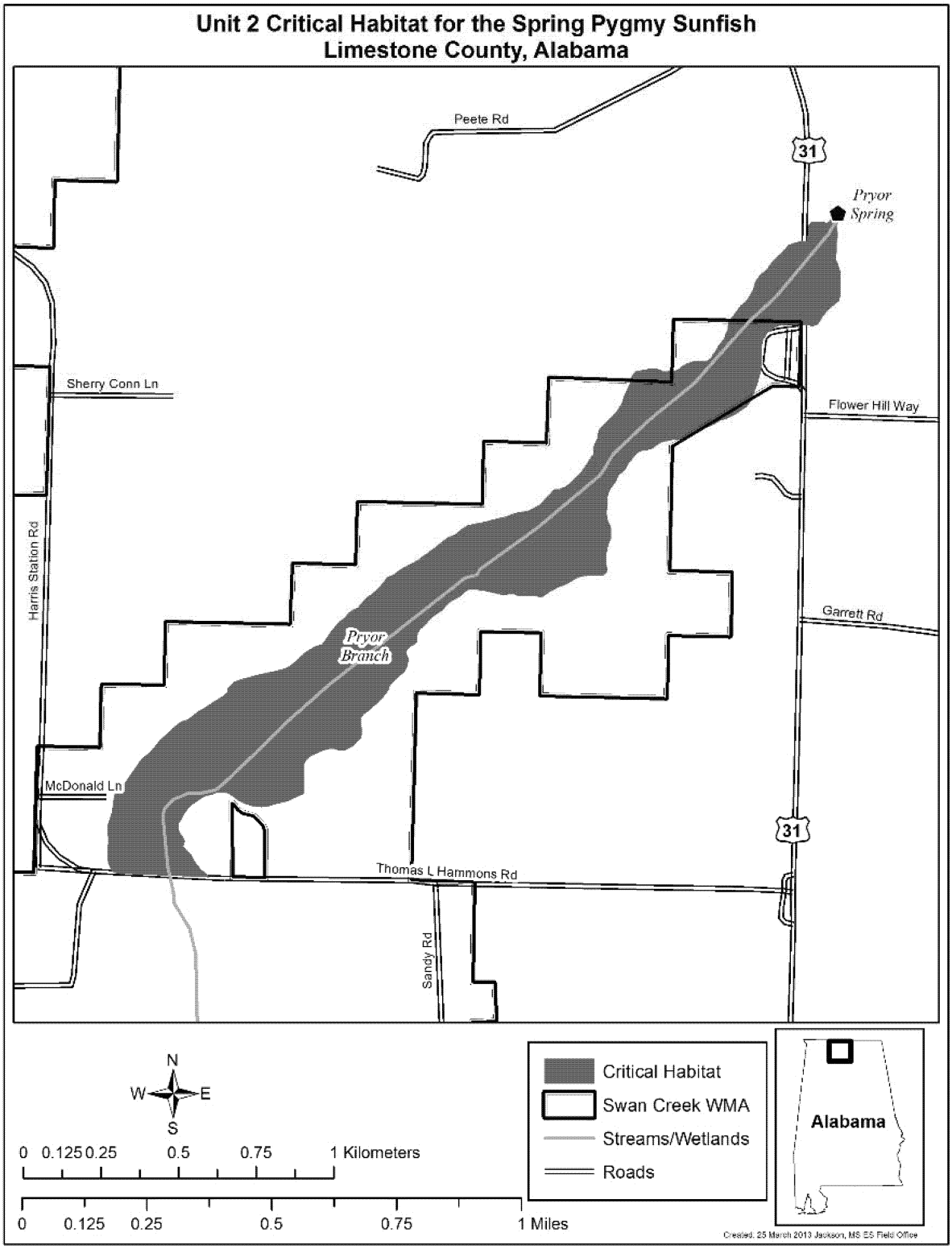



(7) Unit 2: Pryor Spring/Branch, Limestone County, Alabama.

(i) *General description.* Unit 2 includes 3.4 kilometers (2.1 miles) of Pryor Spring and Pryor Branch from the spring head (water source), about 3.7 miles (5.9 kilometers) south of Tanner, Alabama, and just east of Highway 31, downstream to the bridge where it intersects with Harris Station/Thomas L. Hammons Road. This includes a total of 73.6 hectares (182 acres) in area, mostly

owned by the Tennessee Valley Authority and managed by the Alabama Department of Conservation and Natural Resources as the Swan Creek Wildlife Management Area. The privately held portion of Unit 2 contains 0.24 kilometers (0.15 miles) of stream in an area of 8.1 hectares (20 acres).

(ii) Map of Unit 2 follows:

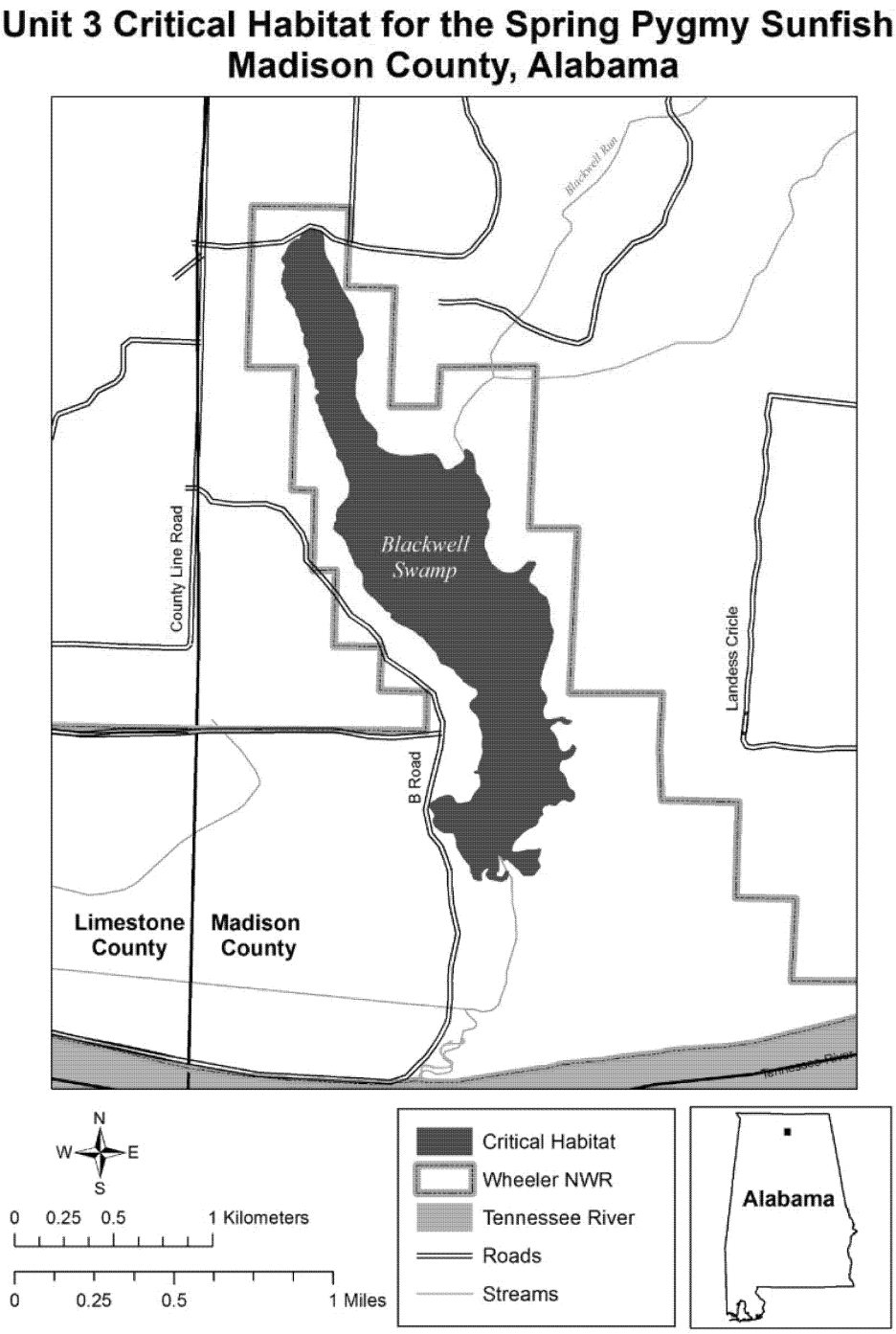



(8) Unit 3: Blackwell Swamp/Run, Madison County, Alabama.

(i) *General description.* Unit 3 includes a total of 123 hectares (303 acres) of land and 2.3 stream kilometers (1.4 stream miles), all which is federally owned within the Wheeler National Wildlife Refuge. Unit 3 is located

approximately 4.3 kilometers (2.7 miles) due west of Triana. This unit is 0.96 kilometers (0.6 miles) north of Blackwell Run's confluence with the Tennessee River; approximately 1 kilometer (0.5 miles) south of Swancott Road SW; about 1 kilometer (0.5 miles) west of Landess Circle; and just to the east of B Road/County Line Road SW.

(ii) Map of Unit 3 follows:



* * * * *

Dated: May 20, 2019.

**Margaret E. Everson,**

*Principal Deputy Director, U.S. Fish and Wildlife Service, exercising the authority of the Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2019–11302 Filed 5–29–19; 8:45 am]

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 622

**[Docket No. 180427420–8420–02]**

**RIN 0648–BH92**

## Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Revisions to Sea Turtle Release Gear; Amendment 49

*Correction*

In rule document 2019–10052, appearing on pages 22383 through 22389, in the issue of Friday, May 17, 2019 make the following correction:

On page 22388, in the first column, in paragraph 12(a), on the last line, ''3/4≤'' should read ''3/4''.

[FR Doc. C1–2019–10052 Filed 5–29–19; 8:45 am]

BILLING CODE 1301–00–D

# Proposed Rules

Federal Register
Vol. 84, No. 104
Thursday, May 30, 2019

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 985

**[Doc. No. AMS–SC–19–0026; SC19–985–2 PR]**

## Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Increased Assessment Rate

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would implement a recommendation from the Far West Spearmint Oil Administrative Committee (Committee) to increase the assessment rate established for the 2019–2020 and subsequent marketing years. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

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

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *http://www.regulations.gov*. Comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov*. All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

**FOR FURTHER INFORMATION CONTACT:** Barry Broadbent, Senior Marketing Specialist, or Gary Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or Email: *Barry.Broadbent@usda.gov* or *GaryD.Olson@usda.gov*. Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Richard.Lower@usda.gov*.

**SUPPLEMENTARY INFORMATION:** This action, pursuant to 5 U.S.C. 553, proposes to amend regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Order No. 985, as amended (7 CFR part 985), regulating the handling of spearmint oil produced in the Far West. Part 985 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and is comprised of spearmint oil producers operating within the area of production, and a public member.

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

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the Order now in effect, Far West spearmint oil handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate would be applicable to all assessable spearmint oil for the 2019–2020 marketing year, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The Order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members are familiar with the Committee's needs and with the costs of goods and services in their local area and can formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting where all directly affected persons have an opportunity to participate and provide input.

This proposed rule would increase the assessment rate from $0.09 to $0.10 per pound of Far West spearmint oil handled for the 2019–2020 and subsequent marketing years. The proposed higher rate is necessary to cover most of the Committee's 2019–2020 marketing year budgeted expenditures. The Committee has had to draw from its monetary reserve to partially fund program activities during the last five marketing years and is expected to do so again for the 2019–2020 marketing year because of a one-time $45,000 expense to update the Committee's electronic recordkeeping system. However, the Committee believes that drawing from reserves to fund operations on an on-going basis is

not a sustainable strategy moving forward. The Committee believes that increasing the continuing assessment rate would allow the Committee to better fund its 2019–2020 budgeted expenses and fully fund its budgeted expenses for the 2020–2021 and subsequent marketing years.

The Committee met on March 1, 2019, and unanimously recommended 2019–2020 marketing year expenditures of $272,850 and an assessment rate of $0.10 per pound of spearmint oil handled. In comparison, last year's budgeted expenditures were $233,800. The proposed assessment rate of $0.10 is $0.01 higher than the $0.09 rate currently in effect. The Committee recommended the assessment rate increase because expenditures have exceeded assessment revenue in the previous five marketing years and financial reserves have been reduced to approximately $180,000. Even with an assessment rate increase, monetary reserves are expected to be further reduced during the 2019–2020 marketing year to approximately $130,000 but should stabilize at that level for the 2020–2021 and subsequent marketing years.

The major expenditures recommended by the Committee for the 2019–2020 marketing year include $169,000 for contracted administration by Ag Association Management, $45,000 for software/website maintenance, $30,850 for administrative expenses, $15,000 for Committee expenses, and $13,000 for market research and development projects. In comparison, major expenses for the 2018–2019 marketing year included $169,000 for contracted administration, $5,000 for software/website maintenance, $35,300 for administrative expenses, $17,500 for Committee expenses, and $12,000 for market research and development projects.

The assessment rate recommended by the Committee was derived by considering anticipated expenses, expected spearmint oil sales, and the amount of funds available in the authorized reserve. Income derived from handler assessments of $220,500 (2,205,000 million pounds of spearmint oil at $0.10 per pound), along with $1,650 in interest income and $50,700 from reserve funds, would be adequate to cover budgeted expenses of $272,850. Funds in the reserve (estimated to be $180,561 at the beginning of the 2019–2020 marketing year) would be kept within the maximum permitted by § 927.42(a) and would not exceed the expenses of approximately one marketing year.

The assessment rate proposed in this rule would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each marketing year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's budget for subsequent marketing years would be reviewed and, as appropriate, approved by USDA.

**Initial Regulatory Flexibility Act**

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

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

There are approximately 33 producers and 90 producers of Scotch and Native spearmint oil, respectively, in the regulated production area and approximately 8 spearmint oil handlers subject to regulation under the Order. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,500,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

The Committee reported that recent producer prices for spearmint oil range from $15.50 to $18.00 per pound. The National Agricultural Statistics Service (NASS) reported that the 2017 U.S. season average spearmint oil producer price per pound was $16.20 (NASS has not released data for 2018). Multiplying $16.20 per pound by 2016–2017 spearmint oil utilization of 2,186,751 million pounds yields a crop value estimate of about $35.4 million. Total 2016–2017 spearmint oil utilization, reported by the Committee, is 621,236 pounds and 1,565,515 pounds for Scotch and Native spearmint oil, respectively.

Given the accounting requirements for the volume regulation provisions of the Order, the Committee maintains accurate records of each producer's production and sales. Using the $16.20 average spearmint oil price, and Committee production data for each producer, the Committee estimates that 11 of the 33 Scotch spearmint oil producers and 34 of the 90 Native spearmint oil producers could be classified as small entities under the SBA definition.

There is no third party or governmental entity that collects and reports spearmint oil prices received by spearmint oil handlers. However, the Committee estimates an average spearmint oil handling markup at approximately 20 percent of the price received by producers. Multiplying 1.20 by the 2016 producer price of $16.20 yields a handler f.o.b. price per pound estimate of $19.44.

Multiplying this handler f.o.b price by spearmint oil utilization of 2,186,751 pounds results in an estimated handler-level spearmint oil value of $42.5 million. Dividing this figure by the number of handlers (8) yields estimated average annual handler receipts of about $5.3 million, which is below the SBA threshold for small agricultural service firms.

Furthermore, using confidential data on pounds handled by each handler, and the abovementioned estimated handler price per pound, the Committee reported that it is likely that at least two of the eight handlers had 2017–2018 marketing year spearmint oil sales value that exceeded the SBA threshold.

Therefore, in view of the foregoing, the majority of producers of spearmint oil may be classified as large entities and the majority of handlers of spearmint oil may be classified as small entities.

This proposed rule would increase the assessment rate collected from handlers for the 2019–2020 and subsequent marketing years from $0.09 to $0.10 per pound of spearmint oil handled. The Committee unanimously recommended 2019–2020 marketing year expenditures of $272,850 and the $0.10 per pound assessment rate. The proposed assessment rate of $0.10 is $0.01 higher than the rate for the 2018–2019 marketing year. The Committee

estimates that the industry will handle 2,205,000 pounds of spearmint oil during the 2019–2020 marketing year. Thus, the $0.10 per pound rate should provide $220,500 in assessment income. Income derived from handler assessments, and $1,650 of interest income, would be adequate to cover most of the budgeted expenses. Given the budgeted one-time $45,000 expense to upgrade the Committee's electronic recordkeeping system, the Committee anticipates needing to draw $50,700 from its monetary reserve in the 2019–2020 marketing year to fully fund all its budgeted expenses. However, the Committee expects that assessment revenue will completely cover budgeted expenses for the 2020–2021 and subsequent marketing years.

The major expenditures recommended by the Committee for the 2019–2020 marketing year include $169,000 for contracted administration by Ag Association Management, $45,000 for software/website maintenance, $30,850 for administrative expenses, $15,000 for Committee expenses, and $13,000 for market research and development projects. Budgeted expenses for these items in the 2018–2019 marketing year were $169,000, $5,000, $35,300, $17,500, and $12,000, respectively.

The proposed higher assessment rate is necessary to cover most of the Committee's 2019–2020 marketing year budgeted expenditures. The Committee has had to draw from its monetary reserve to partially fund program activities during the previous five marketing years and expects to draw $50,700 from the reserve in the 2019–2020 marketing year to fund a one-time $45,000 upgrade to its electronic recordkeeping system. However, the Committee believes that drawing from its financial reserve to fund operations on an on-going basis is not a sustainable strategy. Increasing the continuing assessment rate would allow the Committee to fully fund budgeted expenses, and replenish its financial reserve, beginning in the 2020–2021 marketing year.

Prior to arriving at this budget and assessment rate, the Committee considered maintaining the current assessment rate of $0.09 per pound. However, leaving the assessment rate unchanged would not have generated enough revenue to meet the Committee's 2019–2020 marketing year budgeted expenses and would have required the Committee to deplete its financial reserve to a fiscally dangerous level. Based on estimated shipments, the recommended assessment rate of $0.10 per pound of spearmint oil should provide $220,500 in assessment income. The Committee determined assessment revenue would be adequate to cover most of the budgeted expenditures for the 2019–2020 marketing year and all of the Committee's budgeted expenditures for the 2020–2021 and subsequent marketing years. Moving forward, any excess funds would be used to replenish the Committee's monetary reserve. Reserve funds would be kept within the amount authorized in the Order.

A review of historical information and preliminary information pertaining to the upcoming marketing year indicates that the average producer price for the 2019–2020 season should be approximately $15.50–18.00 per ton of spearmint oil. Therefore, the estimated assessment revenue for the 2019–2020 marketing year as a percentage of total producer revenue would be between 0.55 and 0.65 percent.

This proposed action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the Order.

The Committee's meetings were widely publicized throughout the Far West Spearmint Oil industry. All interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the March 1, 2019, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Interested persons are invited to submit comments on this proposed rule, including the regulatory and information collection impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by the OMB and assigned OMB No. 0581–0178, Specialty Crops. No changes in those requirements would be necessary because of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large Far West spearmint oil handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

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

**List of Subjects in 7 CFR Part 985**

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

For the reasons set forth in the preamble, 7 CFR part 985 is proposed to be amended as follows:

## PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

■ 1. The authority citation for part 985 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Section 985.141 is revised to read as follows:

### § 985.141 Assessment rate.

On and after June 1, 2019, an assessment rate of $0.10 per pound is established for Far West spearmint oil. Unexpended funds may be carried over as a reserve.

Dated: May 23, 2019.

**Bruce Summers,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2019–11207 Filed 5–29–19; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 9 CFR Parts 71, 75, 80, and 93

**[Docket No. APHIS–2016–0054]**

**RIN 0579–AE46**

# Approval of Laboratories To Conduct Official Testing; Consolidation of Regulations

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to consolidate the regulations governing diagnostic laboratory approval authorities for select animal diseases into a single regulation and establish a set of standard procedures which we may use to conduct future diagnostic laboratory approvals. The consolidated regulations would provide consistent inspection protocols, proficiency testing methods, quality system guidelines, and definitions. This would also facilitate the approval of additional laboratories in emergency situations. The consolidated regulations would serve to simplify regulatory oversight and compliance.

**DATES:** We will consider all comments that we receive on or before July 29, 2019.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0054*.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2016–0054, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0054* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

**FOR FURTHER INFORMATION CONTACT:** Dr. Randall L. Levings, Scientific Advisor, Diagnostics and Biologics, VS, APHIS, 1920 Dayton Ave., Ames, IA 50010–9602; (515) 337–7601.

**SUPPLEMENTARY INFORMATION:**

## Background

This proposed rule would remove the regulations governing the approval of animal diagnostic laboratories to conduct disease-specific testing, currently found in 9 CFR parts 75 (equine infectious anemia), 80 (Johne's disease), and 93 (contagious equine metritis). In their place, it would add a new section to the regulations, 9 CFR 71.22. This section, which would be titled ''Approval of laboratories to conduct official testing,'' would contain regulations describing the requirement for laboratories to perform official testing for select animal diseases in the United States.

In 2015, the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) issued a concept paper suggesting consolidation of the existing diagnostic laboratory approval authorities for select animal diseases into a single regulation.

The comment period for the concept paper was 60 days. By the close of the comment period, we had received 16 comments, from State veterinary diagnostic laboratory personnel and State and Federal animal health officials. Suggestions in these comments were used in order to inform our discussions on the proposed requirements detailed below.

As parts of the regulations in 9 CFR parts 75, 80, and 93 currently do, the proposed regulations would provide a method by which animal diagnostic laboratories would be approved. Differing requirements would no longer be found in these disparate, disease-specific regulations. Rather, the consolidated regulations would provide a uniform standard, resulting in enhanced transparency and regulatory efficiency. As noted, the consolidated requirements would be added in a new § 71.22 (Approval of laboratories to conduct official testing) and the existing regulations associated with laboratory approval would be removed from the disease-specific regulations and replaced with a reference to the new section. All currently approved laboratories would maintain their approved status until the first renewal date. Any renewing or new laboratories requesting approval would be required to meet the consolidated requirements.

## Definitions

In 9 CFR 71.1, we are proposing to add definitions for *approved laboratory, National Animal Health Laboratory Network (NAHLN),* and *official testing.*

The definition of *approved laboratory* would be established as ''A laboratory approved by the Administrator to conduct official testing in accordance with the regulations in § 71.22.'' The definition of *National Animal Health Laboratory Network (NAHLN)* would be established as ''A nationally coordinated network and partnership of Federal, State, and university-associated animal health laboratories that provide animal health diagnostic testing, methods research and development, and expertise for education and extension to detect biological threats to the nation's animal agriculture, thus protecting animal health, public health, and the nation's food supply.'' The definition of *official testing* would be established as ''Testing to determine the disease status of animals for use in State-Federal programs. Tests are approved by the Administrator and conducted by qualified analysts in an approved laboratory.''

## Approval of Laboratories To Conduct Official Testing

In § 71.22(a), we would establish that laboratories must obtain APHIS approval under the requirements of the section in order to conduct official testing for those diseases covered by 9 CFR subchapters B (Cooperative Control and Eradication of Livestock or Poultry Diseases), C (Interstate Transportation of Animals (Including Poultry) and Animal Products), and D (Exportation and Importation of Animals (Including Poultry) and Animal Products).

The requirements governing diseases covered by the regulations have been built up over time and are supported by our expertise and experience. They represent diseases for which required testing protocols are most effective and well understood.

## Facilities

Section 71.22(b) would require that official testing be performed in laboratory facilities with controlled conditions, instrumentation appropriate for the testing being conducted, and biosecurity measures commensurate with the disease of diagnostic concern. Approved laboratories would have to agree to periodic, unannounced inspection by APHIS personnel or other APHIS-approved inspectors following an APHIS-approved checklist. These requirements would ensure that all approved laboratories have and maintain the materials and standards we deem necessary to identify and prevent the spread of the disease or vector outside of the laboratory.

## Quality System

In § 71.22(c), we would state that approved laboratories must operate

under a quality system acceptable to APHIS. A quality system is comprised of those coordinated activities that direct and control an organization to maintain a required standard.

Quality systems may be comprised of elements such as documentation of procedures, recordkeeping, training, reporting, and corrective actions taken if standards and procedures are not reached or maintained. Adherence to certain nationally or internationally established quality systems recognized by APHIS could also be used to meet all or part of this requirement. Quality system records would be subject to review during facility inspections.

Those quality systems acceptable to APHIS would be determined based on criteria that would vary somewhat based on the disease testing in question, but could be comprised of Federal and international standards such as International Organization for Standardization Standard 17025—General requirements for the competence of testing and calibration laboratories and American Association of Veterinary Laboratory Diagnosticians standards. Specifics of the required quality system would be provided for each test and disease via established protocols. APHIS and APHIS-approved trainers would provide individual instruction and assistance to help laboratories meet the required standards. We have successfully used this approach elsewhere in our regulations, particularly in 9 CFR subchapter E, which concerns viruses, serums, toxins, and analogous products; organisms and vectors.

**Procedures**

Section 71.22(d) would require that all official testing be conducted using APHIS-approved assay methods, which may include standard operating procedures recognized by the National Veterinary Services Laboratories (NVSL) or NAHLN, and/or diagnostic test kits licensed by the USDA. A list of approved assay methods would be made available on the APHIS Laboratory Portal [1] website and in the protocols developed for individual test types. This would ensure consistency of testing over time and allow us to easily assess test results.

**Training**

In § 71.22(e) we would stipulate that official testing be conducted only by those individuals who have completed APHIS-approved training and have passed proficiency tests administered by APHIS or its official designee. These tests would be administered annually or at an interval stipulated by APHIS. Supervisory oversight of official testing would be performed by qualified individuals, as determined by APHIS. Standardized training would be necessary to ensure that all tests are run consistently and correctly.

**Reporting**

In § 71.22(f) we would require approved laboratories to report test results to APHIS and State animal health officials using an individualized (by disease) timeline established by APHIS at the time of laboratory approval. Timelines would be determined by the urgency of necessary actions in light of a positive test result for the disease in question and/or APHIS' reporting obligations. Approved laboratories would benefit from a clear and consistent testing and reporting timeline.

**Applications for Approval**

Section 71.22(g) would establish the procedures by which laboratories would request APHIS approval to conduct official testing and the notification process APHIS would follow as a result of those requests. The application and approval process would be as follows:

- Laboratories would be required to use APHIS application forms, including an agreement to meet the obligations to APHIS listed in the section, and submit completed forms to the NVSL Director. The Director would make a preliminary determination of the application's acceptability, based on initial review of submitted materials and, when appropriate, a needs assessment for diagnostic capacity. These determinations would be made on an annual basis, or as needed based on the number of applications received;
- Applicants would be informed of the preliminary determination. If positive, applicants would then be able to request a facility inspection and personnel training, conducted in accordance with the section. If negative, APHIS would provide a rationale for the denial. Denied applicants would be able to appeal any such denials in accordance with proposed § 71.22(j);
- When all approval requirements have been met, the NVSL Director would issue a final approval. Approvals would be specific to those lab personnel working at the inspected, approved laboratory who have met the eligibility and proficiency requirements. Denied applicants would be able to appeal any such denials in accordance with proposed § 71.22(j).

This process would improve efficiency of inspections and approvals by establishing the need for inspection only for those laboratories that meet established planning requirements. It would also provide entities whose applications were initially denied with the information necessary to improve their chances of future approval.

**Maintenance of Approved Status**

In § 71.22(h), we would stipulate that any previously approved laboratories that wish to maintain their approved status would be required to reapply for APHIS approval at least 1 month before their approval term expires, or at least every 2 years, whichever comes first. Laboratories wishing to maintain approved status would have to submit a renewal application form, as supplied by APHIS, to the NVSL Director. This would allow laboratories with existing approvals to transition more slowly to the new, streamlined approval process and avoid creating unnecessary burden for currently approved facilities. Laboratories not electing to renew their approvals would be removed by the NVSL Director when their current approvals expire.

Approved laboratories would also be required to have at least one individual with the required training and unexpired proficiency certification in their employ at all times. This would allow for uninterrupted consistency and competency in testing.

Finally, the minimum number of tests to maintain proficiency, as stipulated by APHIS in the protocols developed for individual test types, would have to be performed. This would be necessary to ensure that approved laboratories maintain familiarity with required testing procedures over the course of time to guarantee testing accuracy.

**Probation, Suspension, and Rescission of Laboratory Approval**

Paragraph (i) of § 71.22 would outline the conditions under which approved laboratories would enter probation or have their approvals suspended or removed.

Laboratories not conducting the minimum number of tests as required in proposed § 71.22(h)(3) during a single reporting period would be assigned probationary status. A reporting period would be less than or equal to the time for which the laboratory has been approved to conduct testing by APHIS. Laboratories on probation could continue to conduct official testing. If the minimum number of tests are not performed during two consecutive reporting periods, the laboratory would not be eligible for renewal of APHIS

[1] You may view the APHIS Laboratory Portal on the internet at *https://www.nahln.org.*

approval. Exceptions to this requirement may be granted by the NVSL Director upon request. This would allow us to deal with laboratories on a more individualized basis as well as allowing those laboratories with probationary status to regain full status without having to reapply. A tiered system of approval, probation, and suspension would establish needed flexibility in the process while maintaining APHIS oversight.

Approval to conduct official testing would be suspended in the event that a laboratory experiences changes that may impact the ability to provide quality testing services. These changes include, but are not limited to, no longer employing an individual approved to conduct official testing, a move to different facilities, or a natural disaster that impacts power or water systems. Laboratories with suspended status would no longer be approved to conduct official testing. Laboratories would be restored to approved status upon training and/or testing new personnel, successful inspection of new facilities, and/or correction of noncompliance issues. Reapproval would involve resubmitting those sections of the application materials required by the NVSL Director. This would allow us to quickly address noncompliant laboratories, while giving affected entities opportunity to take necessary steps to retain their approved status without having to go through full reapplication.

Approval may be rescinded at any time, at the discretion of the NVSL Director, if a laboratory fails to meet its obligations to APHIS, as detailed by the agreement signed by the laboratory during the application process. The NVSL Director would issue a notice to the laboratory, providing the justification for the proposed removal. Laboratories would have 30 days to respond in writing to the concerns provided before the NVSL Director finalizes the removal decision. While we anticipate that most issues with approved laboratories that arise would be resolved through the suspension process, it is also important to codify our policy concerning approval removal. The decision about whether to carry out a suspension or a removal would be made on a case-by-case basis after full consideration of the individual issues of concern.

**Appeals**

Finally, § 71.22(j) would describe the process by which laboratories would be able to appeal the decision of the NVSL Director with regard to denials, probations, suspensions, or rescissions.

Appeals would have to be made in writing to the APHIS Administrator or the Administrator's official designee within 30 days of the laboratory's receipt of the NVSL Director's decision. Responses to these appeals would be provided within 60 days of receipt by APHIS. The appeals process would provide clarity concerning roles and responsibilities for APHIS and the approved laboratory.

**Other Changes**

In addition to removing the regulations governing the approval of animal diagnostic laboratories to conduct disease-specific testing as previously explained, we are also proposing to make other changes to the regulations in parts 75, 80, and 93 in response to the proposed addition of § 71.22.

In several places we propose to replace references to those parts of the regulations that contained disease-specific laboratory approval requirements with references to the consolidated regulations in § 71.22. We are also updating references to the locations where stakeholders can access a list of approved laboratories.

**Executive Orders 12866 and 13771 and Regulatory Flexibility Act**

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget. This proposed rule is not expected to be an Executive Order 13771 regulatory action because this proposed rule is not significant under Executive Order 12866.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the *Regulations.gov* website (see **ADDRESSES** above for instructions for accessing *Regulations.gov*).

This proposed rule would consolidate existing diagnostic laboratory approval authorities for select animal diseases into a single regulation and establish a set of standard procedures we may use to conduct future diagnostic laboratory approvals. The consolidated regulations would serve to simplify regulatory oversight and compliance, saving time and resources. For both the laboratories and APHIS, consolidating and standardizing the process would create an easier-to-understand and more user-friendly approval process; improve efficiency in obtaining approvals to conduct testing for single or multiple diseases; reduce the administrative burden associated with obtaining and tracking laboratory approvals; and simplify the steps required to renew an existing approval.

There are over 400 APHIS-approved laboratories. The laboratories range widely in size, from one-person practices to large, State-wide systems. They are classified within the Veterinary Services industry, for which the Small Business Administration's small-entity standard is annual receipts of not more than $7.5 million. For the industry overall in 2012, there were 27,939 establishments that operated throughout the year. Ninety-nine percent (27,605 establishments) had receipts of less than $5 million. Thus, most of these entities are small.

Cost savings because of this rule would be realized mainly by approximately 50 larger laboratories due to the multiple tests they perform. In accordance with guidance on complying with Executive Order 13771, the single primary estimate of the yearly savings that would be provided by this proposed rule is $1.1 million, the mid-point estimate annualized in perpetuity using a 7 percent discount rate.

This proposed rule would lessen the administrative burden for affected laboratories, benefiting rather than having any negative impact on them. Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

**Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR chapter IV.)

**Executive Order 12988**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

**Paperwork Reduction Act**

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), reporting and

recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send comments on the Information Collection Request (ICR) to OMB's Office of Information and Regulatory Affairs via email to *oira_submissions@omb.eop.gov,* Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS–2016–0054. Please send a copy of your comments to the USDA using one of the methods described under **ADDRESSES** at the beginning of this document.

The Animal Health Protection Act is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. The Secretary may also prohibit or restrict import or export of any animal or related material if necessary to prevent the spread of any livestock or poultry pest or disease. Disease prevention is the most effective method for maintaining a healthy animal population and enhancing the ability of U.S. producers to compete in the global market of animal and animal product trade.

The regulations require APHIS approval or certification for laboratories conducting tests for disease management as well as live animal interstate movement, import, and export. To facilitate the approval or certification of laboratories, APHIS will require information collection activities such as notifications for intent to request approval; applications for APHIS approval; inspections; checklists and agreements; documentation of accreditation status; documentation of implemented quality system; quality document verifications; quality assurance/control plans; notifications of proposed changes to assay protocols; test exemptions; submission of sample copies of diagnostic reports; requests for removal of approved status; appeal of approval denial, suspension, or removal; reporting; and recordkeeping.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, 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 information collection on those who are to respond (such as 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).

*Estimate of burden:* Public burden for this collection of information is estimated to average 7.1 hours per response.

*Respondents:* State animal health officials and laboratory directors.

*Estimated annual number of respondents:* 402.

*Estimated annual number of responses per respondent:* 13.

*Estimated annual number of responses:* 5,306.

*Estimated total annual burden on respondents:* 37,697 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the estimate of burden.)

A copy of the information collection may be viewed on the *Regulations.gov* website or in our reading room. (A link to *Regulations.gov* and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this proposed rule.) Copies can also be obtained from Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483. APHIS will respond to any ICR-related comments in the final rule. All comments will also become a matter of public record.

## E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

## List of Subjects

*9 CFR Part 71*

Animal diseases, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

*9 CFR Part 75*

Animal diseases, Horses, Quarantine, Reporting and recordkeeping requirements, Transportation.

*9 CFR Part 80*

Animal diseases, Livestock, Transportation.

*9 CFR Part 93*

Animal diseases, Imports, Livestock, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR parts 71, 75, 80, and 93 as follows:

## PART 71—GENERAL PROVISIONS

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

■ 2. Section 71.1 is amended by adding, in alphabetical order, definitions for *Approved laboratory, National Animal Health Laboratory Network (NAHLN),* and *Official testing* to read as follows:

### § 71.1 Definitions.

* * * * *

*Approved laboratory.* A laboratory approved by the Administrator to conduct official testing in accordance with the regulations in § 71.22.

* * * * *

*National Animal Health Laboratory Network (NAHLN).* The NAHLN is a nationally coordinated network and partnership of Federal, State, and university-associated animal health laboratories that provide animal health diagnostic testing, methods research and development, and expertise for education and extension to detect biological threats to the nation's animal agriculture, thus protecting animal health, public health, and the nation's food supply.

* * * * *

*Official testing.* Testing to determine the disease status of animals for use in State-Federal programs. Tests are approved by the Administrator and conducted by qualified analysts in an approved laboratory.

* * * * *

### § 71.20 [Amended]

■ 3. Section 71.20 is amended by redesignating footnote 7 as footnote 1.

### § 71.21 [Amended]

■ 4. Section 71.21 is amended by redesignating footnotes 8 and 9 as footnotes 2 and 3, respectively.

■ 5. Section 71.22 is added to read as follows:

**§ 71.22 Approval of laboratories to conduct official testing.**

(a) *Approvals.* State, university, and private laboratories must obtain APHIS approval to conduct official testing for those diseases covered by subchapters B, C, and D of this chapter. Laboratories seeking approval must meet the requirements of this section.

(b) *Facilities.* Official testing must be performed in laboratory facilities with controlled conditions, instrumentation appropriate for the testing being conducted, and biosecurity measures commensurate with the disease of diagnostic concern. Approved laboratories must agree to periodic, unannounced inspection by APHIS personnel or other APHIS-approved inspectors following an APHIS-approved checklist.

(c) *Quality system.* Laboratories must operate under a quality system acceptable to APHIS. Components of such systems include acceptable documentation of procedures, recordkeeping, training, reporting, and corrective actions taken if standards and procedures are not reached or maintained. Adherence to certain nationally or internationally established and quality systems recognized by APHIS may be used to meet all or part of this requirement.[4] Quality system records are subject to review during facility inspections.

(d) *Procedures.* All official testing must be conducted using APHIS-approved assay methods,[5] which may include standard operating procedures recognized by the National Veterinary Services Laboratories (NVSL) or National Animal Health Laboratory Network, and/or diagnostic test kits licensed by the USDA.

(e) *Training.* Official testing must be conducted only by those individuals who have completed APHIS-approved training and have passed proficiency tests administered by APHIS or its official designee. These tests will be administered annually or as necessary at an interval stipulated by APHIS. Supervisory oversight of official testing must be performed by qualified individuals, as determined by APHIS.

(f) *Reporting.* Approved laboratories must report test results to APHIS and State animal health officials using an individualized (by disease) timeline established by APHIS at the time of laboratory approval.

(g) *Applications for approval.* (1) Laboratories must use APHIS application forms, including an agreement to meet the obligations to APHIS listed in this section, and submit completed forms to the NVSL Director. The Director will make a preliminary determination of the application's acceptability, based on initial review of submitted materials and, when appropriate, a needs assessment for diagnostic capacity. These determinations are made on an annual basis, or as needed based on the number of applications received.

(2) Applicants will be informed of the preliminary determination. If positive, applicants will then be able to request a facility inspection and personnel training, conducted in accordance with this section. If negative, APHIS will provide a rationale for the denial. Denied applicants may appeal any denials in accordance with the regulations in paragraph (j) of this section;

(3) When all requirements in this section have been met, the NVSL Director will issue a final approval. Approvals are specific to those lab personnel working at the inspected, approved laboratory who have met the eligibility and proficiency requirements. Denied applicants may appeal any denials in accordance with the regulations in paragraph (j) of this section.

(h) *Maintenance of approved status.* (1) Previously approved laboratories that wish to maintain their approved status must reapply for APHIS approval at least 1 month before their approval term expires, or at least every 2 years, whichever comes first. Laboratories wishing to maintain approved status must submit a renewal application form, as supplied by APHIS, to the NVSL Director.

(2) Approved laboratories must have at least one individual with the required training and unexpired proficiency certification in their employ at all times.

(3) Approved laboratories must perform the minimum number of tests to maintain proficiency, as stipulated by APHIS in the guidance documents developed for individual test types.

(i) *Probation, suspension, and rescission of laboratory approval.* (1) Laboratories not conducting the minimum number of tests as required by paragraph (h)(3) of this section during a single reporting period will be assigned probationary status. A reporting period is less than or equal to the time for which the laboratory has been approved to conduct testing by APHIS. Laboratories on probation may continue to conduct official testing. If the minimum required number of tests are not performed during two consecutive reporting periods, the laboratory will not be eligible for renewal of APHIS approval. Exceptions to this requirement may be granted by the NVSL Director upon request.

(2) Approval to conduct official testing will be suspended in the event that a laboratory experiences changes that may impact its ability to provide quality testing services. These changes include: No longer employing an individual approved to conduct official testing, a move to different facilities, or a natural disaster that impacts power or water systems. Laboratories with suspended status will not be approved to conduct official testing. Laboratories will be restored to approved status upon training and/or testing new personnel, successful inspection of new facilities, and/or correction of noncompliance issues. Reapproval will involve resubmitting those sections of the application materials required by the NVSL Director.

(3) Approval may be rescinded at any time, at the discretion of the NVSL Director, if a laboratory fails to meet its obligations to APHIS, as listed in the agreement signed by the laboratory during the application process. The NVSL Director will issue a notice to the laboratory, providing the justification for the proposed removal. Laboratories will have 30 days to respond in writing to the concerns provided before the NVSL Director finalizes the removal decision.

(j) *Appeals.* Appeal of any denial, probation, suspension, or rescission of laboratory approval must be made in writing to the APHIS Administrator or the Administrator's official designee within 30 days of the laboratory's receipt of the NVSL Director's decision. Responses to these appeals will be provided within 60 days of receipt by APHIS.

## PART 75—COMMUNICABLE DISEASES IN HORSES, ASSES, PONIES, MULES, AND ZEBRAS

■ 6. The authority citation for part 75 continues to read as follows:

**Authority:** 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

■ 7. Section 75.4 is amended as follows:

■ a. By revising the section heading;

■ b. In paragraph (a), by removing the definition of *Official test* and by revising the definition of *Reactor;* and

■ c. By removing paragraphs (c) and (d).

The revisions read as follows:

[4] A list of established quality systems recognized by APHIS is available on the internet at *https://www.nahln.org.*

[5] A list of approved assay methods is available on the APHIS Laboratory Portal website at *https://www.nahln.org* and at *https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-disease-information.*

**§ 75.4 Interstate movement of equine infectious anemia reactors.**

(a) * * *

*Reactor.* Any horse, ass, mule, pony or zebra which is subjected to an official test in accordance with the regulations in § 71.22 of this subchapter and found positive.

* * * * *

## PART 80—JOHNE'S DISEASE IN DOMESTIC ANIMALS

■ 8. The authority citation for part 80 continues to read as follows:

**Authority:** 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

■ 9. In § 80.1, the definition of *Official Johne's disease test* is revised to read as follows:

**§ 80.1 Definitions.**

* * * * *

*Official Johne's disease test.* An organism detection test approved by the Administrator and conducted in a laboratory approved by the Administrator.[1]

* * * * *

## PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, FISH, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

■ 10. The authority citation for part 93 continues to read as follows:

**Authority:** 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

**§ 93.301 [Amended]**

■ 11. Section 93.301 is amended as follows:

■ a. In paragraphs (e)(2)(iii) and (e)(5)(i), by removing the words ''paragraph (i) of this section'' and adding the words ''§ 71.22 of this chapter'' in their place; and

■ b. By removing and reserving paragraph (i).

**§ 93.303 [Amended]**

■ 12. Section 93.303 is amended by redesignating footnote 12 as footnote 10.

**§ 93.308 [Amended]**

■ 13. Section 93.308 is amended by redesignating footnotes 13, 14, and 15 as footnotes 11, 12, and 13, respectively.

**CANADA [Amended]**

■ 14. The undesignated center heading ''CANADA'' immediately preceding § 93.315 is amended by redesignating footnote 16 as footnote 14.

**CENTRAL AMERICA AND THE WEST INDIES [Amended]**

■ 15. The undesignated center heading ''CENTRAL AMERICA AND THE WEST INDIES'' immediately preceding § 93.319 is amended by redesignating footnote 17 as footnote 15.

**MEXICO [Amended]**

■ 16. The undesignated center heading ''MEXICO'' immediately preceding § 93.321 is amended by redesignating footnote 18 as footnote 16.

**§ 93.324 [Amended]**

■ 17. Section 93.324 is amended by redesignating footnote 19 as footnote 17.

Done in Washington, DC, this 24th day of May 2019.

**Kevin Shea,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2019–11278 Filed 5–29–19; 8:45 am]

BILLING CODE 3410–34–P

[1]The list of approved laboratories is available on the internet at *https://www.nahln.org* or upon request from the Animal and Plant Health Inspection Service, Veterinary Services, National Veterinary Services Laboratories, P.O. Box 844, Ames, IA 50010–0844.

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## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Parts 701 and 741

**RIN 3313–AF00**

### Public Unit and Nonmember Shares

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Proposed rule.

**SUMMARY:** The NCUA Board (Board) is proposing to amend the NCUA's public unit and nonmember share rule to allow Federal credit unions (FCU) to receive public unit and nonmember shares up to 50 percent of the credit union's paid-in and unimpaired capital and surplus less any public unit and nonmember shares.

**DATES:** Comments must be received by July 29, 2019.

**ADDRESSES:** You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA website: http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html.* Follow the instructions for submitting comments.
- *Email:* Address to *regcomments@ncua.gov.* Include ''[Your name] Comments on Public Unit and Nonmember Shares Proposed Rule'' in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- *Mail:* Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

*Public inspection:* All public comments are available on the agency's website at *http://www.ncua.gov/RegulationsOpinionsLaws/comments* as submitted, except as may not be possible for technical reasons. Public comments will not be edited to remove any identifying or contact information. Paper copies of comments may be inspected in NCUA's law library, at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9:00 a.m. and 3:00 p.m. To make an appointment, call (703) 518–6540 or send an email to *OGCMail@ncua.gov.*

**FOR FURTHER INFORMATION CONTACT:** Benjamin M. Litchfield, Staff Attorney, Office of General Counsel, 1775 Duke Street, Alexandria, Virginia 22314, or by telephone at (703) 518–6540.

**SUPPLEMENTARY INFORMATION:**

I. Background
II. Legal Authority
III. Summary of the Proposed Rule
IV. Section-by-Section Analysis
V. Regulatory Procedures

### I. Background

Section 107(6) of the Federal Credit Union Act (FCU Act) permits an FCU to receive payment on shares from nonmembers under certain circumstances.[1] An FCU may receive payment on shares from nonmember credit unions.[2] An FCU may also receive payment on shares from nonmember public units and their political subdivisions.[3] The term ''public unit'' generally refers to ''the United States, any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, any territory or possession of the United States, any county, municipality, or political subdivision thereof, or any Indian tribe as defined in section 3(c) of the Indian Financing Act of 1974.''[4]

Moreover, an FCU that predominantly serves low-income members may

[1] 12 U.S.C. 1757(6).

[2] *Id.*

[3] *Id.*

[4] 12 CFR 745.1(c).

receive payment on shares from any source regardless of membership.[5] Section 701.34 of the NCUA's regulations defines a ''low-income member'' as, among other things, a member ''whose family income is 80 [percent] or less than the median family income for the metropolitan area where [the member] live[s] or [the] national metropolitan area, whichever is greater.''[6] Alternatively, a ''low-income member'' is a member ''who earn[s] 80 [percent] or less than the total median earnings for individuals for the metropolitan area where [the member] live[s] or [the] national metropolitan area, whichever is greater.''[7]

Section 701.32 of the NCUA's regulations limits the total amount of nonmember shares that an FCU may have to 20 percent of the credit union's total shares, or $3 million, whichever is greater, unless the shares are U.S. Treasury accounts or matching funds accounts required by the NCUA's Community Development Revolving Loan Fund Program.[8] This limit also applies to public unit shares regardless of whether the public unit is a member of the credit union. The Board imposed this 20 percent limitation on both member public unit and nonmember shares because of the asset/liability management problems related to public unit and nonmember shares that arose at certain FCUs, which resulted in material losses for the National Credit Union Share Insurance Fund (NCUSIF).[9]

*Regulatory Reform Agenda*

Consistent with the spirit of Executive Order 13777, entitled ''Enforcing the Regulatory Reform Agenda,''[10] the Board established a Regulatory Reform Task Force (Task Force) to identify NCUA regulations that the agency should repeal, replace, or modify. The Task Force performed an exhaustive review and submitted its first report to the Board in June 2017. In August 2017, the Board published the substance of the Task Force's first report in the **Federal Register** for public comment.[11] After the close of the public comment period, the Board published the Task Force's second and final report in the **Federal Register** in December 2018.[12]

The Task Force's final report recommends that the Board increase the public unit and nonmember share limit in § 701.32 of the NCUA's regulations.[13] The Task Force stated that public unit and nonmember shares are the functional equivalent of borrowings and, therefore, should be subject to the borrowing limit for FCUs set out in the FCU Act. Section 107(9) of the FCU Act permits an FCU to borrow from any source up to 50 percent of the credit union's paid-in and unimpaired capital and surplus subject to such rules and regulations as the Board may prescribe.[14] However, this limitation does not apply to discounts or sales of eligible obligations to any Federal intermediate credit bank or loans from the Central Liquidity Facility.[15] The proposed rule implements the essence of the Task Force's recommendation.

## II. Legal Authority

The Board has issued this proposed rule pursuant to its authority under the FCU Act. Under the FCU Act, the NCUA is the chartering and supervisory authority for FCUs and the Federal supervisory authority for FICUs.[16] The FCU Act grants the NCUA a broad mandate to issue regulations governing both FCUs and all FICUs. Section 120 of the FCU Act is a general grant of regulatory authority and authorizes the Board to prescribe rules and regulations for the administration of the FCU Act.[17] Section 207 of the FCU Act is a specific grant of authority over share insurance coverage, conservatorships, and liquidations.[18] Section 209 of the FCU Act is a plenary grant of regulatory authority to the Board to issue rules and regulations necessary or appropriate to carry out its role as share insurer for all FICUs.[19] Accordingly, the FCU Act grants the Board broad rulemaking authority to ensure that the credit union industry and the NCUSIF remain safe and sound.

## III. Summary of the Proposed Rule

The proposed rule amends § 701.32 of the NCUA's regulations to allow an FCU to receive payment on shares from public unit and nonmember shares up to 50 percent of the credit union's paid-in and unimpaired capital and surplus less any public unit and nonmember shares from public units and nonmembers without requesting a waiver from the appropriate regional director. As discussed below, the proposed rule does not allow a waiver process for an FCU to exceed this 50 percent limit as a matter of safety and soundness. The proposed rule also requires an FCU to develop and maintain a written plan if its public unit and nonmember shares, taken together with borrowings, exceed 70 percent of paid-in and unimpaired capital and surplus. Finally, the proposed rule makes conforming amendments to § 741.204, which applies to all FICUs, to reflect the changes to § 701.32.

## IV. Section-by-Section Analysis

*Section 701.32(b)—Limitations*

Current § 701.32(b) limits the amount of public unit and nonmember shares that an FCU may have to 20 percent of total shares, or $3 million dollars, whichever is greater, and sets forth procedures that an FCU must follow if it wishes to receive from the appropriate regional director a waiver to accept additional public unit or nonmember shares.

Before accepting any public unit or nonmember shares in excess of 20 percent of total shares, the credit union's board of directors ''must adopt a specific written plan concerning the intended use of these shares and forward a copy of the plan to the [r]egional [d]irector.''[20] The plan must include a ''statement of the credit union's needs, sources and intended uses of public unit and nonmember shares.''[21] The plan must also make provision for ''matching maturities of public unit and nonmember shares with corresponding assets'' and ''adequate income spread between public unit and nonmember shares and corresponding assets.''[22] If there is any mismatch between maturities of public unit and nonmember shares with corresponding assets, the credit union must justify the mismatch.[23]

In addition to the written plan adopted by the FCU's board of directors, the FCU also must submit a written request for a waiver of the 20 percent limit to the appropriate regional director.[24] The waiver request must include: (1) The new level of public unit and nonmember shares requested (either as a dollar amount or a percentage of total shares); (2) the current plan adopted by the FCU's board of directors regarding the use of new public unit and nonmember shares; (3) a copy of the

[5] 12 U.S.C. 1757(6).

[6] 12 CFR 701.34(a)(2).

[7] *Id.*

[8] 12 CFR 701.32(b), (c).

[9] *See* Nonmember and Public Unit Accounts, 53 FR 50918 (Dec. 19, 1988).

[10] *See* Enforcing the Regulatory Reform Agenda, E.O. 13777, 82 FR 12285 (Mar. 1, 2017).

[11] *See* Regulatory Reform Agenda, 82 FR 39702 (Aug. 22, 2017).

[12] *See* Regulatory Reform Agenda, 83 FR 65926 (Dec. 21, 2018).

[13] 12 CFR 701.32.

[14] 12 U.S.C. 1757(9).

[15] *Id.* For rules governing loans from the Central Liquidity Facility *see* 12 CFR 725.

[16] 12 U.S.C. 1752–1775.

[17] 12 U.S.C. 1766(a).

[18] 12 U.S.C. 1787(b)(1).

[19] 12 U.S.C. 1789(a)(11).

[20] 12 CFR 701.32(b)(2).

[21] 12 CFR 701.32(b)(2)(i).

[22] 12 CFR 701.32(b)(2)(ii) and (iii).

[23] 12 CFR 701.32(b)(2)(ii).

[24] 12 CFR 701.32(b)(3).

FCU's latest financial statements; and (4) a copy of the FCU's loan and investment policies.[25] If the FCU's financial condition and management are sound, and the credit union's plan for the funds is reasonable, § 701.32 establishes a presumption in favor of granting a waiver.[26]

The regional director will typically grant a waiver for a two-year period unless the regional director believes that a lesser time is appropriate.[27] Upon expiration of the waiver, the NCUSIF will continue to insure public unit and nonmember shares currently held in the FCU within applicable limits.[28] However, an FCU may not accept any new public unit or nonmember shares or rollover existing public unit or nonmember share certificates in excess of the 20 percent of total shares limit.[29]

The 20 percent total shares limit and the procedures set out in § 701.32(b) do not apply to treasury tax and loan (TT&L) remittance accounts, TT&L note accounts, U.S. Treasury general accounts, and U.S. Treasury time deposit-open accounts, which are all subject to the requirements of § 701.37 of the NCUA's regulations.[30] Section 701.32 also does not apply to matching fund accounts required by the NCUA's Community Development Revolving Loan Program unless the credit union has already repaid the loan granted under that program that required matching funds.[31]

*Aggregate Limit on Public Unit and Nonmember Shares*

The proposed rule simplifies the current regulatory framework in § 701.32(b). In establishing the 20 percent of total shares limit in current § 701.32(b), the Board relied heavily on industry practices in 1988.[32] The credit union industry has undergone significant changes in the intervening 31 years since this limit was adopted, including credit unions' growing need for additional sources of funding to serve their members. To respond to these changes, the proposed rule increases the current 20 percent of total shares limit to 50 percent of paid-in and unimpaired capital and surplus less any public unit and nonmember shares.

The change in standard from ''total shares'' to ''paid-in and unimpaired capital and surplus less any public unit and nonmember shares'' provides credit unions with greater ability to accept public unit and nonmember deposits because undivided earnings are included in the measurement of a credit union's paid-in and unimpaired capital and surplus. The proposed rule does not include public unit and nonmember shares in the calculation of its unimpaired capital and surplus for purposes of this 50 percent limit. This restriction provides a meaningful limit on the ability of a credit union to increase its leverage indefinitely, which could pose a clear risk to credit unions and the NCUSIF. The Board believes that this balanced approach provides an FCU with greater flexibility to determine an appropriate funding structure to support ongoing credit union operations in a prudent manner.

While the Board recognizes that public unit and nonmember shares are unique in some respects, particularly with respect to their sensitivity to interest rate fluctuations,[33] these shares are in many other respects the functional equivalent of other types of short-term borrowings. Accordingly, the Board believes that allowing an FCU to receive public unit and nonmember shares up to 50 percent of paid-in and unimpaired capital and surplus, less any public unit and nonmember shares, similar to the borrowing limit set out in Section 107(9) of the FCU Act, is a preferable approach to the current 20 percent of total shares limit set out in § 701.32(b). The Board also believes that the proposed 50 percent of paid-in and unimpaired capital and surplus less any public unit and nonmember shares regulatory limit is sufficiently high that an alternative $3 million dollar limit will be unnecessary.

However, the Board is aware that some small FCUs, particularly low-income credit unions that rely on large volumes of nonmember shares as a necessary source of funding or newly chartered credit unions, may be adversely impacted by the elimination of the $3 million dollar limit. Consequently, the Board seeks specific comments on whether it should retain the $3 million dollar limit or provide a special exemption for small low-income credit unions that demonstrate a need for large volumes of nonmember shares above the 50 percent paid-in and unimpaired capital and surplus limit and for newly chartered credit unions. The Board is actively considering these alternatives and may adopt one of these approaches based on the persuasiveness of the comments.

Because an FCU may currently borrow up to 50 percent of paid-in and unimpaired capital and surplus under Section 107(9) of the FCU Act, the Board believes that providing credit unions with the proposed ability to accept a comparable amount of public unit and nonmember shares will not present an undue risk to credit unions or the NCUSIF. The Board recognizes that in some instances public unit and nonmember shares can be a more stable and cost-effective source of funding than borrowing. Additionally, public unit and nonmember shares have other benefits for credit unions and their communities, such as developing or enhancing an FCU's relationship with political subdivisions, public units, or in the case of low-income designated credit unions, other charitable or economic development organizations.

However, the Board notes that an FCU should continue to manage its balance sheet in a prudent manner. The NCUA will continue to review an FCU's business model and asset-liability management to ensure the credit union is operating in a safe and sound manner. Unsafe or unsound funding sources or utilization of funds in an unsafe and unsound manner may affect an FCU's CAMEL and risk ratings even if the credit union is within the aggregate 50 percent limit.

*Waiver From the Appropriate Regional Director*

The proposed rule also eliminates the procedures that an FCU must follow to obtain a waiver from its appropriate regional director. Although the Board seeks to provide FCUs with greater flexibility, it also believes that the NCUA should not allow an FCU to have public unit and nonmember shares in excess of 50 percent of paid-in and unimpaired capital and surplus less any public unit and nonmember shares. Allowing an FCU to exceed this limit could lead to safety and soundness concerns and unnecessary risk for the NCUSIF. As a result, the proposed rule does not establish a procedure for an FCU to request a waiver of the proposed aggregate 50 percent limit.

*Requirement To Maintain a Plan Regarding Use of Funds*

Furthermore, the proposed rule modifies key safeguards in current § 701.32(b) designed to ensure that an FCU's board of directors conducts adequate due diligence before receiving payment on a significant amount of public unit and nonmember shares. Under the proposed rule, an FCU must

[25] 12 CFR 701.32(b)(3)(i) through (iv).

[26] 12 CFR 701.32(b)(4).

[27] *Id.*

[28] 12 CFR 701.32(b)(6). *See* 12 CFR 745 on share insurance limits.

[29] *Id.*

[30] 12 CFR 701.32(c). *See* 12 CFR 701.37.

[31] *Id.* For information on the Community Development Revolving Loan Program, *see* 12 CFR 705.

[32] 53 FR 50918, 50919 (Dec. 19, 1988).

[33] *Id.*

develop and maintain for review by NCUA examiners a specific plan regarding the intended use of any borrowings, public unit, or nonmember shares that, taken together, exceed 70 percent of the credit union's paid-in and unimpaired capital and surplus. The proposed rule does not require FCUs to submit the plans to the NCUA for prior approval.

This approach provides an FCU with significant flexibility to adopt a prudent funding structure without the regulatory burden of developing a plan regarding the intended use of those funds unless the credit union borrows a significant amount of funds or accepts a significant number of public unit and nonmember shares. Requiring a plan for material levels of external funding sources is prudent due diligence and the Board expects FCUs that accept elevated levels of public unit and nonmember shares to document how the credit union will use those funds consistent with prudent risk management principles.

Even though the Board expects that most FCUs will not need to develop a specific plan regarding the use of external funds under the proposed rule, it still believes that an FCU should continue to manage its balance sheet in a prudent manner. As noted above, the NCUA will continue to review an FCU's business model and asset-liability management to ensure the FCU is operating in a safe and sound manner. Unsafe or unsound funding sources or utilization of funds in an unsafe and unsound manner may affect a credit union's CAMEL and risk ratings and could result in regulatory action.

## V. Regulatory Procedures

*Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA)[34] requires the NCUA to prepare an analysis to describe any significant economic impact a regulation may have on a substantial number of small entities (primarily those under $100 million in assets).[35] This rule will provide a limited number of FCUs receiving public unit and nonmember share with additional flexibility. Accordingly, the Board believes that the rule will not have a significant economic impact on a substantial number of small credit unions. Therefore, a regulatory flexibility analysis is not required.

*Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or modifies an existing burden. For purposes of the PRA, a paperwork burden may take the form of a reporting, disclosure, or recordkeeping requirement, each referred to as an information collection. The NCUA may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

This rule will amend § 701.32 to eliminate the wavier requirements for those seeking an exemption to the current 20 percent limit of the total amount of nonmember shares that an FCU may issue; due to the proposed increased limit of 50 percent, with no exceptions to this limit. This will eliminate the existing burden to submit a waiver.

Under the proposed rule, a credit union must develop a specific plan regarding the intended use of any borrowings, public unit, or nonmember shares that, taken together, exceed 70 percent of the credit union's paid-in and unimpaired capital and surplus. The increased limit of public unit and nonmember shares could potentially see an increase in the number of respondents required to develop a plan from 20 to 50 FICUs at an estimated burden of 2 hours to comply annually, per respondent.

These program changes would revise the information collection requirement under currently approved OMB number 3133–0114, as follows:

*Title of Information Collection:* Payments on Shares by Public Units and Nonmembers, 12 CFR 701.32.

*OMB Control Number:* 3133–0114.

*Estimated Number of Respondents:* 50.

*Estimated Annual Frequency of Response:* 1.

*Estimated Total Annual Reponses:* 50.

*Estimated Hours per Response:* 2.

*Estimated Total Annual Burden Hours:* 100.

*Affected Public:* Private Sector: Not-for-profit institutions.

The NCUA invites comments on: (a) Whether the collections of information are necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collections, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of 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 start-up costs and costs of operation, maintenance, and purchase of services to provide information.

All comments are a matter of public record. Comments regarding the information collection requirements of this rule should be sent to (1) Dawn Wolfgang, NCUA PRA Clearance Officer, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314, or Fax No. 703–519–8572, or Email at *PRAcomments@ncua.gov* and the (2) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for NCUA, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission,@OMB.EOP.gov*.

*Executive Order 13132*

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests.[36] The NCUA, an independent regulatory agency, as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. The proposed rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The Board has therefore determined that this proposed rule does not constitute a policy that has federalism implications for purposes of the executive order.

*Assessment of Federal Regulations and Policies on Families*

The NCUA has determined that this proposed rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

**List of Subjects**

*12 CFR Part 701*

Credit unions, Nonmember accounts, Public units.

*12 CFR Part 741*

Bank deposit insurance, Credit unions, Reporting and recordkeeping requirements.

[34] 5 U.S.C. 601 *et seq.*

[35] 5 U.S.C. 603(a).

[36] 64 FR 43255 (Aug. 4, 1999).

By the National Credit Union Administration Board on May 23, 2019.

**Gerard S. Poliquin,**

*Secretary of the Board.*

For the reasons stated above, NCUA proposes to amend 12 CFR parts 701 and 741 as follows:

## PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

■ 1. The authority for part 701 continues to read as follows:

**Authority:** 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1785, 1786, 1787, 1788, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.;* 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

■ 2. Revise § 701.32(b) to read as follows:

### § 701.32 Payment on shares by public units and nonmembers.

* * * * *

(b) *Limitations*—(1) *Aggregate limit on public unit and nonmember shares.* Except as permitted under paragraph (c) of this section, a Federal credit union may not accept public unit and nonmember shares in excess of 50 percent of the difference of paid-in and unimpaired capital and surplus and any public unit and nonmember shares, as measured at the time of acceptance of each public unit or nonmember share.

(2) *Required due diligence.* Before accepting public unit or nonmember shares that, taken together with any borrowings, exceed 70 percent of paid-in and unimpaired capital and surplus, the board of directors must adopt a specific written plan concerning the intended use of these funds that is consistent with prudent risk management principles.

* * * * *

## PART 741—REQUIREMENTS FOR INSURANCE

■ 3. The authority for part 741 continues to read as follows:

**Authority:** 12 U.S.C. 1757, 1766(a), 1781–1790, and 1790d; 31 U.S.C. 3717.

■ 4. Revise § 741.204(a) to read as follows:

### § 741.204 Maximum public unit and nonmember accounts, and low-income designation.

* * * * *

(a) Adhere to the requirements of § 701.32 of this chapter regarding public unit and nonmember accounts, provided it has the authority to accept such accounts.

* * * * *

[FR Doc. 2019–11296 Filed 5–29–19; 8:45 am]

BILLING CODE 7535–01–P

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket Number USCG–2019–0338]**

**RIN 1625–AA00**

## Safety Zone; Fireworks Display, Delaware River, Philadelphia, PA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary safety zone on the waters of the Delaware River near Pleasant Hill Park in Philadelphia, PA, from 9:15 p.m. to 10 p.m. on July 4, 2019, during the One River Alliance Fireworks Display. The safety zone is necessary to ensure the safety of participant vessels, spectators, and the boating public during the event. This regulation would prohibit persons and non-participant vessels from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port (COTP) Delaware Bay or a designated representative. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before June 10, 2019.

**ADDRESSES:** You may submit comments identified by docket number USCG–2019–0338 using the Federal eRulemaking Portal at *http://www.regulations.gov*. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email Petty Officer Thomas Welker, U.S. Coast Guard, Sector Delaware Bay, Waterways Management Division, Coast Guard; 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, Purpose, and Legal Basis

On April 19, 2019, Pyrotechnico Fireworks notified the Coast Guard that it will be conducting a firework display near Pleasant Hill Park in Philadelphia, PA, from 9:15 p.m. to 10 p.m. on July 4, 2019. The display will be launched from a barge in the Delaware River. Hazards from firework displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Delaware Bay (COTP) has determined that this temporary safety zone is necessary to provide safety during the fireworks display, and to ensure protection of participants, spectators and other boaters.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters. The Coast Guard proposes this rulemaking under authority in 46 U.S.C 70034 (previously 33 U.S.C. 1231).

### III. Discussion of Proposed Rule

The COTP proposes to establish a temporary safety zone on the waters of the Delaware River near Pleasant Hill Park in Philadelphia, PA, during a fireworks display scheduled to take place between 9:15 p.m. and 10 p.m. on July 4, 2019. The fireworks will be set off from a barge in the river, which will be anchored at approximate position latitude 40°02′22.54″ N longitude 074°59′22.03″ W. The safety zone would extend 200 yards around the barge. 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 the COTP Delaware Bay or a designated representative grants authorization to enter, transit through, anchor in, or remain within the safety zone, 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 Local Notice to Mariners and Broadcast Notice to Mariners. The regulatory text we are proposing appears at the end of this document.

### IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses

based on 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 NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

The impact of this rule is not significant for the following reasons: (1) The enforcement period will last less than one hour when vessel traffic is usually low; (2) although persons and vessels may not enter, transit through, anchor in, or remain within the safety zone without authorization from the COTP Delaware Bay or a designated representative, they may operate in the surrounding area during the enforcement period; (3) 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; and (4) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

*B. Impact on Small Entities*

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.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 proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

*C. Collection of Information*

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

*D. Federalism and Indian Tribal Governments*

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

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

*E. Unfunded Mandates Reform Act*

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

*F. Environment*

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule proposes 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 in the Delaware River, during a fireworks display lasting approximately one hour. Normally, such actions are categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A preliminary Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

*G. Protest Activities*

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

## V. Public Participation and Request for Comments

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

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

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

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

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

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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; 50 U.S.C. 191; 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.T05–0338 to read as follows:

**§ 165.T05–0338 Safety Zone; Fireworks, Delaware River, Philadelphia, PA.**

(a) *Location.* The following area is a safety zone: All waters of Delaware River off Philadelphia, PA, within 200 yards of the barge anchored in approximate position latitude 40°02′22.54″ N longitude 074°59′22.03″ W.

(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.

(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 approximately 9:15 p.m. to 10 p.m. on July 4, 2019.

Dated: May 23, 2019.

**Scott E. Anderson,**

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

[FR Doc. 2019–11248 Filed 5–29–19; 8:45 am]

**BILLING CODE 9110–04–P**

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R03–OAR–2018–0741; FRL–9994–41–Region 3]**

## Approval and Promulgation of Air Quality Implementation Plans; Delaware; Removal of Unnecessary Electric Arc Furnace Regulation and References to the Electric Arc Furnace Regulation

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve three state implementation plan (SIP) revisions submitted by the State of Delaware. One revision requests EPA remove from the Delaware SIP a state regulation governing emissions from Electric Arc Furnaces (EAF) because there are no such sources in Delaware and the State has already repealed this regulation. EPA is further proposing to approve minor revisions to two SIP approved regulations which reference the repealed EAF regulation in order to remove references to the EAF regulation. EPA is proposing approval of these SIP revisions in accordance the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before July 1, 2019.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R03–OAR–2018–0741 at *https://www.regulations.gov,* or via email to *spielberger.susan@epa.gov*. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets*.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Gaige, Air Quality Analysis Branch (3AD40), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–5676. Ms. Gaige can also be reached via electronic mail at *gaige.elizabeth@epa.gov*.

**SUPPLEMENTARY INFORMATION:** On May 25, 2018, the State of Delaware, through the Department of Natural Resources and Environmental Control (DNREC), formally submitted a SIP revision requesting the removal of a state regulation found at 7 Delaware Admin. Code 1123—*Standards of Performance for Steel Plants: Electric Arc Furnaces,* from the Delaware SIP because it is outdated. Delaware requested removal of 7 Delaware Admin. Code 1123 because there are currently no such sources in the state of Delaware, and

more restrictive State and Federal requirements are in place if any new EAF are constructed in Delaware in the future. Delaware has already repealed and removed 7 Delaware Admin. Code 1123 from Delaware's regulations.

Subsequently, on March 19, 2019, the State of Delaware, through the DNREC, formally submitted two more SIP revisions requesting a minor revision to state regulation 7 Delaware Admin. Code 1114—*Source Monitoring, Record Keeping and Reporting,* and to state regulation 7 Delaware Admin. Code 1117—*Visible Emissions*. Both of these regulations contain cross references to the EAF regulation which Delaware has repealed, and these two SIP revisions remove these cross references.

## I. Background

Delaware House Bill 147 requires each Executive Branch agency to perform a periodic review of existing regulations to determine if any should be modified or eliminated. The review identified 7 Delaware Admin. Code 1123—*Standards of Performance for Steel Plants: Electric Arc Furnaces* as needing to be eliminated because there are currently no such sources in the State of Delaware and more restrictive State and Federal requirements are in place should any new EAF be constructed in Delaware. The State subsequently identified language in 7 Delaware Admin. Code 1114—*Source Monitoring, Record Keeping and Reporting* and 7 Delaware Admin. Code 1117—*Visible Emissions,* that needed to be updated because these regulations both refer to 7 Delaware Admin Code 1123—*Standards of Performance for Steel Plants: Electric Arc Furnaces*.

## II. Summary of SIP Revision and EPA Analysis

On May 25, 2018, the State of Delaware, through the DNREC, formally submitted a SIP revision requesting removal of state regulation 7 Delaware Admin. Code 1123—*Standards of Performance for Steel Plants: Electric Arc Furnaces* from the Delaware SIP because there are no EAFs in Delaware and any future EAF constructed in Delaware would be subject to more stringent Federal and State regulations than 7 Delaware Admin. Code 1123.

The removal of 7 Delaware Admin. Code 1123 has no expected emissions impact on any pollutant because there are no existing EAFs in Delaware and the removal of the regulation is not expected to interfere with reasonable further progress, any National Ambient Air Quality Standards (NAAQS) or any other CAA requirement. Therefore, the removal of 7 Delaware Admin. Code 1123 from the Delaware SIP is in accordance with section 110(l) of the CAA.

On March 19, 2019, the DNREC formally submitted two SIP revisions requesting minor amendments to the SIP approved versions of 7 Delaware Admin. Code 1114—*Source Monitoring, Record Keeping and Reporting* and to state regulation 7 Delaware Admin. Code 1117—*Visible Emissions*. In order to be consistent with the elimination of 7 Delaware Admin. Code 1123, the State has already changed 7 Delaware Admin. Code Sections 1114 and 1117 to remove the references to the repealed EAF regulation. Delaware's March 19, 2019 SIP submittal requests that these changes be incorporated into the SIP approved versions of these regulations.

## III. Proposed Action

EPA is proposing to approve Delaware's May 25, 2018 and March 19, 2019 SIP revisions, as the submissions meet the requirements of CAA section 110. EPA's review of this material indicates that there are no sources in the state of Delaware subject to 7 Delaware Admin. Code 1123—*Standards of Performance for Steel Plants: Electric Arc Furnaces*. If an EAF is constructed in the future in the State of Delaware, the EAF would be subject to more stringent State or Federal requirements. EPA is proposing to approve the Delaware SIP revisions, which were submitted on May 25, 2018 and March 19, 2019. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

## IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the updated definition of VOC in 7 Delaware Admin. Code 1114—*Source Monitoring, Record Keeping and Reporting,* and to state regulation 7 Delaware Admin. Code 1117—*Visible Emissions,* which remove references to 7 Delaware Admin Code 1123—*Standards of Performance for Steel Plants: Electric Arc Furnaces*. EPA has made, and will continue to make, these materials generally available through *http://www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

## V. Statutory and Executive Order Reviews

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

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

The SIP is not approved to apply on any Indian reservation land as defined in 18 U.S.C. 1151 or in any other area where EPA or an Indian tribe has

demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

In addition, this proposed rule, to remove an outdated EAF regulation from the Delaware SIP and to amend two other SIP approved regulations to remove cross references to the EAF regulation, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

**List of Subjects in 40 CFR Part 52**

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

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

Dated: May 17, 2019.

**Cosmo Servidio,**

*Regional Administrator, Region III.*

[FR Doc. 2019–11172 Filed 5–29–19; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 141

**[FRL–9994–44–OW]**

## Notification of a Public Meeting and Webinar: Development of the Fifth Proposed Unregulated Contaminant Monitoring Rule (UCMR 5) for Public Water Systems

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

**ACTION:** Announcement of a public meeting and webinar.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA or Agency) Office of Ground Water and Drinking Water, Standards and Risk Management Division's Technical Support Center announces a public meeting and webinar to discuss potential approaches to developing the proposal for the fifth Unregulated Contaminant Monitoring Rule (UCMR 5) for public drinking water systems. The EPA will discuss issues related to UCMR 5, including: The impacts of the America's Water Infrastructure Act of 2018; analytical methods and analytes the Agency is considering, including per- and polyfluoroalkyl substances (PFAS); sampling design; minimum reporting levels; and other possible requirements.

**DATES:** The EPA will hold the public meeting and webinar on July 16, 2019, from 9 a.m. to 5 p.m. (local time) in Cincinnati, Ohio. Persons wishing to attend the meeting in-person or online via the webinar must register in advance no later than July 11, 2019, as described in the **SUPPLEMENTARY INFORMATION** section of this document.

**ADDRESSES:** The public meeting will be held at the U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268. Information about attending the meeting in-person can be found in the **SUPPLEMENTARY INFORMATION** section (of this document).

**FOR FURTHER INFORMATION CONTACT:** Members of the public who wish to receive further information about the meeting and webinar or have questions about this document should contact Brenda Bowden or Melissa Simic, Technical Support Center, Standards and Risk Management Division, Office of Ground Water and Drinking Water (MS 140), U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268; telephone numbers: (513) 569–7961 or (513) 569–7864; email addresses: *bowden.brenda@epa.gov* or *simic.melissa@epa.gov*. Information about registration and participation in the meeting and webinar can be found in the **SUPPLEMENTARY INFORMATION** section (of this document) and on the EPA's Unregulated Contaminant Monitoring Program Meetings and Materials website at: *https://www.epa.gov/dwucmr/unregulated-contaminant-monitoring-rule-ucmr-meetings-and-materials*.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. How may I participate in this meeting?*

Persons wishing to attend the meeting in-person or online via the webinar must register in advance no later than July 11, 2019, by going to: *https://www.eventbrite.com/e/public-meeting-and-webinar-development-of-the-proposed-unregulated-contaminant-monitoring-rule-ucmr-tickets-60889170147*. The agenda for the public meeting and webinar will include time for public statements. To ensure adequate time for public statements, individuals or organizations interested in providing input should mention their request when they register. All presentation materials should be emailed to *UCMRWebinar@cadmusgroup.com* no later than July 11, 2019, so that the information can be incorporated into the webinar. We ask that only one person present the statement on behalf of a group or organization and that the statement be limited to ten minutes. Additional statements from attendees will be taken if time permits or can be sent to *UCMRWebinar@cadmusgroup.com* after the public meeting and webinar. The number of seats and webinar connections available for the meeting is limited and will be available on a first-come, first-served basis.

Because this meeting is being held at a U.S. Government facility, individuals planning to attend the meeting in-person should be prepared to show valid photo identification to the security staff in order to gain access to the meeting room. Please note that the REAL ID Act, passed by Congress in 2005, established new requirements for entering federal facilities. For purposes of the REAL ID Act, the EPA will accept government-issued IDs, including driver's licenses, from the District of Columbia and all States and Territories except from American Samoa. If your identification is issued by American Samoa, you must present an additional form of identification to enter the federal building where the public meeting will be held. Acceptable alternative forms of identification include: Federal employee badges, passports, enhanced driver's licenses, and military identification cards. For additional information on the status of your State regarding REAL ID, go to: *https://www.dhs.gov/real-id-frequently-asked-questions*. Any objects brought into the building need to fit through the security screening system, such as a purse, laptop bag, or small backpack. Demonstrations will not be allowed on federal property for security reasons. This meeting will be simultaneously broadcast as a webinar, available through the internet.

*B. How can I get a copy of the meeting and webinar materials?*

The meeting materials will be sent by email to the registered attendees prior to the public meeting and webinar; copies will also be provided for attendees at the meeting. Materials will be posted to the EPA's website at: (*https://www.epa.gov/dwucmr/unregulated-contaminant-monitoring-rule-ucmr-meetings-and-materials*) following the meeting.

*C. Special Accommodations*

Individuals with disabilities who wish to attend the meeting in-person can request special accommodations by contacting *UCMRWebinar@cadmusgroup.com* no later than July 11, 2019.

## II. Background

The Safe Drinking Water Act requires the EPA to promulgate rules requiring monitoring of drinking water supplied by public water systems and establishing criteria every five years for a monitoring program for unregulated contaminants in drinking water. The EPA published the fourth Unregulated Contaminant Monitoring Rule (UCMR 4) on December 20, 2016 (81 FR 92666). The EPA plans to propose the fifth rule, UCMR 5, which is the subject of this meeting, in 2020 and publish the final rule by December 2021. In the EPA's Per- and Polyfluoroalkyl Substances (PFAS) Action Plan, published in February 2019, the Agency stated the EPA's intention to propose monitoring for PFAS in UCMR 5, utilizing newer methods at lower minimum reporting levels than previously possible.

UCMR monitoring varies based on system size, source water, and contaminants likely to be found. Under current EPA regulations, all systems serving more than 10,000 people must monitor for specified unregulated contaminants, while only a representative sample of systems serving 10,000 or fewer persons must monitor (40 CFR part 141, subpart E). Section 1445 of the Safe Drinking Water Act was recently amended by Public Law 115–270, America's Water Infrastructure Act of 2018 (AWIA), and now specifies that, subject to the availability of appropriations for such purpose and appropriate laboratory capacity, the EPA must require all systems serving between 3,300 and 10,000 persons to monitor and ensure that only a representative sample of systems serving fewer than 3,300 persons are required to monitor.

Dated: May 17, 2019.

**Jennifer L. McLain,**

*Acting Director, Office of Ground Water and Drinking Water.*

[FR Doc. 2019–11168 Filed 5–29–19; 8:45 am]

BILLING CODE 6560–50–P

# Notices

Federal Register

Vol. 84, No. 104

Thursday, May 30, 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

### Foreign Agricultural Service

### WTO Agricultural Quantity-Based Safeguard Trigger Levels

**AGENCY:** Foreign Agricultural Service, U.S. Department of Agriculture.

**ACTION:** Notice of product coverage and trigger levels for safeguard measures provided for in the World Trade Organization (WTO) Agreement on Agriculture.

**SUMMARY:** This notice lists the updated quantity-based trigger levels for products which may be subject to additional import duties under the safeguard provisions of the WTO Agreement on Agriculture. This notice also includes the relevant period applicable for the trigger levels on each of the listed products.

**DATES:** May 30, 2019.

**ADDRESSES:** Safeguard Staff, Import Policies and Export Reporting Division, Office of Trade Programs, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1020, 1400 Independence Avenue SW, Washington, DC 20250–1020.

**FOR FURTHER INFORMATION CONTACT:** Souleymane Diaby, (202) 720–2916, *Souleymane.Diaby@fas.usda.gov*.

**SUPPLEMENTARY INFORMATION:** Article 5 of the WTO Agreement on Agriculture provides that additional import duties may be imposed on imports of products subject to tarification as a result of the Uruguay Round, if certain conditions are met. The agreement permits additional duties to be charged if the price of an individual shipment of imported products falls below the average price for similar goods imported during the years 1986–88 by a specified percentage. It also permits additional duties when the volume of imports of that product exceeds the sum of (1) a base trigger level multiplied by the average of the last three years of available import data and (2) the change in yearly consumption in the most recent year for which data are available (provided that the final trigger level is not less than 105 percent of the three-year import average). The base trigger level is set at 105, 110, or 125 percent of the three-year import average, depending on the percentage of domestic consumption that is represented by imports. These additional duties may not be imposed on quantities for which minimum or current access commitments were made during the Uruguay Round negotiations, and only one type of safeguard, price or quantity, may be applied at any given time to an article.

Section 405 of the Uruguay Round Agreements Act requires that the President cause to be published in the **Federal Register** information regarding the price and quantity safeguards, including the quantity trigger levels, which must be updated annually based upon import levels during the most recent 3 years. The President delegated this duty to the Secretary of Agriculture in Presidential Proclamation No. 6763, dated December 23, 1994, 60 FR 1007 (Jan. 4, 1995). The Secretary of Agriculture further delegated this duty, which lies with the Administrator of the Foreign Agricultural Service (7 CFR 2.*601*(a)(42)). The Annex to this notice contains the updated quantity trigger levels, consistent with the provisions of Article 5.

Additional information on the products subject to safeguards and the additional duties which may apply can be found in subchapter IV of Chapter 99 of the Harmonized Tariff Schedule of the United States (2019) and in the Secretary of Agriculture's Notice of Uruguay Round Agricultural Safeguard Trigger Levels, published in the **Federal Register** at 60 FR 427 (Jan. 4, 1995).

*Notice:* As provided in Section 405 of the Uruguay Round Agreements Act, consistent with Article 5 of the WTO Agreement on Agriculture, the safeguard quantity trigger levels previously notified are superseded by the levels indicated in the Annex to this notice. The definitions of these products were provided in the Notice of Safeguard Action published in the **Federal Register**, at 60 FR 427 (Jan. 4, 1995).

Issued at Washington, DC, this 14th day of May 2019.

**Ken Isley,**

*Administrator, Foreign Agricultural Service.*

| Product | 2019 Quantity-based safeguard trigger | | |
|---|---|---|---|
| | Trigger level | Unit | Period |
| Beef | 283,562 | MT | Jan 1, 2019–Dec 31, 2019. |
| Mutton | 5,173 | MT | Jan 1, 2019–Dec 31, 2019. |
| Cream | 1,775,302 | Liters | Jan 1, 2019–Dec 31, 2019. |
| Evaporated or Condensed Milk | 5,107,390 | Kilograms | Jan 1, 2019–Dec 31, 2019. |
| Nonfat Dry Milk | 1,338,088 | Kilograms | Jan 1, 2019–Dec 31, 2019. |
| Dried Whole Milk | 11,375,584 | Kilograms | Jan 1, 2019–Dec 31, 2019. |
| Dried Cream | 15,550 | Kilograms | Jan 1, 2019–Dec 31, 2019. |
| Dried Whey/Buttermilk | 190,021 | Kilograms | Jan 1, 2019–Dec 31, 2019. |
| Butter [1] | 52,867,302 | Kilograms | Jan 1, 2019–Dec 31, 2019. |
| Butteroil | 11,186,023 | Kilograms | Jan 1, 2019–Dec 31, 2019. |
| Chocolate Crumb | 10,418,615 | Kilograms | Jan 1, 2019–Dec 31, 2019. |
| Lowfat Chocolate Crumb | 111,129 | Kilograms | Jan 1, 2019–Dec 31, 2019. |
| Animal Feed Containing Milk | 1,203,666 | Kilograms | Jan 1, 2019–Dec 31, 2019. |
| Ice Cream | 8,729,991 | Liters | Jan 1, 2019–Dec 31, 2019. |
| Dairy Mixtures | 15,957,596 | Kilograms | Jan 1, 2019–Dec 31, 2019. |
| Infant Formula Containing Oligosaccharides | 4,277,333 | Kilograms | Jan 1, 2019–Dec 31, 2019. |
| Blue Cheese | 4,187,603 | Kilograms | Jan 1, 2019–Dec 31, 2019. |

| Product | 2019 Quantity-based safeguard trigger | | |
|---|---|---|---|
| | Trigger level | Unit | Period |
| Cheddar Cheese | 10,185,298 | Kilograms | Jan 1, 2019–Dec 31, 2019. |
| American-Type Cheese | 457,283 | Kilograms | Jan 1, 2019–Dec 31, 2019. |
| Edam/Gouda Cheese | 9,108,231 | Kilograms | Jan 1, 2019–Dec 31, 2019. |
| Italian-Type Cheese | 21,377,716 | Kilograms | Jan 1, 2019–Dec 31, 2019. |
| Swiss Cheese with Eye Formation | 28,612,344 | Kilograms | Jan 1, 2019–Dec 31, 2019. |
| Gruyere Process Cheese | 3,808,613 | Kilograms | Jan 1, 2019–Dec 31, 2019. |
| NSPF Cheese | 49,699,313 | Kilograms | Jan 1, 2019–Dec 31, 2019. |
| Lowfat Cheese | 417,180 | Kilograms | Jan 1, 2019–Dec 31, 2019. |
| Peanut Butter/Paste | 4,327 | MT | Jan 1, 2019–Dec 31, 2019. |
| Peanuts [1] | 40,078 | MT | April 1, 2018–Mar 31, 2019. |
| | 29,060 | MT | April 1, 2019–Mar 31, 2020. |
| Raw Cane Sugar [1] | 574,933 | MT | Oct 1, 2018–Sept 30, 2019. |
| | 891,834 | MT | Oct 1, 2019–Sept 30, 2020. |
| Refined Sugars and Syrups [1] | 396,386 | MT | Oct 1, 2018–Sept 30, 2019. |
| | 185,800 | MT | Oct 1, 2019–Sept 30, 2020. |
| Articles over 65% Sugar | 405 | MT | Oct 1, 2018–Sept 30, 2019. |
| | 429 | MT | Oct 1, 2019–Sept 30, 2020. |
| Articles over 10% Sugar | 8,028 | MT | Oct 1, 2018–Sept 30, 2019. |
| | 9,189 | MT | Oct 1, 2019–Sept 30, 2020. |
| Blended Syrups | 362 | MT | Oct 1, 2018–Sept 30, 2019. |
| | 403 | MT | Oct 1, 2019–Sept 30, 2020. |
| Sweetened Cocoa Powder | 111 | MT | Oct 1, 2019–Sept 30, 2020. |
| | 261 | MT | Oct 1, 2018–Sept 30, 2019. |
| Mixes and Doughs | 243 | MT | Oct 1, 2018–Sept 30, 2019. |
| | 436 | MT | Oct 1, 2019–Sept 30, 2020. |
| Mixed Condiments and Seasonings | 473 | MT | Oct 1, 2018–Sept 30, 2019. |
| | 353 | MT | Oct 1, 2019–Sept 30, 2020. |
| Short Staple Cotton [2] | 2,592,880 | Kilograms | Sep 20, 2018–Sep 19, 2019. |
| | 2,210,629 | Kilograms | Sep 20, 2019–Sep 19, 2020. |
| Harsh or Rough Cotton | 32,958 | Kilograms | Aug 1, 2018–July 31, 2019. |
| | 32,968 | Kilograms | Aug 1, 2019–July 31, 2020. |
| Medium Staple Cotton | 8,333 | Kilograms | Aug 1, 2018–July 31, 2019. |
| | 8,404 | Kilograms | Aug 1, 2019–July 31, 2020. |
| Extra Long Staple Cotton | 722,750 | Kilograms | Aug 1, 2018–July 31, 2019. |
| | 700,495 | Kilograms | Aug 1, 2019–July 31, 2020. |
| Cotton Waste [2] | 1,019,017 | Kilograms | Sep 20, 2018–Sep 19, 2019. |
| | 1,050,003 | Kilograms | Sep 20, 2019–Sep 19, 2020. |
| Cotton Processed but not Spun [2] | 198,226 | Kilograms | Sep 11, 2018–Sep 10, 2019. |
| | 211,509 | Kilograms | Sep 11, 2019–Sep 10, 2020. |

[1] Includes change in U.S. consumption.
[2] 12-month period from October to September.

[FR Doc. 2019–11281 Filed 5–29–19; 8:45 am]
BILLING CODE 3410–10–P

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Lincoln National Forest; Lincoln, Otero, Eddy and Chaves Counties, New Mexico; Revision of the Land Management Plan for the Lincoln National Forest

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The USDA Forest Service is revising the Land Management Plan (Forest Plan) for the Lincoln National Forest and preparing an environmental impact statement (EIS). This notice describes the documents available for review and how to obtain them; summarizes the needs for change to the existing Forest Plan; identifies where a Preliminary Draft Forest Plan (detailed proposed action) can be obtained; provides information concerning public participation and collaboration, including the process for submitting comments; provides an estimated schedule for the planning process, including the time available for comments, and includes the names and addresses of agency contacts who can provide additional information.

**DATES:** Comments concerning the needs for change and the Proposed Action provided in this notice will be most useful in the development of the revised plan and draft EIS if received by July 31, 2019. The draft revised Forest Plan and draft EIS are expected summer 2020, and the final revised Forest Plan and final EIS are expected late 2021.

**ADDRESSES:** Send written comments to Lincoln National Forest, Attn: Forest Plan, 3463 Las Palomas Rd., Alamogordo, New Mexico 88310 or via email to: *lnf_fpr_comments@fs.fed.us*.

**FOR FURTHER INFORMATION CONTACT:** Diane Prather, Forest Planner, Lincoln National Forest, 3463 Las Palomas Road, Alamogordo, New Mexico 88310, 575–434–7200.

**SUPPLEMENTARY INFORMATION:**

#### Nature of the Decision To Be Made

The Lincoln National Forest is preparing an EIS to revise the existing Forest Plan. The EIS process is meant to inform the Forest Supervisor so he can decide which alternative best maintains and restores National Forest System terrestrial and aquatic resources while providing ecosystem services and multiple uses, as required by the National Forest Management Act and the Multiple Use Sustained Yield Act.

The revised Forest Plan will describe the strategic intent of managing the Forest for the next 10 to 15 years and will address the identified needs for

change to the existing land management plans. The revised Forest Plan will provide management direction in the form of desired conditions, objectives, standards, guidelines, and suitability of lands. It will identify delineation of new management areas across the Forest; identify the timber sale program quantity; make recommendations to Congress for Wilderness designation; and list rivers and streams eligible for inclusion in the National Wild and Scenic Rivers System. The revised forest plan will also provide a description of the plan area's distinctive roles and contributions within the broader landscape, identify watersheds that are a priority for maintenance or restoration, include a monitoring program, and contain information reflecting expected possible actions over the life of the plan.

It is also important to identify the types of decisions that will not be made within the revised Forest Plan. The revised Forest Plan will represent decisions that are strategic in nature, but will not make site-specific project decisions and will not dictate day-to-day administrative activities needed to carry on the Forest Service's internal operations. The authorization of project level activities will be based on the guidance/direction contained in the revised plan, but will occur through subsequent project specific National Environmental Policy Act (NEPA) analysis and decision-making.

The revised Forest Plan will provide broad, strategic guidance designed to supplement, not replace, overarching laws and regulations. Though strategic guidance will be provided, no decisions will be made regarding the management of individual roads or trails, such as those that might be associated with a Travel Management plan under 36 CFR part 212. Some issues (*e.g.,* hunting regulations), although important, are beyond the authority or control of the National Forest System and will not be considered. No decision regarding oil and gas leasing availability will be made, though standards will be brought forward or developed that would serve as mitigations should an availability decision be necessary in the future.

**Purpose and Need and Needs for Change**

According to the National Forest Management Act, Forest Plans are to be revised on a 10 to 15 year cycle. The purpose and need for revising the current Forest Plan is (1) the Forest Plan is over 33 years old, (2) since the Forest Plan was approved in 1986, there have been changes in economic, social, and ecological conditions, new policies and priorities, and new information based on monitoring and scientific research, and (3) to address the preliminary identified needs for change to the existing Forest Plan, which is summarized below. Extensive public and employee involvement, along with science-based evaluations, have helped to identify the preliminary needs for change to the existing Forest Plan.

What follows is a summary of the preliminary identified needs for change. A more fully developed description of the preliminary needs for change, which has been organized into several resource and management topic sections, is available for review on the plan revision website at: *https://www.fs.usda.gov/detail/lincoln/landmanagement/planning/?cid=STELPRD3814307*.

The Lincoln National Forest has identified 21 focus areas that need to be considered and addressed through the plan revision process in order to provide sustainable resources, goods, and services. Overall, there is a need for plan direction that is strategic and identifies desired conditions with objectives for how resources should be managed; eliminates redundancies with existing laws, regulations and policy; removes requirements to prepare additional resource plans; and that incorporates the best available scientific information into all plan components. The following are the 21 focus areas that will be the focus of the need to change during plan revision.

*Monitoring*

- There is a need for monitoring plans that track progress toward desired conditions and allows for responsive adaptive management with available resources.
- There is a need for monitoring questions and associated indicators that look at the status of resources at appropriate scales.

*Collaboration, Partnerships, and Relationships*

- There is a need to include management approaches that will strengthen existing relationships, promote new relationships, and incorporate strategies that prioritize partnerships.
- There is a need for management approaches that promote seeking outside assistance in addition to working with partners and volunteers to manage resources and monitor activities.

*Terrestrial Ecosystems*

- There is a need to develop plan components that emphasize landscape-scale ecosystem restoration and resiliency through adaptive management strategies to changing environmental conditions and stressors.
- There is a need to include plan components that focus on addressing the impacts of nonnative invasive species on terrestrial and aquatic ecosystems.
- There is a need for plan components, including desired conditions and objectives, that recognize fire-adapted ecosystems, the role of fire on the landscape (including wilderness), and its use as a management tool, including planned and unplanned ignitions.
- There is need for plan direction that allows managers the flexibility to manage naturally ignited fires to meet resource objectives based on weather and site-specific conditions (for example, fuel conditions, topography, safety concerns, and values). These actions may include using prescribed fire, improving wildlife and range habitat, encouraging aspen regeneration, and improving watershed and overall forest health.
- There is a need to develop desired conditions (at multiple scales) for vegetation structure and composition to promote a characteristic diversity of seral states and species composition as well as meet management considerations for wildlife such as northern goshawk and Mexican spotted owl. This includes a suite of desired conditions for patch size, ecological status (composition), ground cover, coarse woody debris, and snags that characterize different ecological response units.
- There is a need to develop management objectives to meet desired conditions and monitoring criteria to measure effectiveness of management toward meeting desired conditions.

*Riparian Ecosystems*

- There is a need for plan components that identify appropriate riparian characteristics (*e.g.,* biodiversity, connectivity, water availability) that promote functionality and resiliency while taking into account multiple stressors.
- There is a need to develop desired conditions for riparian areas including vegetation structure, ecological status (composition), ground cover, coarse woody debris and snags that characterize different riparian Ecological Response Units.
- There is a need for plan components that minimize ecological impacts of multiple uses in riparian areas.
- There is a need to develop more effective riparian plan monitoring

criteria in order to better assess riparian conditions and trends.

*Soil Resources*

• There is a need for plan components that promote the maintenance and restoration of soil condition and function (*e.g.,* hydrology, stability, and nutrient cycling) by limiting the amount of exposed bare soil and by restoring and maintaining sufficient vegetative cover, including downed woody material.

*Watershed and Water Resources*

• There is a need to include plan components to maintain or restore the integrity of aquatic ecosystems and watersheds.

• There is a need for plan components that improve hydrological function and condition of water-dependent system by maintaining and restoring upland and riparian vegetative cover and reducing erosion and sedimentation from disturbed sites (*e.g.,* reclaim head cuts) where feasible.

• There is a need to develop plan components to ensure stream channels and floodplains are dynamic and resilient to disturbance.

• There is a need to develop more effective aquatic biotic monitoring items in order to better assess biological condition and trends.

*At-Risk Species*

• There is a need for plan components that support ecological conditions that contribute to the recovery and conservation of federally listed species (threatened and endangered), maintaining stable to increasing populations of the species of conservation concern, and maintaining common and abundant species.

• There is a need for plan components that will support documentation and establishment of baseline conditions for terrestrial and aquatic habitat linkages and connectivity for species migration and movement across the landscape.

*Climate*

• There is a need to include plan components that consider potential climate impacts or stressors (*e.g.,* increases in storm events, uncharacteristic wildfire, drought, flooding, and other extreme weather) to ecosystems and natural resources.

*Carbon Stocks*

• There is a need to describe desired conditions for carbon storage and emissions, particularly as they relate to historic and current vegetation structure, including the potential for emissions from biomass removal, and prescribed and wild fires.

*Air*

• There is a need to describe desired conditions and objectives for air quality, incorporated by reference from applicable Federal and State Regulations (*i.e.* Clean Air Act) without duplicating or conflicting with those regulations.

*Social and Economic Conditions and Multiple Uses*

• There is a need for plan components that recognize the Lincoln National Forest's role in contributing to local economies (*e.g.,* timber, grazing, and other multiple-use activities and products, etc.).

• There is a need for plan components that build stronger relationships with states, state and federal agencies, cities and counties, tribal governments, and the public, including, but not limited to, recreational and forest user groups, environmental groups, local communities, youth, vendors, and other users with cultural and historic ties to the forest for the management of resources such as water, timber and other forest products.

*Rangeland Resources*

• There is a need to add plan components for rangeland management that maintain or restore ecological integrity and productivity of rangelands.

*Timber and Forest Products*

• There is a need for plan components to ensure the sustainability and availability of forest products such as timber, firewood, and other special forest products for economic uses.

*Water Resources*

• There is a need for updating and developing plan components that provide for the management of sustainable water supply for multiple uses.

*Fish, Wildlife, and Plant Resources*

• There is a need for plan components to meet desired ecological conditions that allow a wide range of management practices to promote forest health, resiliency, and sustainability.

• There is a need to develop plan components that support ecological conditions of the various habitat types that contribute to the conservation of native plant and animal species for hunting, fishing, and wildlife viewing.

*Cultural and Historic Resources*

• There is a need for plan components to evaluate, stabilize, preserve, interpret, and protect historic and sensitive properties (*e.g.* archeological sites, historic structures, and traditional properties).

• There is a need for plan components to ensure the sustainability and availability of forest products such as timber, firewood, medicinal and ceremonial plants, edible plants and other special forest products for economic and cultural uses.

*Recreation and Scenic Character*

• There is a need for plan components to address changing trends in services, activities, and types of facilities desired by the public, while balancing those trends with other resource management such as soils and vegetation.

• There is a need for plan components to address illegal use and compliance to prevent resource damage.

• There is a need for management approaches to better address those areas of public concern with law enforcement to address user conflicts and resource damage.

• There is a need for plan components to reduce user conflicts (*e.g.* recreational shooting and hikers, equestrians, hikers, and bicyclists, and motorized and non-motorized users).

• There is a need for plan components to better integrate scenery management within all forest management (*e.g.* restoration, habitat diversity, timber management) to further positive outcomes for all resources.

*Designated Areas*

• There is a need to re-evaluate designated and proposed special areas (*i.e.,* research natural areas, botanical areas, etc.), excluding Congressionally-designated areas as considerable time has passed and conditions may have changed.

• There is a need to conduct wilderness evaluations for the revised plan while taking into account existing uses of the areas being evaluated/recommended.

*Infrastructure*

• There is a need for plan components to address the long-term sustainability of infrastructure (*e.g.,* trails, administrative and recreation facilities, range improvements, roads, etc.), maintenance, design, and improvement.

*Land Ownership, Status, Use, and Access*

• There is a need to develop plan components to manage special uses for the purpose of resource protection and public needs.

- There is a need to develop plan components related to the Forest Service land uses and adjustment program to provide access, resolve boundary inconsistency, create connectivity for wildlife, and facilitate management.
- There is a need for plan components that encourage the acquisition of public access and protection of existing public access.
- There is a need for plan components related to military uses of the Forest.

*Energy Resources, Mineral Resources, and Geologic Hazards*

- There is a need for plan components that address transmission corridors, non-renewable and renewable energy generation, including wind, solar, biomass, and geothermal, in order to protect natural resources, heritage and sacred sites, traditional tribal activities, caves and scenery.
- There is a need for plan components regarding the use of common variety salable mineral materials, such as commercial contracts, personal use, and free use permits, while protecting natural resources, heritage and sacred sites, traditional tribal activities, and scenery.
- There is need for plan components regarding locatable minerals such as commercial leasing, while protecting natural resources, heritage and sacred sites, traditional tribal activities, and scenery.

**Proposed Action**

The proposed action is to revise the Forest Plan to address the above identified needs for change to the existing Forest Plan. Alternatives to the proposed action will be developed to address the significant issues that will be identified through scoping. In response to the above needs for change, a Preliminary Draft Forest Plan has been developed. This more fully developed description of the proposed action is available for review on the Lincoln plan revision website at: *https://www.fs.usda.gov/detail/lincoln/landmanagement/planning/?cid=STELPRD3814307*.

Please review and provide any feedback you may have on both the needs for change identified above and on the Preliminary Draft Forest Plan found on the above website.

**Responsible Official**

Travis Moseley, Forest Supervisor, Lincoln National Forest

**Scoping Process**

This notice of intent initiates the scoping process, which guides the development of the EIS. Written comments received in response to this notice will be analyzed to complete the identification of the needs for change to the existing plan, further develop the proposed action (Preliminary Draft Forest Plan), and identify potential significant issues. Significant issues will, in turn, form the basis for developing alternatives to the proposed action.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments are best provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. Comments received in response to this notice, including the names and addresses of those who comment, will be part of the public record. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the Lincoln National Forest with the ability to provide the respondent with subsequent environmental documents.

For information on when public meetings will be scheduled for refining the proposed action and identifying possible alternatives to the proposed action, refer to the Forest's website: *https://www.fs.usda.gov/detail/lincoln/landmanagement/planning/?cid=STELPRD3814307*.

The decision to approve the revised Forest Plan for the Lincoln National Forest will be subject to the objection process identified in 36 CFR part 219 subpart B (219.50 to 219.62). According to 36 CFR 219.53(a), those who may file an objection are individuals and entities who have submitted substantive formal comments related to plan revision during the opportunities provided for public comment during the planning process.

**Applicable Planning Rule**

Preparation of the revised Forest Plan for the Lincoln National Forest began with the publication of a Notice of Assessment Initiation in the **Federal Register** on June 25, 2015 (80 FR 36500) and was initiated under the planning procedures contained in the 2012 Planning Rule (36 CFR 219 (2012)).

**Documents Available for Review**

The Needs for Change documentation, the Preliminary Draft Forest Plan, the Assessment Report (Volumes 1 & 2), summaries of the public meetings and public meeting materials, and public comments are posted on the Forest's website at: *https://www.fs.usda.gov/detail/lincoln/landmanagement/planning/?cid=STELPRD3814307*. As necessary or appropriate, the material available on this site will be further adjusted as part of the planning process using the provisions of the 2012 Planning Rule.

Dated: May 10, 2019.

**Frank R. Beum,**

*Acting Associate Deputy Chief, National Forest System.*

[FR Doc. 2019–11279 Filed 5–29–19; 8:45 am]

BILLING CODE 3411–15–P

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Revision of the Land Management Plan for El Yunque National Forest

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of approval of the revised land management plan for El Yunque National Forest.

**SUMMARY:** Sharon Wallace, the Forest Supervisor for El Yunque National Forest, Southern Region, has signed the Record of Decision (ROD) for the Revised Land Management Plan (Forest Plan) for El Yunque National Forest. The final ROD documents the rationale for approving the Forest Plan and is consistent with the Reviewing Officer's response to objections and instructions.

**DATES:** The Revised Land Managmenent Plan for El Yunque National Forest will become effective 30 days after the publication of this notice of approval in the **Federal Register** (36 CFR 219.17(a)(1)). To view the final ROD, final environmental impact statement (FEIS), the Revised Land Management Plan, and other related documents, please visit the El Yunque National Forest website at: *https://www.fs.usda.gov/detail/elyunque/home/?cid=stelprdb5411382*.

A legal notice of approval is also being published in El Yunque National Forest's newspaper of record, *El Nuevo Dia*. A copy of this legal notice will be posted on the website described above.

**FOR FURTHER INFORMATION CONTACT:** Further information about the Revised Land Management Plan for El Yunque National Forest can obtained by contacting Pedro Rios, Forest Planning Staff Officer, El Yunque National Forest, at 787–888–1880. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339

between 8:00 a.m. and 8:00 p.m., Eastern time, Monday through Friday. Written requests for information may be sent to El Yunque National Forest, Attn: EYNF Plan Revision, HC 01 Box 13490, Rio Grande, PR 00745.

**SUPPLEMENTARY INFORMATION:** El Yunque National Forest covers approximately 29,000 acres in the northeastern part of Puerto Rico. The Revised Land Management Plan, which was developed pursuant to the 2012 Forest Planning Rule (36 CFR 219), will replace the Land Management Plan approved in 1997. This new, Revised Land Management Plan establishes a strong commitment to provide social opportunities and economic benefits to forest visitors and local communities in eastern Puerto Rico and an all-lands approach to conserving high-priority forest ecosystems. The plan components were developed using best available scientific information and the consideration of fiscal capability.

A draft ROD, Revised Land Management Plan, and FEIS were released in August 2018, and were subject to a pre-decisional objection period. One objection was received containing one issue, and the Reviewing Officer's response to the objection has been signed by the Regional Forester for the Southern Region. The instructions from the Reviewing Officer were incorporated into the ROD. The final ROD to approve the Revised Land Management Plan for El Yunque National Forest has now been signed by the Responsible Official, and is available at the website described above.

## Responsible Official

The responsible official for the revision of the land management plan for El Yunque National Forest is Sharon Wallace, Forest Supervisor, El Yunque National Forest, HC 01 Box 13490, Rio Grande, PR 00745.

Dated: May 23, 2019.

**Frank R. Beum,**

*Acting Associate Deputy Chief, National Forest System.*

[FR Doc. 2019–11280 Filed 5–29–19; 8:45 am]

BILLING CODE 3411–15–P

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2019–ICCD–0042]**

## Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and approval; Comment Request; Annual Performance Report for the Gaining Early Awareness for Undergraduate Programs

**AGENCY:** Office of Postsecondary Education (OPE), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before July 1, 2019.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2019–ICCD–0042. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov*. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Monique Bolton, 202–453–7653.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Annual Performance Report for the Gaining Early Awareness for Undergraduate Programs.

*OMB Control Number:* 1840–0777.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* State, Local, and Tribal Governments; Private Sector.

*Total Estimated Number of Annual Responses:* 127.

*Total Estimated Number of Annual Burden Hours:* 1,290.

*Abstract:* The Annual Performance Report for Partnership and State Projects for Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) is a required report that grant recipients must submit annually. The purpose of this information collection is for accountability. The data is used to report on progress in meeting the performance objectives of GEAR UP, program implementation, and student outcomes. The data collected includes budget data on Federal funds and match contributions, demographic data, and data regarding services provided to students.

Dated: May 24, 2019.

**Kate Mullan,**

*PRA Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.*

[FR Doc. 2019–11284 Filed 5–29–19; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

### Applications for New Awards; Braille Training Program

**AGENCY:** Office of Special Education and Rehabilitative Services, Department of Education.

**ACTION:** Notice.

**SUMMARY:** The mission of the Office of Special Education and Rehabilitative Services (OSERS) is to improve early childhood, educational, and employment outcomes and raise expectations for all people with disabilities, their families, their communities, and the Nation. The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2019 for the Braille Training program, Catalog of Federal Domestic Assistance (CFDA) number 84.235E. The Braille Training program will partner with States and public or nonprofit agencies and organizations, including institutions of higher education to provide information, material, equipment, and training in braille instruction. The support provided by the program will increase the knowledge and skills of personnel providing vocational rehabilitation services or educational services to youth and adults who are blind. This notice relates to the approved information collection under OMB control number 1820–0018.

**DATES:**

*Applications Available:* May 30, 2019.

*Deadline for Transmittal of Applications:* July 1, 2019.

*Pre-Application Webinar Information:* No later than June 4, 2019, OSERS will post pre-recorded informational webinars designed to provide technical assistance to interested applicants. The webinars will be available at *www2.ed.gov/fund/grant/apply/rsa/new-rsa-grants.html*.

*Pre-Application Q & A Blog:* No later than June 4, 2019, OSERS will open a blog where interested applicants may post questions about the application requirements for this competition and where OSERS will post answers to the questions received. OSERS will not respond to questions unrelated to the application requirements for this competition. The blog will be available at *www2.ed.gov/fund/grant/apply/rsa/new-rsa-grants.html* and will remain open until June 18, 2019. After the blog closes, applicants should direct questions to the person listed under **FOR FURTHER INFORMATION CONTACT**. Deadline for Intergovernmental Review: August 28, 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:** Theresa DeVaughn, U.S. Department of Education, 400 Maryland Avenue SW, Room 5062A, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–7321. Email: *theresa.devaughn@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 Braille Training program offers financial assistance to projects that will provide training in the use of braille for personnel providing vocational rehabilitation services or educational services to youth and adults who are blind, develop braille training materials, develop methods used to teach braille, and develop activities used to promote the knowledge and use of braille and nonvisual access technology for youth and adults who are blind. The absolute and invitational priorities align with the Secretary's supplemental priorities to encourage applicants to meet the unique needs of students and children with disabilities by ensuring coursework, books, or other materials are accessible to children or students who are blind; promoting science, technology, engineering, or math (STEM) education by ensuring braille instructors are able to teach mathematical and scientific braille notations; working with schools, municipal libraries, or other partners to expand access to digital learning resources to a greater number of children or students who are blind; and promoting literacy through the use of braille to meet the employment and independent living needs of adults. Further, the priorities support States in their work to raise expectations and improve outcomes for individuals with disabilities, in this case individuals who are blind, by demonstrating a commitment to high expectations for each individual with a disability and by engaging with individuals who are blind, their families, and other stakeholders through meaningful and effective collaboration. Projects must be operated in a manner consistent with nondiscrimination requirements contained in the U.S. Constitution and the Federal civil rights laws.

*Priority:* In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from section 303(d) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 773(d)).

*Absolute Priority:* For FY 2019, and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

*Braille Training Program.*

Under this priority, we provide grants for the establishment or continuation of projects that provide—

(1) Development of braille training materials;

(2) In-service or pre-service training in the use of braille, the importance of braille literacy, and methods of teaching braille to youth and adults who are blind; and

(3) Activities to promote knowledge and use of braille and nonvisual access technology for blind youth and adults through a program of training, demonstration, and evaluation conducted with leadership of experienced blind individuals, including the use of comprehensive, state-of-the-art technology.

*Invitational 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 invitational priorities. Under 34 CFR 75.105(c)(1) we do not give an application that meets one or more of these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

*Invitational Priority 1—Braille Instruction to Transition-age Students and Youth:*

Applications that demonstrate that the personnel obtaining braille instruction from the grantee will subsequently provide braille instruction to transition-age students and youth who are blind (typically ages 14 through 24). This priority is designed to meet the unique needs of students and children with disabilities by ensuring coursework, books, or other materials are accessible to children or students who are blind and to ensure that transition-age students and youth who are blind have the braille literacy skills to read the coursework, books, and materials.

*Invitational Priority 2—Braille Training in the STEM Subjects:*

Applications that address braille training in the STEM subjects, including mathematical notations. This priority is designed to promote STEM education by ensuring braille instructors are able to teach mathematical and scientific braille notations so that, ultimately, individuals who are blind have the braille literacy skills to read the specialized braille notations in order to enroll in STEM education.

*Program Authority:* 29 U.S.C. 773(d).

*Applicable Regulations:* (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, and 99. (b) The Office of Management and Budget 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 3474.

**Note:** The regulations in 34 CFR part 86 apply to institutions of higher education only.

## II. Award Information

*Type of Award:* Discretionary grants.

*Estimated Available Funds:* $345,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

*Estimated Average Size of Awards:* $115,000.

*Maximum Award:* We will not make an award exceeding $115,000 for a single budget period of 12 months.

*Estimated Number of Awards:* 3.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* Up to 60 months.

## III. Eligibility Information

1. *Eligible Applicants:* States and public or nonprofit agencies and organizations, including institutions of higher education.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application. Under 34 CFR 75.708(e), a grantee may contract for supplies, equipment, and other services in accordance with 2 CFR part 200.

## 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, 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. *Intergovernmental Review:* This competition 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 competition.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

## V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210, and are as follows:

(a) *Need for project and significance (10 points).*

(1) The Secretary considers the need for the proposed project and the significance of the project.

(2) In determining the need for the proposed project and the significance of the project, the Secretary considers the following factors:

(i) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project.

(ii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

(iii) The extent to which the results of the proposed project are to be disseminated in ways that will enable others to use the information or strategies.

(b) *Quality of project design (30 points).*

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(ii) The quality of the proposed demonstration design and procedures for documenting project activities and results.

(iii) The extent to which performance feedback and continuous improvement are integral to the design of the proposed project.

(c) *Quality of project services (30 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The likely impact of the services to be provided by the proposed project on the intended recipients of those services.

(ii) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(iii) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services.

(d) *Quality of project personnel, adequacy of resources, and quality of management plan (30 points).*

(1) The Secretary considers the quality of the personnel who will carry out the proposed project, the adequacy of resources, and the quality of the management plan.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator.

(ii) The qualifications, including relevant training and experience, of key project personnel.

(iii) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(iv) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

(v) The extent to which time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

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).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition 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*.

5. *Performance Measures:* The Government Performance and Results Act of 1993 (GPRA) directs Federal departments and agencies to improve the effectiveness of programs by engaging in strategic planning, setting outcome-related goals for programs, and measuring program results against those goals.

The goal of the Braille Training program is to provide financial assistance to projects that will provide training in the use of braille for personnel providing vocational rehabilitation services or educational services to youth and adults who are blind. A grantee under this program must submit information to allow measurement of project outcomes and performance consistent with its approved application, including any data needed to comply with GPRA (34 CFR 373.21). For the Braille Training program, a grantee must collect information on the number of personnel who attend the program, the number of personnel who complete the program, and whether these personnel obtain positions where they provide braille instruction to blind youth and adults following completion of the program. Grantees are required to report annually to the Rehabilitation Services Administration (RSA) on these data.

Other information, as requested by RSA, may be required from grantees in order to verify substantial progress and to report to Congress and key stakeholders how well the program meets the stated objectives. Grantees are strongly encouraged to seek technical guidance as needed from RSA staff to ensure that they are meeting the objectives, goals, targets, and projected outcomes specified in their approved application. Program measures include the development of braille training materials, the methods used to teach braille, and the activities used to

promote the knowledge and use of braille and nonvisual access technology for blind youth and adults. Annual project progress toward meeting project goals must be posted on the grantee or project website or university website.

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.

**Johnny W. Collett,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 2019–11226 Filed 5–29–19; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. IC19–17–000]**

### Commission Information Collection Activities (FERC Form No. 60, FERC–61, and FERC–555A); Comment Request

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Comment request.

**SUMMARY:** In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(1)(D), the Federal Energy Regulatory Commission (Commission or FERC) is submitting the information collections below to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission previously published a Notice in the **Federal Register** 84 FR 10308, 3/20/2019) requesting public comments. The Commission received no comments on the FERC Form No. 60, FERC–61, or FERC–555A and is making this notation in its submittal to OMB.

**DATES:** Comments on the collection of information are due by July 1, 2019.

**ADDRESSES:** Comments filed with OMB, identified by the OMB Control No. 1902–0215 (FERC Form No. 60, FERC–61, or FERC–555A) should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov*. Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at 202–395–0710.

A copy of the comments should also be sent to the Commission, in Docket No. IC19–17–000, by either of the following methods:

- *eFiling at Commission's website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

*Instructions:* All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp*. For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

*Docket:* Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp*.

**FOR FURTHER INFORMATION CONTACT:** Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

**SUPPLEMENTARY INFORMATION:**

*Type of Request:* Three-year extension of the information collection requirements for all collections described below with no changes to the current reporting requirements. Please note that each collection is distinct from the next.

*Comments:* Comments are invited on: (1) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

### FERC Form No. 60 [1] (Annual Report of Centralized Service Companies), FERC–61 (Narrative Description of Service Company Functions), and FERC–555A (Preservation of Records Companies and Service Companies Subject to PUHCA)

*OMB Control No.:* 1902–0215.

*Abstract:* In accordance with the Energy Policy Act of 2005 (EPAct 2005), the Commission implemented the repeal of the Public Utility Holding Company Act of 1935 (PUHCA 1935) and

[1] The Form No. 60 is also part of a Commission Notice of Proposed Rulemaking (NOPR) issued on January 17, 2019 in Docket No. RM19–12 that includes 10 information collections. *See Revisions to the Filing Process for Commission Forms,* 166 FERC ¶ 61,027 (2019). The NOPR proposes to change the format of the information that is being collected from a Commission-distributed software application called Visual FoxPro (VFP) to a standard built on eXtensible Business Reporting Language (XBRL). Under the NOPR, the Commission is not proposing to change the information currently collected in the Form No. 60 (or in any of the VFP Forms), but rather to change the format of the information that is being collected from VFP to XBRL. Because there can be only one pending item per OMB Control No. pending OMB review at one time, the Form No. 60 is represented in the RM19–12 NOPR process as the ''Form No. 60–A.''

implemented the provisions of a newly enacted Public Utility Holding Company Act 2005 (PUHCA 2005). Pursuant to PUHCA 2005, the Commission requires centralized service companies to file the Form No. 60, unless the company is exempted or granted a waiver pursuant to the Commission's regulations. The information collected in Form No. 60 enables better monitoring for cross-subsidization, and aids the Commission in carrying out its statutory responsibilities. In addition, centralized service companies are required to follow the Commission's preservation of records requirements for centralized service companies.

*FERC Form No. 60*

Form No. 60 is an annual reporting requirement for centralized service companies set forth in 18 CFR 366.23. The report's function is to collect financial information (including balance sheet, assets, liabilities, billing and charges for associated and non-associated companies) from centralized service companies subject to the Commission's jurisdiction. Unless the Commission exempts or grants a waiver pursuant to 18 CFR 366.3 and 366.4 to the holding company system, every centralized service company in a holding company system must prepare and file electronically with the FERC the Form No. 60, pursuant to the General Instructions in the form.

*FERC–61*

FERC–61 is a filing requirement for service companies in holding company systems (including special purpose companies) that are currently exempt or granted a waiver of FERC's regulations and would not have to file the FERC Form No. 60. Instead, those service companies are required to file, on an annual basis, a narrative description of the service company's functions during the prior calendar year (FERC–61). In complying, a holding company may make a single filing on behalf of all of its service company subsidiaries.

*FERC–555A*

The Commission's regulations prescribe a mandated preservation of records requirements for holding companies and service companies (unless otherwise exempted by FERC). This requires them to maintain and make available to FERC, their books and records. The preservation of records requirement provides for uniform records retention by holding companies and centralized service companies subject to PUHCA 2005.

Data from the FERC Form No. 60, FERC–61, and FERC–555A provide a level of transparency that: (1) Helps protect ratepayers from pass-through of improper service company costs, (2) enables the Commission to review and determine cost allocations (among holding company members) for certain non-power goods and services, (3) aids the Commission in meeting its oversight and market monitoring obligations, and (4) benefits the public, both as ratepayers and investors. In addition, the Commission's audit staff uses these records during compliance reviews and special analyses.

If data from the FERC Form No. 60, FERC–61, and FERC–555A were not available, it would be difficult for the Commission to meet its statutory responsibilities under EPAct 1992, EPAct of 2005, and PUHCA 2005, and the Commission would have fewer of the regulatory mechanisms necessary to ensure transparency and protect ratepayers.

*Type of Respondent:* Centralized service companies.

*Estimate of Annual Burden:* The Commission estimates the annual public reporting burden for the information collection as:

FERC FORM NO. 60 (ANNUAL REPORT OF CENTRALIZED SERVICE COMPANIES), FERC–61 (NARRATIVE DESCRIPTION OF SERVICE COMPANY FUNCTIONS), AND FERC–555A (PRESERVATION OF RECORDS HOLDING COMPANIES AND SERVICE COMPANIES SUBJECT TO PUHCA)

| | Number of respondents (1) | Annual number of responses per respondent (2) | Total number of responses (1) * (2) = (3) | Average burden and cost per response [2] (4) | Total annual burden hours and total annual cost (3) *(4) = (5) | Cost per respondent ($) (5) ÷ (1) [3] |
|---|---|---|---|---|---|---|
| Form No. 60 [4] | 39 | 1 | 39 | 75 hrs.; $4,749 | 2,925 hrs.; $185,211 | $4,749 |
| Form No. 61 [5] | 78 | 1 | 78 | 0.5 hrs.; $19.84 | 39 hrs.; $1,548 | 19.84 |
| Form No. 555A [6] | 117 | 1 | 117 | 1,080 hrs.; $36,061 | 126,360 hrs.; $4,219,160 | 36,061 |
| Total Paperwork Burden | | | 234 | | 126,360 hrs.; $4,405,919 | |

[2] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $79.00/hour = Average cost/response. The figure is the 2018 FERC average hourly cost (for wages and benefits) of $79.00 (and an average annual salary of $164,820/year). Commission staff is using the FERC average salary because we consider any reporting requirements completed in response to the FERC–537 to be compensated at rates similar to the work of FERC employees.

[3] Each of the figures in this column are rounded to the nearest dollar.

[4] For the FERC Form No. 60, the $63.32 hourly cost figure comes from the average cost (wages plus benefits) of a utility management analyst (Occupation Code 13–1111) and an accountant (Occupation Code 13–2011) as posted on the Bureau of Labor Statistics (BLS) website (*http://www.bls.gov/oes/current/naics2_22.htm*).

[5] For the FERC–61, the $39.68 hourly cost figure comes from the cost of a records clerk (Occupation Code 43–4199) as posted on the BLS website (*http://www.bls.gov/oes/current/naics2_22.htm*).

[6] For the FERC–555A, the $33.39 hourly cost figure comes from the average cost (wages plus benefits) of a file clerk (Occupation Code 43–4071) as posted on the BLS website (*http://www.bls.gov/oes/current/naics2_22.htm*).

FERC–555A RECORD RETENTION REQUIREMENTS

| | Total number of responses (1) * (2) = (3) | Cost per respondent (4) | Total annual burden hours and total annual cost (3) * (4) = (5) |
|---|---|---|---|
| Paper Storage | 117 | $387.60 | $45,349.20 |
| Electronic Storage | 117 | 15.25 | 1,784.25 |
| Total Storage Burden | [7] 117 | | 47,133.45 |

*Total Annual Cost:* $4,409,919 (Paperwork Burden) + $47,133.45 (Record Retention) = $4,453,052.45.

A more accurate breakdown of the FERC–60/61/555A cost categories follows:

*Labor Cost:* The total estimated annual cost for labor burden to respondents is $4,405,919 [$185,211 (FERC Form No. 60) + $1,548 (FERC–61) + $4,219,160 (FERC–555A)]

*FERC Form No. 60:* 2,925 hours (75 hours × 39 respondents) * $63.32/hour = $185,211

*FERC–61:* 39 hours (.5 hours × 78 respondents) * $39.68/hour = $1,548

*FERC–555A:* 126,360 hours (1,080 hours × 117 respondents) * $33.39/hour = $4,219,160

*Storage Cost:* [8] In addition to the labor (burden cost provided above) the table reflects an additional cost for record retention and storage:

- Paper storage costs (using an estimate of 60 cubic feet × $6.46 per cubic foot): $387.60 per respondent annually. Total annual paper storage cost to industry ($387.60 × 117 respondents): $45,349.20. This estimate assumes that a respondent stores the same volume of paper as it did in the past and that the cost of such storage has not changed. We expect that this estimate should trend downward over time as more companies move away from paper storage and rely more heavily on electronic storage.
- *Electronic storage costs:* $15.25 per respondent annually. Total annual electronic storage cost to industry ($15.25 × 117 respondents): $1,784.25. This calculation retains the previous estimate that storage of 1GB per year cost of $15.25. We expect that this estimate should trend downward over time as the cost of electronic storage technology, including cloud storage, continues to decrease. For example, external hard drives of approximately 500GB are available for approximately $50. In addition, cloud storage plans from multiple providers for 1TB of storage (with a reasonable amount of requests and data transfers) are available for less than $35 per month.

Dated: May 21, 2019.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2019–11175 Filed 5–29–19; 8:45 am]

BILLING CODE 6717–01–P

[7] Each of the 117 entities is assumed to have both paper and electronic record retention.

[8] Internal analysis assumes 50% paper storage and 50% electronic storage.

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OAR–2008–0655; FRL–9990–22–OEI]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; GreenChill Advanced Refrigeration Partnership (Renewal)

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), GreenChill Advanced Refrigeration Partnership (EPA ICR Number 2349.02, OMB Control Number 2060–0702) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through May 31, 2019. Public comments were previously requested via the **Federal Register** on August 20, 2018, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before July 1, 2019.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2008–0655, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *a-and-r-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Tom Land, Stratospheric Protection Division, Office of Atmospheric Programs (Mail Code 6205T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 343–9185; fax number: (202) 343–2362; email address: *land.tom@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

*Abstract:* GreenChill is a voluntary partnership program sponsored by the U.S. Environmental Protection Agency (EPA) that encourages supermarket companies to adopt cost effective technologies and practices that reduce refrigerant emissions and improve operational efficiency. The GreenChill Program works with the supermarket

industry to lower remove barriers inhibiting the implementation of technologies and practices that reduce refrigerant emissions. The Program effectively promotes the adoption of emission reduction practices and technologies by engaging GreenChill partners to set an annual refrigerant emission reduction goal and develop a Refrigerant Management Plan reflecting the company's implementation objectives. Implementation of the partners' Refrigeration Management Plan to reduce refrigerant emissions enhances the protection of the environment and may save Partners money and improve operational efficiency. The GreenChill Program offers the opportunity for any individual store to be GreenChill certified at the silver-, gold- or platinum-level when it demonstrates that the amount of refrigerant used is below a specified limit, based on the store's MBTU/hour cooling load, and that the refrigerant emitted from the store in the prior 12 months is below a specified percentage depending on each GreenChill store certification level. Information submitted for the certification of individual stores is compared to these set criteria for each certification level. The certification of a store provides the opportunity for broad recognition within the supermarket industry and with the store's customers. All information submitted to EPA is treated in accordance with the EPA regulations at 40 CFR part 2, that include provisions on protecting confidential business information (CBI).

*Form Numbers:* 5900–213, 5900–214.

*Respondents/affected entities:* Supermarkets, NAICS code: 445110.

*Respondent's obligation to respond:* Voluntary.

*Estimated number of respondents:* 232 (per year).

*Frequency of response:* Annual, and when desired.

*Total estimated burden:* 2,608 hours (per year). Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* $110,940 (per year), includes $0 annualized capital or operation & maintenance costs.

*Changes in Estimates:* Due to the inclusion of voluntary submissions by individual supermarkets to become GreenChill certified, and recognizing these submissions are increasing annually, the total number of hours increases by 920 per year compared with the ICR currently approved by OMB. In addition, the number of companies submitting information voluntarily under the Corporate Emission Reduction Program (the Partnership) is reduced due to industry consolidation, acquisitions, and bankruptcy, as well as a reduction in the number of companies joining the partnership each year. The costs associated with labor categories reflect generally higher salaries across Respondents and the Agency.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2019–11273 Filed 5–29–19; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OAR–2003–0073; FRL–9993–78–OMS]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Distribution of Offsite Consequence Analysis Information Under Section 112(r)(7)(H) of the Clean Air Act (CAA), as Amended (Renewal)

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Distribution of Offsite Consequence Analysis Information under Section 112(r)(7)(H) of the Clean Air Act (CAA), as amended, (EPA ICR Number 1981.07, OMB Control Number 2050–0172), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through May 19, 2019. Public comments were previously requested via the **Federal Register** on November 23, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before July 1, 2019.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2003–0073 to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *superfund.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Wendy Hoffman, Office of Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–8794; fax number: (202) 564–2620; email address: *hoffman.wendy@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets*.

*Abstract:* This ICR renewal is for the collection developed to support the final rule, *Accidental Release Prevention Requirements; Risk Management Programs Under the Clean Air Act Section 112(r)(7); Distribution of Off-Site Consequence Analysis Information,* published on August 4, 2000 (65 FR 48108), defines the Federal Government's responsibilities with respect to the dissemination of offsite consequence analyses (OCA) information to the public. OCA information is received by the EPA within risk management plans (RMPs) collected in service to the Agency's mandate to promulgate reasonable regulations and appropriate guidance to provide for the prevention and detection of accidental releases and for responses to such releases under CAA section 112(r)(7).

In accordance with the final rule, the government established 55 reading rooms at federal facilities geographically distributed across the United States and its territories. At these reading rooms, members of the public are able to read OCA information for stationary sources (up to 10 per month), for the Local Emergency Planning Committees (LEPCs) in whose jurisdiction they live or work, and for any other stationary sources with vulnerability zones

extending into their LEPC's jurisdiction. Individuals anywhere may use the Vulnerable Zone Indicator System (VZIS) to find out whether a specified address is within the vulnerable zone of one or more stationary sources.

The final rule also authorizes and encourages state and local government officials to have access to OCA information relevant to their jurisdiction, both for their own official use and to appropriately disseminate to the local public population.

This ICR is intended to renew EPA's approval to carry out the recordkeeping and reporting requirements crated by the final rule as it defines the practices that state and local officials need to follow in order to share the data they have and the specific procedures that different categories of individuals need to follow in order to request information, certify their identity, and receive OCA data.

*Form Numbers:* None.

*Respondents/affected entities:* State and local agencies and the public.

*Respondent's obligation to respond:* Required to obtain or retain a benefit (40 CFR 1400).

*Estimated number of respondents:* 315 (total).

*Frequency of response:* As necessary.

*Total estimated burden:* 367 hours (per year). Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* $16,252 (per year), includes $23 annualized capital or operation & maintenance costs.

*Changes in the Estimates:* This ICR renewal includes a significant decrease in the estimated burden compared to the previous ICR renewal. The burden reduction is attributable to the reduced number of reading room visits by the public, the reduced number of letters of request for OCA from state and local governments and LEPCs, and a reduced number of public meetings assumed to be held by LEPCs resulting from the lower of letters of request submitted by LEPCs. To a large extent, the reductions are the result of the respondents increasingly obtaining the OCA data through electronic methods, for example, through *rtk.net,* RMP*Info and RMP Data Download.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2019–11271 Filed 5–29–19; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2019–0075; FRL–9994–01]**

## Certain New Chemicals; Receipt and Status Information for January 2019; Correction

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

**ACTION:** Notice; correction.

**SUMMARY:** EPA is hereby correcting information presented in a notice that published in the **Federal Register** of April 10, 2019. That notice provided information concerning submissions to EPA under TSCA Section 5, but inadvertently duplicated test submission information from the previous month. EPA is providing the test information received in January 2019, and providing an opportunity for public comment on this information.

**DATES:** Comments identified by the specific case number provided in this document must be received on or before July 1, 2019.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2019–0075, and the specific case number for the chemical substance related to your comment, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

**FOR FURTHER INFORMATION CONTACT:**

*For technical information contact:* Jim Rahai, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@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. What action is the Agency taking?

In the **Federal Register** of April 10, 2019 (84 FR 14365) (FRL–9991–20), EPA published information pertaining to submissions in January 2019 under TSCA Section 5, including notice of receipt of a Premanufacture notice (PMN), Significant New Use Notice (SNUN) or Microbial Commercial Activity Notice (MCAN), including an amended notice or test information; an exemption application (Biotech exemption); an application for a test marketing exemption (TME), both pending and/or concluded; a notice of commencement (NOC) of manufacture (including import) for new chemical substances; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review. Subsequent to that publication, a stakeholder noticed that the information in Table II of Unit III. appeared to be identical to the information provided for December 2018 (see 84 FR 14368, April 10, 2019) (FRL–9990–59). EPA is hereby publishing the corrected information for January 2019 and providing an opportunity for public comments on this new information.

### II. What is this correction?

In Unit I.A., the first sentence incorrectly identified the period covered by the notice as ''from 01/01/2019 to 12/31/2019,'' rather than just the month of January. Instead, it should have identified the period covered by the notice as ''from 01/01/2019 to 01/31/2019.''

In addition, the information in Table II of Unit III., which appears on page 14367, is corrected to read as follows:

TABLE II—TEST INFORMATION RECEIVED FROM 01/01/2019 TO 01/31/2019

| Case No. | Received date | Type of test information | Chemical substance |
|---|---|---|---|
| P–11–0483 .... | 1/3/2019 | Mouse and Rat Combined Repeated-Dose Oral (Gavage) Toxicity Study with the Reproduction/Developmental Toxicity Screening Test (OECD Test Guideline 422). | (G) Alkyl thiol. |
| SN–18–0013 .. | 1/3/2019 | Industrial Hygiene Monitoring Report ..... | (G) Lithiated metal oxide. |
| P–19–0019 .... | 1/3/2019 | Skin Irritation Study; Reconstructed human Cornea-like Epithelium (RhCE) test method for identifying chemicals not requiring classification and labelling for eye irritation or serious eye damage (OECD Test Guideline 492). | (G) Haloalkane. |
| P–16–0462 .... | 1/9/2019 | Metals Analysis Report Quarter 4 2018 ..... | (G) Ash (residues), reaction products with tetraethoxydioxa-polyheteroatom-disilaalkane. |
| P–13–0679 .... | 1/10/2019 | Routine/Annual/Quarterly Testing and Reporting: Certification of Analysis. | (G) Fluoroalkyl acrylate copolymer. |
| P–19–0032 .... | 1/15/2019 | Test Item related to chemical composition, purity, strength, stability and other data required by current OECD Good Laboratory Practices (OECD Test Guidelines 101–105, 109, 111, 117 and 121). | (G) Carbonic dichloride, polymer with 4,4′-(1-methylethylidene)bis[phenol] ester, polymer with tetrol and polyether tetrol. |
| P–16–0150 .... | 1/16/2019 | A 5-day Toxicity Study of HCFC–243db by Whole-Body Inhalation in Sprague Dawley Rats, 5-day Toxicity Study of HCFC–243db by Whole-Body Inhalation in CD–1 Mice, and 5-day Toxicity Study of HCFC–243db by Whole-Body Inhalation in Albino Rabbits. | (G) Chlorofluorocarbon. |
| P–16–0543 .... | 1/18/2019 | Exposure Monitoring Report ..... | (G) Halogenophosphoric acid metal salt. |
| P–10–0183 .... | 1/23/2019 | Routine/Annual Testing and Reporting: Certifications of Analysis. | (G) Alkyl alkanoate. |
| P–10–0184 .... | 1/23/2019 | Routine/Annual Testing and Reporting: Certifications of Analysis. | (G) Alkyl ethoxylate. |
| P–10–0185 .... | 1/23/2019 | Routine/Annual Testing and Reporting: Certifications of Analysis. | (G) Alkyl phosphate salt. |
| P–10–0186 .... | 1/23/2019 | Routine/Annual Testing and Reporting: Certifications of Analysis. | (G) Alkyl phosphate salt. |
| P–14–0712 .... | 1/28/2019 | PCCD/F EPA Test Method 8290A ..... | (G) Waste plastics, pyrolyzed, C5–55 fraction. |

As explained in the original notice, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that this information in the table is generic information because the specific information provided by the submitter was claimed as CBI.

**Authority:** 15 U.S.C. 2601 *et seq.*

Dated: May 23, 2019.

**Megan Carroll,**

*Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.*

[FR Doc. 2019–11260 Filed 5–29–19; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OECA–2011–0272; FRL–9994–55–OMS]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Emission Guidelines for Hospital/Medical/Infectious Waste Incinerators (Renewal)

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Emission Guidelines for Hospital/Medical/Infectious Waste Incinerators (EPA ICR Number 1899.09, OMB Control Number 2060–0422), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through May 31, 2019. Public comments were previously requested, via the **Federal Register**, on May 30, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before July 1, 2019.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2011–0272, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other

information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets*.

*Abstract:* The Emission Guidelines (EG) (40 CFR part 60, subpart Ce) for Hospital/Medical/Infectious Waste Incinerators were proposed on February 27, 1995; promulgated on September 15, 1997; and revised on both October 6, 2009 and April 4, 2011. The Federal Plan Requirements for these regulations (40 CFR part 62, subpart HHH) were proposed on July 6, 1999; promulgated on August 15, 2000; and revised on May 13, 2013. Subpart Ce requires either states or tribes to develop plans to implement the EG. If approvable state or tribal plans were not developed, the EPA was required to develop a Federal plan (Subpart HHH) to implement the Emission Guidelines for such states and tribes. The Federal plan is an interim measure to ensure that emissions standards are implemented until states assume their role as the preferred implementers of the EG. The 2013 rule finalized amendments to the HMIWI federal plan to implement the amended EG adopted on October 6, 2009, for those states that did not have an approved revised/new state plan in place within 2 years after promulgation of the EG. The regulations in 40 CFR part 60, subpart Ce and 40 CFR part 62, subpart HHH apply to each existing individual hospital/medical/infectious waste incinerator (HMIWI) that either commenced construction prior to December 2, 2008 or commenced modification prior to April 6, 2010. This information is being collected to assure compliance with 40 CFR part 60, subpart Ce and 40 CFR part 62, subpart HHH.

In general, all Emission Guidelines require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to the Emission Guidelines.

*Form Numbers:* None.

*Respondents/affected entities:* The regulations in 40 CFR part 60, subpart Ce and 40 CFR part 62, subpart HHH apply to each existing individual hospital/medical/infectious waste incinerator (HMIWI) that commenced construction prior to December 2, 2008 or commenced modification prior to April 6, 2010.

*Respondent's obligation to respond:* Mandatory (40 CFR part 60, subpart Ce and 40 CFR part 62, subpart HHH).

*Estimated number of respondents:* 58 existing respondents, consisting of 31 privately-owned, 5 Federally-owned, and no State/locally-owned HMIWI facilities, *plus* 22 States requiring State Plan Inventories (total).

*Frequency of response:* Semiannually and annually.

*Total estimated burden:* 34,600 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* $4,620,000 (per year), which includes $479,000 in annualized capital/startup and/or operation & maintenance costs.

*Changes in the Estimates:* There is no change in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. The regulations have not changed over the past three years and are not anticipated to change over the next three years. There is no change in the labor hour figures in this ICR compared to the previous ICR. The number of sources subject to these regulations has remained constant. There is an increase in the number of responses; however, this increase is not due to any program changes. We have revised the number of responses to correctly account for the 'report of annual inspection' for state and federal respondents. The previous ICR only counted these reports for small rural HWIMIs, but the regulations require all HWIMIs to submit this report. The burden did not change, as these costs were already correctly accounted for in Table 1. The labor costs have increased due to an update in labor rates. This ICR reflects the on-going burden and costs for the 58 existing respondents.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2019–11266 Filed 5–29–19; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OLEM–2018–0756, FRL–9994–15–OMS]**

## Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Requirements for Generators, Transporters, and Waste Management Facilities Under the RCRA Hazardous Waste Manifest System (Renewal)

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Requirements for Generators, Transporters, and Waste Management Facilities Under the RCRA Hazardous Waste Manifest System (EPA ICR Number 0801.23, OMB Control Number 2050–0039) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through May 31, 2019. Public comments were previously requested via the **Federal Register** on February 8, 2019 during a 60-day comment period. Ten comments were submitted to the public docket for this ICR. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before July 29, 2019.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA–HQ–OLEM–2018–0756, to (1) EPA, either online using *www.regulations.gov* (our preferred method), or by email to *rcra-docket@epa.gov,* or by mail to: RCRA Docket (2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Bryan Groce, Office of Resource Conservation and Recovery, Program Implementation and Information Division, (5303P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (703) 308–8750; fax number: (703) 308–0514; email address: *groce.bryan@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets*.

*Abstract:* This Information Collection Request covers recordkeeping and reporting activities for the hazardous waste manifest paper and electronic system, under the Resource Conservation and Recovery Act (RCRA) and the Hazardous Waste Electronic Manifest Establishment Act (Pub. L. 112–195). EPA's authority to require use of a manifest system stems primarily from RCRA 3002(a)(5) (also RCRA Sections 3003(a)(3) and 3004). Regulations are found in 40 CFR part 262 (registrant organizations and generators), part 263 (transporters), and parts 264 and 265 (TSDFs). The manifest lists the wastes that are being shipped and the treatment, storage, or disposal facility (TSDF) to which the wastes are bound. Generators, transporters, and TSDFs handling hazardous waste are required to complete the data requirements for manifests and other reports primarily to: (1) Track each shipment of hazardous waste from the generator to a designated facility; (2) provide information requirements sufficient to allow the use of a manifest in lieu of a Department of Transportation (DOT) shipping paper or bill of lading, thereby reducing the duplication of paperwork to the regulated community; (3) provide information to transporters and waste management facility workers on the hazardous nature of the waste; (4) inform emergency response teams of the waste's hazard in the event of an accident, spill, or leak; and (5) ensure that shipments of hazardous waste are managed properly and delivered to their designated facilities. The Hazardous Waste Electronic Manifest Establishment Act provided EPA authority to establish the national electronic hazardous waste manifest system to track hazardous waste shipments electronically. The Act also provided EPA authority to adopt regulations that (1) allow it to accept electronic-manifests originated in the e-Manifest system as the legal equivalent to paper manifests; (2) require manifest users to submit paper copies of the manifest to the system for data processing; (3) collect manifests in the e-Manifest system for hazardous waste subject to federal or state law; and (4) set up user fees to offset the costs of developing and operating the e-Manifest system.

Pursuant to the Act, EPA modified the manifest regulations on February 7, 2014 (The e-Manifest ''One Year Rule''), to authorize use of electronic manifests (or e-Manifests) for tracking offsite shipments of hazardous waste from a generator's site to the site of the receipt and disposition of the hazardous waste. On January 3, 2018, EPA finalized the e-Manifest User Fee Final Rule which established the fee methodology that EPA uses to determine the user fees applicable to the electronic and paper manifests submitted to the national system. EPA launched the e-Manifest system on June 30, 2018. TSDF and other receiving facilities must submit manifests, both paper and electronic, to EPA. In addition to fees for RCRA wastes, EPA is charging TSDFs and other facilities receiving state-only regulated wastes a fee for each manifest submitted to the system. Regulations regarding copy submission requirements for interstate shipments and the applicability of e-Manifest system and fees to facilities receiving state-only regulated wastes are found in 40 CFR part 260 (Hazardous Waste Management System). Regulations regarding imposition of user fees on receiving facilities for their manifest submissions, with references to key fee methodology, fee dispute, and fee sanction requirements are found in Parts 264 and 265.

*Form Numbers:* Form 8700–22 and 8700–22A.

*Respondents/affected entities:* Business or other for-profit.

*Respondent's obligation to respond:* mandatory (RCRA 3002(a)(5)).

*Estimated number of respondents:* 215,677.

*Frequency of response:* Each Shipment.

*Total estimated burden:* 2,502,500 hours per year. Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* $129,951,112 (per year), includes $25,768,668 annualized capital or operation & maintenance costs.

*Changes in the Estimates:* There is decrease of 136,710 hours in the total estimated respondent burden compared with the ICR currently approved by OMB, resulting from EPA's updates to the annual number of paper and electronic manifests offered into transportation. EPA ascertained data on the actual number of manifests as compiled by the e-Manifest system. In addition, there was a decrease of $12,951,112 in O&M costs from the currently approved ICR, resulting from EPA's adjustment to the user fees paid by destination facilities.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2019–11268 Filed 5–29–19; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OLEM–2018–0757, FRL–9993–85–OMS]**

## Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types (Renewal)

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types (EPA ICR Number 1572.12, OMB Control Number 2050–0050) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through May 31, 2019. Public comments were previously requested via the **Federal Register** on December 10, 2019 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden

and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before July 29, 2019.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA–HQ–OLEM–2018–0757, to (1) EPA, either online using *www.regulations.gov* (our preferred method), or by email to *rcra-docket@epa.gov,* or by mail to: RCRA Docket (2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Peggy Vyas, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 703–308–5477; fax number: 703–308–8433; email address: *vyas.peggy@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

*Abstract:* This ICR provides covers the information collection requirements associated with specific unit standards applicable to owners and operators of facilities that treat, store, or dispose of hazardous wastes as defined by 40 CFR part 261. It includes a detailed description of the data items and respondent activities associated with each requirement and with each hazardous waste management unit at a facility. The specific units and processes included in this ICR are: Tank systems, surface impoundments, waste piles, land treatment, landfills, Incinerators, thermal treatment, chemical, physical, and biological treatment, miscellaneous (subpart X), drip pads, process vents, equipment leaks, containment buildings, and recovery/recycling.

With each information collection covered in this ICR, the EPA is aiding the goal of complying with its statutory mandate under RCRA to develop standards for hazardous waste treatment, storage, and disposal facilities, to protect human health and the environment. Without the information collection, the agency cannot assure that the facilities are designed and operated properly.

*Form Numbers:* None.

*Respondents/affected entities:* Entities potentially affected by this action are in the private sector and State, Local, or Tribal governments.

*Respondent's obligation to respond:* Mandatory (40 CFR 261, 264, 265, and 266).

*Estimated number of respondents:* 2,018.

*Frequency of response:* On occasion.

*Total estimated burden:* 356,305 hours per year. Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* $11,197,174 (per year), includes $1,452,841 annualized capital or operation & maintenance costs.

*Changes in the Estimates:* There is a decrease of 297,792 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to a decrease in the number of tanks and containers.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2019–11264 Filed 5–29–19; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OECA–2012–0505; FRL–9992–37–OMS]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Secondary Aluminum Production (Renewal)

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Secondary Aluminum Production (EPA ICR Number 1894.09, OMB Control Number 2060–0433), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through May 31, 2019. Public comments were previously requested, via the **Federal Register**, on May 30, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before July 1, 2019.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0505, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

*Abstract:* The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Secondary Aluminum Production (40 CFR part 60, subpart RRR) apply to secondary aluminum production facilities that are major sources of hazardous air pollutants

(HAP) either commencing construction, or reconstruction, after the date of proposal. This includes facilities that operate aluminum scrap shredders, thermal chip dryers, scrap dryers/delacquering kilns/decoating kilns, group 1 furnaces, group 2 furnaces, sweat furnaces, dross only furnaces, rotary dross coolers, and secondary aluminum processing units (SAPUs). The SAPUs include group 1 furnaces and in-line fluxers. The regulations also apply to secondary aluminum production facilities that are area sources of HAP only with respect to emissions of dioxins/furans (D/F) from thermal chip dryers, scrap dryers/delacquering kilns/decoating kilns, group 1 furnaces, sweat furnaces, and SAPUs. New facilities include those that commenced construction, or reconstruction after the date of proposal. This information is being collected to assure compliance with 40 CFR part 63, subpart RRR.

The 2015 rule amendments included a requirement to report performance testing through the Electronic Reporting Tool (ERT); provisions allowing owners and operators to change furnace classifications; requirements to account for unmeasured emissions during compliance testing for group 1 furnaces that do not have add-on control devices; alternative compliance options for the operating and monitoring requirements for sweat furnaces; compliance provisions for hydrogen fluoride; provisions addressing emissions during periods of startup, shutdown, and malfunction (SSM); and other corrections and clarifications to the applicability, definitions, operating, monitoring and performance testing requirements. The 2016 rule amendments amended the 2015 rule to clarify requirements for initial performance tests and submittal of malfunction reports, provide an additional option for group 1 furnaces to account for unmeasured emissions during compliance testing, clarify what constitutes a change in furnace operating mode, and updates the Web addresses for the EPA's Electronic Reporting Tool (ERT) and Compliance and Emissions Data Reporting Interface (CEDRI).

In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP.

*Form Numbers:* None.

*Respondents/affected entities:* Secondary aluminum production facilities.

*Respondent's obligation to respond:* Mandatory (40 CFR part 63, subpart RRR).

*Estimated number of respondents:* 161 (total).

*Frequency of response:* Initially, occasionally and semiannually.

*Total estimated burden:* 12,400 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* $5,520,000 (per year), which includes $4,110,000 in either annualized capital/startup and/or operation & maintenance costs.

*Changes in the Estimates:* There is also an adjustment decrease in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. The decrease is not due to any program changes. The change is due to correction of a mathematical error identified in the burden associated with the time required for facilities to refamiliarize with the regulatory requirements each year. The previous ICR stated that it would take each respondent one hour to read and understand the reporting requirements, but inadvertently included additional hours; the current ICR has been corrected to reflect one hour for this activity. The overall result is a slight decrease in burden hours.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2019–11265 Filed 5–29–19; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OECA–2018–0249; FRL–9994–60–OMS]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Greenhouse Gas Emissions for New Electric Utility Generating Units (Renewal)

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NSPS for Greenhouse Gas Emissions for New Electric Utility Generating Units (EPA ICR Number 2465.04, OMB Control Number 2060–0685), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through July 31, 2019. Public comments were previously requested, via the **Federal Register**, on May 30, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before July 1, 2019.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2018–0249, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov,* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets*.

*Abstract:* The New Source Performance Standards (NSPS) for

Greenhouse Gas Emissions for New Electric Utility Generating Units (40 CFR part 60, subpart TTTT) were proposed on June 2, 2014, and promulgated on October 23, 2015 (80 FR 64510). These regulations apply to newly constructed, modified or reconstructed facilities with electric utility generating units (EGUs) including any steam generating unit, IGCC, or stationary combustion turbine that commenced construction after January 8, 2014 or commenced reconstruction after June 18, 2014. To be considered an EGU the unit must be: (1) Capable of combusting more than 250 MMBtu/h heat input of fossil fuel; and (2) serve a generator capable of supplying more than 25 MW net to a utility distribution system (*i.e.,* for sale to the grid). New facilities include those that commenced construction, modification or reconstruction after the date of proposal. This information is being collected to assure compliance with 40 CFR part 60, subpart TTTT.

In general, all NSPS standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. This NSPS imposes a minimal information collection burden on affected sources beyond what sources would already be subject to under the authorities of CAA parts 75 (Acid Rain Program CEM requirements) and 98 (Mandatory GHG Reporting, applicable to EGUs that capture $CO_2$). Apart from certain reporting costs to comply with the emission standards under the rule, there are no additional information collection costs, as the information required by the rule is already collected and reported by other regulatory programs. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NSPS.

*Form Numbers:* None.

*Respondents/affected entities:* Fossil fuel-fired electric utility steam generating units.

*Respondent's obligation to respond:* Mandatory (40 CFR part 60, subpart TTTT).

*Estimated number of respondents:* 32 (total).

*Frequency of response:* Initially and quarterly.

*Total estimated burden:* 883 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* $101,000 (per year), which includes $0 in annualized capital/startup and/or operation & maintenance costs.

*Changes in the Estimates:* There is an adjustment increase in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. The change in the burden and cost estimates occurred because these standards have been in effect for more than three years. The previous ICR reflected those burdens and costs associated with the initial activities for subject facilities. This ICR, by in large, reflects the on-going burden and costs for existing facilities. This ICR also assumes that all existing respondents will spend up to 8 hours annually for review of the rule, and will continue to submit quarterly reports. There are no capital or operation and maintenance costs associated with these standards.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2019–11274 Filed 5–29–19; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OAR–2004–0016; FRL–9990–81–OEI]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Part 71 Federal Operating Permit Program (Renewal)

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Part 71 Federal Operating Permit Program (EPA ICR Number 1713.12, OMB Control Number 2060–0336) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through May 31, 2019. Public comments were previously requested via the **Federal Register** on September 11, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before July 1, 2019.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2004–0016, at *http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*.

**FOR FURTHER INFORMATION CONTACT:** Joanna W. Gmyr, Air Quality Policy Division, Office of Air Quality Planning and Standards, C504–05, U.S. Environmental Protection Agency, Research Triangle Park, NC; telephone number: (919) 541–9782; fax number: (919) 541–5509; email address: *gmyr.joanna@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets*.

*Abstract:* Title V of the Clean Air Act (Act) requires the EPA to operate a federal operating permits program in areas not subject to an approved state program. The EPA regulations setting forth the requirements for the federal (EPA) operating permit program are at 40 CFR part 71. The part 71 program is designed to be implemented primarily by the EPA in all areas where state and local agencies do not have jurisdiction, such as Indian country and offshore, beyond states' seaward boundaries. The EPA may also delegate authority to implement the part 71 program on its behalf to a state, local or tribal agency, if the agency requests delegation and makes certain showings regarding its authority and ability to implement the

program. One such delegate agency for the part 71 program exists at present.

In order to receive an operating permit for a major or other source subject to the permitting program, the applicant must conduct the necessary research, perform the appropriate analyses, and prepare the permit application with documentation to demonstrate that its facility meets all applicable statutory and regulatory requirements. Specific activities and requirements are listed and described in the Supporting Statement for the part 71 ICR.

Under part 71, the permitting authority (the EPA or a delegate agency) reviews permit applications, provides for public review of proposed permits, issues permits based on consideration of all technical factors and public input, and reviews information submittals required of sources during the term of the permit. Under part 71, the EPA reviews certain actions and performs oversight of any delegate agency, consistent with the terms of a delegation agreement. Consequently, information prepared and submitted by sources is essential for sources to receive permits, and for federal and tribal permitting agencies to adequately review the permit applications and issue the permits, oversee implementation of the permits, and properly administer and manage the program.

Information that is collected is handled according to EPA's policies set forth in title 40, chapter 1, part 2, subpart B—Confidentiality of Business Information (*see* 40 CFR part 2). *See* also section 114(c) of the Act.

*Form Numbers:* 5900–01, 5900–02, 5900–03, 5900–04, 5900–05, 5900–06, 5900–79, 5900–80, 5900–81, 5900–82, 5900–83, 5900–84, 5900–85 and 5900–86.

*Respondents/affected entities:* Industrial plants (sources) and tribal permitting authorities.

*Respondent's obligation to respond:* mandatory (*see* 40 CFR part 71).

*Estimated number of respondents:* 93 (total); 92 industry sources and one tribal delegate permitting authority (the EPA serves as a permitting authority but is not a respondent).

*Frequency of response:* On occasion.

*Total estimated burden:* 23,707 hours (per year). Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* $1,657,776 (per year). There are no annualized capital or operation & maintenance costs.

*Changes in Estimates:* There is a decrease of 2,230 hours per year for the estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to updated estimates of the number of sources and permits subject to the part 71 program, rather than any change in federal mandates.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2019–11270 Filed 5–29–19; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0466]**

## Information Collection Being Submitted for Review and Approval to Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written comments should be submitted on or before July 1, 2019. If you anticipate that you will be submitting comments but find it difficult to do so with the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@OMB.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov*. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

**SUPPLEMENTARY INFORMATION:** As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) 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; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

*OMB Control Number:* 3060–0466.

*Title:* Sections 74.783, 73.1201 and 74.1283, Station Identification.

*Form Number:* Not applicable.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit entities; Not for-profit institutions; State, Local or Tribal Government.

*Number of Respondents and Responses:* 27,516 respondents; 27,516 responses.

*Estimated Time per Response:* 0.166–1 hour.

*Frequency of Response:* On occasion reporting requirement; Recordkeeping

requirement; Third party disclosure requirement.

*Obligation to Respond:* Required to obtain or maintain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 151, 152, 154(i), 303, 307 and 308.

*Total Annual Burden:* 25,925 hours.

*Total Annual Costs:* None.

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection of information.

*Privacy Act Impact Assessment:* No impact(s).

*Needs and Uses:* The information collection requirements for this collection are as following: 47 CFR 73.1201(a) requires television broadcast licensees to make broadcast station identification announcements at the beginning and ending of each time of operation, and hourly, as close to the hour as feasible, at a natural break in program offerings. Television and Class A television broadcast stations may make these announcements visually or aurally.

47 CFR 74.783(b) requires licensees of television translators whose station identification is made by the television station whose signals are being rebroadcast by the translator, must secure agreement with this television station licensee to keep in its file, and available to FCC personnel, the translator's call letters and location, giving the name, address and telephone number of the licensee or his service representative to be contacted in the event of malfunction of the translator. It shall be the responsibility of the translator licensee to furnish current information to the television station licensee for this purpose.

47 CFR 73.1201(b)(1) requires that the official station identification consist of the station's call letters immediately followed by the community or communities specified in its license as the station's location. The name of the licensee, the station's frequency, the station's channel number, as stated on the station's license, and/or the station's network affiliation may be inserted between the call letters and station location. Digital Television (DTV) stations, or DAB Stations, choosing to include the station's channel number in the station identification must use the station's major channel number and may distinguish multicast program streams. For example, a DTV station with major channel number 26 may use 26.1 to identify a High Definition Television (HDTV) program service and 26.2 to identify a Standard Definition Television (SDTV) program service. A radio station operating in DAB hybrid mode or extended hybrid mode shall identify its digital signal, including any free multicast audio programming streams, in a manner that appropriately alerts its audience to the fact that it is listening to a digital audio broadcast. No other insertion between the station's call letters and the community or communities specified in its license is permissible. A station may include in its official station identification the name of any additional community or communities, but the community to which the station is licensed must be named first.

47 CFR 74.783(e) permits low power TV permittees or licensees to request to be assigned four-letter call signs in lieu of the five-character alpha-numeric call signs.

47 CFR 74.1283(c)(1) requires a FM translator station licensee whose identification is made by the primary station must arrange for the primary station licensee to furnish the translator's call letters and location (name, address, and telephone number of the licensee or service representative) to the FCC. The licensee must keep this information in the primary station's files.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2019–11276 Filed 5–29–19; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0799]**

## Information Collection Requirement Being Reviewed by the Federal Communications Commission

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid 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 Office of Management and Budget (OMB) control number.

**DATES:** Written PRA comments should be submitted on or before July 29, 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*. Include in the comments the Title as shown in the **SUPPLEMENTARY INFORMATION** section below.

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

**SUPPLEMENTARY INFORMATION:**

*OMB Control No.:* 3060–0799.

*Title:* FCC Ownership Disclosure Information for the Wireless Telecommunications Services.

*Form No.:* FCC Form 602.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit; Not-for-profit institutions; and State, Local or Tribal government.

*Number of Respondents and Responses:* 4,115 respondents and 4,115 responses.

*Estimated Time per Response:* .5 hours-1.5 hours.

*Frequency of Response:* On occasion reporting requirement.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this collection of this information is contained in Sections 154(i), 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended. The statutory authority for this collection of this information is contained in Sections 154(i), 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended.

*Total Annual Burden:* 5,217 hours.

*Total Annual Cost:* $762,300.

*Privacy Act Impact Assessment:* No impact(s).

*Nature and Extent of Confidentiality:* In general there is no need for confidentiality. On a case by case basis, the Commission may be required to withhold from disclosure certain information about the location, character, or ownership of a historic property, including traditional religious sites.

*Needs and Uses:* The FCC Form 602 is necessary to obtain the identity of the filer and to elicit information required by Section 1.2112 of the Commission's rules regarding: (1) Persons or entities holding a 10 percent or greater direct or indirect ownership interest or any general partners in a general partnership holding a direct or indirect ownership interest in the applicant (''Disclosable Interest Holders''); and (2) All FCC-regulated entities in which the filer or any of its Disclosable Interest Holders owns a 10 percent or greater interest. The data collected on the FCC Form 602 includes the FCC Registration Number (FRN), which serves as a ''common link'' for all filings an entity has with the FCC. The Debt Collection Improvement Act of 1996 requires that entities filing with the Commission use an FRN. The FCC Form 602 was designed for, and must be filed electronically by, all licensees that hold licenses in auctionable services.

The FCC Form 602 is comprised of the Main Form containing information regarding the filer and the Schedule A is used to collect ownership data pertaining to the Disclosable Interest Holder(s). Each Disclosable Interest Holder will have a separate Schedule A.

Thus, a filer will submit its FCC Form 602 with multiple copies of Schedule A, as necessary, to list each Disclosable Interest Holder and associated information.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2019–11211 Filed 5–29–19; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0678, OMB 3060–0975]**

### Information Collections Being Submitted for Review and Approval to Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written comments should be submitted on or before July 1, 2019. If you anticipate that you will be submitting comments but find it difficult to do so with the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@OMB.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov*. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

**SUPPLEMENTARY INFORMATION:** As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) 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; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

*OMB Control No.:* 3060–0678.

*Title:* Part 25 of the Commission's Rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Stations and Space Stations.

*Form No:* FCC Form 312, FCC Form 312–EZ, FCC Form 312–R and Schedules A, B and S.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit entities and Not-for-profit institutions.

*Number of Respondents:* 6,512 respondents; 6,561 responses.

*Estimated Time per Response:* 0.5–80 hours.

*Frequency of Response:* On occasion, one time, and annual reporting requirements; third-party disclosure requirement; recordkeeping requirement.

*Obligation to Respond:* Required to obtain or retain benefits. The Commission has statutory authority for the information collection requirements under 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721.

*Total Annual Burden:* 45,036 hours.

*Total Annual Cost:* $17,105,204.

*Privacy Act Impact Assessment:* No impact(s).

*Nature and Extent of Confidentiality:* There is no need for confidentiality pertaining to the information collection requirements in this collection.

*Needs and Uses:* On September 27, 2018, the Commission released a Report and Order and Further Notice of Proposed Rulemaking, FCC 18–138, in IB Docket No. 17–95, titled ''Amendment of Parts 2 and 25 of the

Commission's Rules to Facilitate the Use of Earth Stations in Motion Communicating with Geostationary Orbit Space Stations in Frequency Bands Allocated to the Fixed Satellite Service'' (ESIM GSO FSS Report and Order and FNPRM). In this Report and Order, the Commission simplifies its rules to facilitate the continued deployment of Earth Stations in Motion (ESIMs) and reduce the regulatory burdens on ESIMs. Specifically, the Commission reorganized and consolidated sections in Part 25 of the Commission's rules addressing ESIMs. The Commission also expanded the scope of operations of ESIMs to communicate in additional frequency bands with geostationary-satellite orbit (GSO) satellites operating in the fixed-satellite service (FSS). These actions will promote innovative and flexible use of satellite technology and provide new opportunities for a variety of uses. This information collection will provide the Commission and the public with necessary information about the operations of this growing area of satellite operations. This information collection represents a decrease in the overall paperwork burdens for operators of earth stations in motion, serving the public interest by streamlining the collection of information and allow the Commission to authorize routine licensing of ESIM operations in the Ka-band while protecting the interests of FSS operators.

Specifically, FCC 18–138 contains new or modified information collection requirements listed below:

(1) Earth Stations on Vessel (ESV), Vehicle-Mounted Earth Station (VMES) and Earth Station Aboard Aircraft (ESAA) requirements previously incorporated in 25.221, 25.222, 25.226 and 25.227 have been streamlined and are in the new ESIMs section 25.228.

(2) Minor discrepancies between the previous rules in 25.221, 25.222, 25.226 and 25.227 were harmonized in the new section 25.228.

(3) The antenna pointing accuracy requirement contained in the individual ESV, VMES, and ESAA rules in Sections 25.221, 25.222, 25.226, and 25.227 were eliminated.

(4) Cross references to the previous rules in 25.221, 25.222, 25.226 and 25.227 were eliminated from footnotes to the Table of Allocations, 47 CFR 2.106 and all other rule sections in Part 25.

(5) The off-axis equivalent isotropically radiated power (EIRP) density provisions of Section 25.138 were merged into Section 25.218, thus extending the applicability of Section 25.218 to conventional Ka-band GSO FSS earth stations. This applies a single set of limits across all types of FSS earth station, including those on mobile platforms, and increases the number of applicants who are considered ''two-degree-spacing compliant,'' and the operators of their target space stations are not required to coordinate the operation of these earth stations with operators of nearby space stations.

(6) Sections 25.130 and 25.131 were merged into Section 25.115, eliminating duplication of rules and making use of the FCC Form 312 EZ permissive, not mandatory.

(7) The data logging requirements that were in paragraphs (a)(5) of Sections 25.221 and 25.222 for C- and Ku-band ESV operators and in paragraphs (a)(6) of Sections 25.226 and 25.227 for Ku-band VMES and ESAA operators were eliminated.

(8) The option to use the alternative licensing compliance demonstration of demonstrating that an earth station antenna gain pattern comports with the off-axis gain limits in Section 25.209, and that the antenna input power density comports with limits in Section 25.212, was extended to ESIM applications.

(9) The certification for a C-band ESV system in Section 25.221(b)(3)(v) regarding compliance with the power limits in Section 25.204(h) is eliminated as no longer necessary.

(10) Sections 25.115(l)–(n)(3)(i) requires all applicants to: ''provide a certification that the ESIM system is capable of detecting and automatically ceasing emissions when an individual ESIM transmitter exceeds the relevant off-axis EIRP spectral density limits specified in § 25.218, or the limits provided to the target satellite operator for operation under § 25.220'' in lieu of a demonstration.

This collection is used by the Commission's staff in carrying out its statutory duties to regulate satellite communications in the public interest, as generally provided under 47 U.S.C.154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721. This collection is also used by staff in carrying out United States treaty obligations under the World Trade Organization (WTO) Basic Telecom Agreement. The information collected is used for the practical and necessary purposes of assessing the legal, technical, and other qualifications of applicants; determining compliance by applicants, licensees, and other grantees with Commission rules and the terms and conditions of their grants; and concluding whether, and under what conditions, grant of an authorization will serve the public interest, convenience, and necessity.

As technology advances and new spectrum is allocated for satellite use, applicants for satellite service will continue to submit the information required in 47 CFR part 25 of the Commission's rules. Without such information, the Commission could not determine whether to permit respondents to provide telecommunication services in the United States. Therefore, the Commission would be unable to fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended, and the obligations imposed on parties to the WTO Basic Telecom Agreement.

*OMB Control Number:* 3060–0975.

*Title:* Sections 68.105 and 1.4000, Promotion of Competitive Networks in *11092 Local Telecommunications Markets Multiple Tenant Environments (MTEs).

*Form Number:* Not applicable.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit entities, not-for-profit institutions, and State, local, or Tribal governments.

*Number of Respondents and Responses:* 6,570 respondents; 232,183 responses.

*Estimated Time per Response:* 0.5 hour–10 hours.

*Frequency of Response:* On occasion reporting requirement and third-party disclosure requirement.

*Obligation to Respond*: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151 and the Telecommunications Act of 1996, Public Law 104–104.

*Total Annual Burden:* 166,185 hours.

*Total Annual Cost:* No cost.

*Privacy Act Impact Assessment:* There are no impacts under the Privacy Act.

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection of information.

*Needs and Uses:* This information facilitates efficient interaction between premises owners and local exchange carriers (LECs) regarding the placement of the demarcation point, which marks the end of wiring under control of the LEC and the beginning of wiring under the control of the premises owner or subscriber. The demarcation point is a critical point of interconnection where competitive LECs can gain access to the inside wiring of the building to provide service to customers in the building. This collection also helps ensure that customer-end antennas used for telecommunications service comply with the Commission's limits on radiofrequency exposure and provides the Commission with information on

the state of the market. In short, this collection helps foster competition in local telecommunications markets by ensuring that competing telecommunications providers can provide services to customers in multiple tenant environments.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2019–11269 Filed 5–29–19; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL ELECTION COMMISSION

### Sunshine Act Meeting

**TIME AND DATE:** Tuesday, June 4, 2019 at 10:00 a.m. and its continuation at the conclusion of the open meeting on June 6, 2019.

**PLACE:** 1050 First Street NE, Washington, DC.

**STATUS:** This meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:** Compliance matters pursuant to 52 U.S.C. 30109.

Matters relating to internal personnel decisions, or internal rules and practices.

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. 2019–11412 Filed 5–28–19; 4:15 pm]

**BILLING CODE 6715–01–P**

## FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

**[Docket No. AS19–04]**

### Appraisal Subcommittee; Notice of Received Request for a Temporary Waiver

**AGENCY:** Appraisal Subcommittee of the Federal Financial Institutions Examination Council (FFIEC).

**ACTION:** Notice of received request for a temporary waiver; request for comment.

**SUMMARY:** The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) has received a request for a temporary waiver of appraiser certification or licensing requirements pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act, and the rules promulgated thereunder. The ASC is requesting comment (including written data, views and arguments) on the received request.

**DATES:** Comments must be received on or before July 1, 2019.

**ADDRESSES:** Commenters are encouraged to submit comments (including written data, views and arguments) by the Federal eRulemaking Portal or email, if possible. You may submit comments, identified by Docket Number AS19–04, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments. Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for submitting public comments.
- *Email: webmaster@asc.gov*. Include the docket number in the subject line of the message.
- *Fax:* (202) 289–4101. Include docket number on fax cover sheet.
- *Mail:* Address to Appraisal Subcommittee, Attn: Lori Schuster, Management and Program Analyst, 1325 G Street NW, Suite 500, Washington, DC 20005.
- *Hand Delivery/Courier:* 1325 G Street NW, Suite 500, Washington, DC 20005.

In general, the ASC will enter all comments received into the docket and publish those comments on the Federal eRulemaking (*regulations.gov*) website without change, including any business or personal information that you provide, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. At the close of the comment period, all public comments will also be made available on the ASC's website at *https://www.asc.gov* (follow link in ''What's New'') as submitted, unless modified for technical reasons.

You may review comments by any of the following methods:

- *Viewing Comments Electronically:* Go to *https://www.regulations.gov*. Enter ''Docket ID AS19–04'' in the Search box and click ''Search.'' Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.
- *Viewing Comments Personally:* You may personally inspect comments at the ASC office, 1325 G Street NW, Suite 500, Washington, DC 20005. To make an appointment, please call Lori Schuster at (202) 595–7578.

**FOR FURTHER INFORMATION CONTACT:** James R. Park, Executive Director, at (202) 595–7575, or Alice M. Ritter, General Counsel, at (202) 595–7577, Appraisal Subcommittee, 1325 G Street NW, Suite 500, Washington, DC 20005.

**SUPPLEMENTARY INFORMATION:**

### I. Background

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI),[1] established the ASC.[2] The purpose of Title XI is ''to provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.'' [3] Title XI requires the use of State licensed or certified appraisers in federally related transactions.[4] Section 1119(b) of Title XI, 12 U.S.C. 3348(b), authorizes the ASC to waive, on a temporary basis and with approval of the FFIEC, any certification or licensing requirement relative to certifying or licensing individuals to perform appraisals under Title XI in a State or geographic political subdivisions of a State upon a written determination that there is a scarcity of

[1] Public Law 101–73, 103 Stat. 511 (1989), as amended by Public Law 102–233, 105 Stat. 1761 (1991), Public Law 102–242, 105 Stat. 2236 (1991) and Public Law 111–203, 124 Stat. 1376 (2010).

[2] The ASC Board is comprised of seven members. Five members are designated by the heads of the FFIEC agencies (Board of Governors of the Federal Reserve System [Board], Consumer Financial Protection Bureau [CFPB], Federal Deposit Insurance Corporation [FDIC], Office of the Comptroller of the Currency [OCC], and National Credit Union Administration [NCUA]). The other two members are designated by the heads of the Department of Housing and Urban Development (HUD) and the Federal Housing Finance Agency (FHFA).

[3] Title XI § 1101, 12 U.S.C. 3331.

[4] 12 U.S.C. 3343. ''Federally related transaction'' refers to any real estate related financial transaction which: (a) A federal financial institutions regulatory agency engages in, contracts for, or regulates; and (b) requires the services of an appraiser. Title XI § 1121 (4), 12 U.S.C. 3350.

certified or licensed appraisers to perform appraisals in connection with federally related transactions leading to significant delays in the performance of such appraisals. The ASC has issued procedures [5] governing the processing of temporary waiver requests. Consistent with 12 CFR 1102.4, the ASC is publishing this notice in the **Federal Register** requesting comment on the request for a proposed temporary waiver. Interested persons have 30 calendar days from publication of the **Federal Register** notice to submit written data, views, and arguments. Within 15 days of the close of the 30-day comment period, the ASC, by order, will grant or deny a waiver, in whole or in part, and upon specified terms or conditions, including provisions for waiver termination. If the ASC approves any or all of the request, it is subject to approval by the FFIEC. The ASC's order granting or denying the waiver shall respond to comments received and shall provide reasons for the ASC's finding. The order shall be published promptly in the **Federal Register**, though in the case of an order granting a waiver, only after approval by the FFIEC.

## II. Request for Temporary Waiver; Received Request

On August 1, 2018, a letter requesting consideration of a temporary waiver was submitted to the ASC by Governor Doug Burgum, State of North Dakota, the North Dakota Department of Financial Institutions, and the North Dakota Bankers Association (collectively, the Requester). On September 7, 2018, ASC staff replied by letter to the Requester, in which ASC staff described the information required to file a completed waiver request pursuant to 12 CFR 1102.2 and 1102.3. The Requester submitted additional information in a letter dated April 10, 2019, in response to the ASC's September 7, 2018 letter. On April 15, 2019, the ASC convened a Special Meeting and determined to publish a notice for comment on the request for temporary waiver in the **Federal Register**. The request seeks a waiver of appraiser credentialing requirements for appraisals for federally related transactions under $500,000 for 1-to-4 family residential real estate transactions and under $1,000,000 for agricultural and commercial real estate transactions throughout the State of North Dakota for a period of not less than five years.

Pursuant to 12 CFR 1102.4, the ASC is publishing a notice respecting the received request to give interested persons 30 days to comment, including submission of written data, views and arguments.

You may view the received request by any of the following methods:

- *Viewing Received Request Electronically:* Go to *https://www.asc.gov*. In the ''What's New'' box on the home page, a link is provided to view the received request and supporting documentation.
- *Viewing Received Request Personally:* You may personally inspect the received request and supporting documentation at the ASC office, 1325 G Street NW, Suite 500, Washington, DC 20005. To make an appointment, please call Lori Schuster at (202) 595–7578.

## III. Request for Comment

The ASC seeks comment on all aspects of the received request, including submission of written data, views and arguments. In addition, the ASC requests comment on the following:

Question 1. The ASC requests comment on whether there is a scarcity of certified or licensed appraisers available to perform appraisals for each of the following types of federally related transactions in North Dakota, or in any geographical political subdivision of North Dakota, including supporting data:

i. 1-to-4 family residential transactions above $250,000 and below $500,000; or

ii. agricultural and commercial real estate transactions above $500,000 and below $1 million.

Question 2. The ASC requests comment on whether there are significant delays in the performance of appraisals in North Dakota, or in any geographical political subdivision of North Dakota, including supporting data such as the average length of time between the date an appraisal is ordered and the delivery date, for federally related transactions that are:

i. 1-to-4 family residential transactions above $250,000 and below $500,000; or

ii. agricultural and commercial real estate transactions above $500,000 and below $1 million.

Question 3. The ASC requests comment, including supporting data, on factors that may be leading to significant delay in the performance of appraisals in connection with federally related transactions in North Dakota, and specifically whether scarcity of appraisers is leading to such significant delay, for:

i. Residential appraisal reports; or

ii. agricultural and commercial appraisal reports.

Question 4. The ASC requests comment, including supporting rationale, on appropriate scope, terms, or conditions of any temporary waiver, should it find that such a waiver is warranted, including whether the requested 5-year duration of a waiver would be appropriate, types of federally related transactions that any waiver should cover, dollar limits for any transactions covered by a waiver, or whether the waiver should be limited to any particular area or geography.

* * * * *

By the Appraisal Subcommittee.

Dated: May 24, 2019.

**James R. Park,**

*Executive Director.*

[FR Doc. 2019–11282 Filed 5–29–19; 8:45 am]

BILLING CODE 6700–01–P

[5] 12 CFR part 1102, subpart A.

# FEDERAL RESERVE SYSTEM

## Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 24, 2019.

*A. Federal Reserve Bank of Atlanta* (Kathryn Haney, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can

also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *First Chatsworth Bankshares, Inc., Chatsworth, Georgia;* to merge with NorthSide Bancshares, Inc., and thereby directly acquire NorthSide Bank, both of Adairsville, Georgia.

*B. Federal Reserve Bank of Kansas City* (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *MNB Financial Services, Inc., McCook, Nebraska;* to become a bank holding company by acquiring 100 percent of the voting shares of Graff Family, Inc. and MNB Financial Group, Inc., and thereby indirectly acquire MNB Bank, all of McCook, Nebraska.

*C. Federal Reserve Bank of San Francisco* (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Main Street Bank Corporation, Woodside, California;* to become a bank holding company by acquiring First Colorado Financial Corp., and thereby indirectly acquire, First Colorado National Bank, both of Paonia, Colorado.

Board of Governors of the Federal Reserve System, May 24, 2019.

**Ann Misback,**

*Secretary of the Board.*

[FR Doc. 2019–11293 Filed 5–29–19; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

### Notice of Meeting

**AGENCY:** Agency for Healthcare Research and Quality, HHS.

**ACTION:** Notice.

**SUMMARY:** The Agency for Healthcare Research and Quality (AHRQ) is announcing a Special Emphasis Panel (SEP) meeting on AHRQ–HS–19–003, ''AHRQ Health Services Research Project: Partners Enabling Diagnostic Excellence (R01).''

**DATES:** July 18–19, 2019 (Open on July 18th from 8:00 a.m. to 8:15 a.m. and closed for the remainder of the meeting).

**ADDRESSES:** Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Rd, Bethesda, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Anyone wishing to obtain a roster of members, agenda or minutes of the non-confidential portions of this meeting should contact: Heather Phelps, Acting Committee Management Officer, Office of Extramural Research, Education and Priority Populations, AHRQ, 5600 Fishers Lane, Rockville, Maryland 20850, Telephone: (301) 427–1128.

Agenda items for this meeting are subject to change as priorities dictate.

**SUPPLEMENTARY INFORMATION:** A Special Emphasis Panel is a group of experts in fields related to health care research who are invited by the Agency for Healthcare Research and Quality (AHRQ), and agree to be available on an as needed basis, to conduct scientific reviews of applications for AHRQ support. Individual members of the Panel do not attend regularly-scheduled meetings and do not serve for fixed terms or a long period of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

Each SEP meeting will commence in open session before closing to the public for the duration of the meeting. The SEP meeting referenced above will be closed to the public in accordance with the provisions set forth in 5 U.S.C. App. 2, section 10(d), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(6). Grant applications for AHRQ–HS–19–003, ''AHRQ Health Services Research Project: Partners Enabling Diagnostic Excellence (R01),'' is to be reviewed and discussed at this meeting. 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.

**Gopal Khanna,**

*Director.*

[FR Doc. 2019–11240 Filed 5–29–19; 8:45 am]

**BILLING CODE 4160–90–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

### Agency Information Collection Activities: Proposed Collection; Comment Request; Correction

**AGENCY:** Agency for Healthcare Research and Quality (AHRQ)

**ACTION:** Notice, correction.

**SUMMARY:** The Agency for Healthcare Research and Quality published a document in the **Federal Register** of May 20, 2019 concerning the impact and use of Evidence-based Practice Center (ECP) Program evidence reviews. This document contained an incorrect deadline date.

**FOR FURTHER INFORMATION CONTACT:** Carla Ladner at 301–427–1205 or *AHRQ_Fed_Register@ahrq.hhs.gov*.

**Correction**

In the **Federal Register** of May 20, 2019, in FR Doc 2019–10451, on page 1, line 17, correct the **DATES** caption to read:

**DATES:** Comments must be received by July 22, 2019.

Dated: May 24, 2019.

**Carla M. Ladner,**

*Correspondence Analyst/Federal Register Liaison—AHRQ.*

[FR Doc. 2019–11289 Filed 5–29–19; 8:45 am]

**BILLING CODE 4160–90–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

### Notice of Meeting

**AGENCY:** Agency for Healthcare Research and Quality, HHS.

**ACTION:** Notice.

**SUMMARY:** The Agency for Healthcare Research and Quality (AHRQ) is announcing a Special Emphasis Panel (SEP) meeting on AHRQ–HS–19–002, ''Using Data Analytics to Support Primary Care and Community Interventions to Improve Chronic Disease Prevention and Management and Population Health (R18).''

**DATES:** July 18–19, 2019 (Open on July 18th from 8:30 a.m. to 8:45 a.m. and closed for the remainder of the meeting).

**ADDRESSES:** Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Rd, Bethesda, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Anyone wishing to obtain a roster of members, agenda or minutes of the non-confidential portions of this meeting should contact: Heather Phelps, Acting Committee Management Officer, Office of Extramural Research, Education and Priority Populations, AHRQ, 5600 Fishers Lane, Rockville, Maryland 20850, Telephone: (301) 427–1128.

Agenda items for this meeting are subject to change as priorities dictate.

**SUPPLEMENTARY INFORMATION:** A Special Emphasis Panel is a group of experts in fields related to health care research who are invited by the Agency for Healthcare Research and Quality (AHRQ), and agree to be available on an as needed basis, to conduct scientific reviews of applications for AHRQ

support. Individual members of the Panel do not attend regularly-scheduled meetings and do not serve for fixed terms or a long period of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

Each SEP meeting will commence in open session before closing to the public for the duration of the meeting. The SEP meeting referenced above will be closed to the public in accordance with the provisions set forth in 5 U.S.C. App. 2, section 10(d), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(6). Grant applications for AHRQ–HS–19–002, ''Using Data Analytics to Support Primary Care and Community Interventions to Improve Chronic Disease Prevention and Management and Population Health (R18),'' are to be reviewed and discussed at this meeting. 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.

**Gopal Khanna,**

*Director.*

[FR Doc. 2019–11241 Filed 5–29–19; 8:45 am]

**BILLING CODE 4160–90–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day-19–1128; Docket No. CDC–2019–0049]**

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on a proposed information collection entitled ''State Unintentional Drug Overdose Reporting System (SUDORS).'' CDC will use the information collected to perform fatal unintentional drug overdose surveillance in a quick and comprehensive way.

**DATES:** CDC must receive written comments on or before July 29, 2019.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2019–0049 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

*Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.*

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffery M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov*.

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

5. Assess information collection costs.

**Proposed Project**

State Unintentional Drug Overdose Reporting System (SUDORS) (0920–1128, Expiration 10/31/2020)—Revision—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

In 2013, there were nearly 44,000 drug overdose deaths, including nearly 36,000 unintentional drug overdose deaths, in the United States. More people are now dying of drug overdose than automobile crashes in the US. A major driver of the problem are overdoses related to opioids, both opioid pain relievers (OPRs) and illicit forms such as heroin. In order to address this public health problem, the U.S. Department of Health and Human Services (HHS) has made addressing the opioid abuse problem a high priority.

In order to support targeting of drug overdose prevention efforts, detect new trends in fatal unintentional drug overdoses, and assess the progress of HHS's initiative to reduce opioid abuse and overdoses, the State Unintentional Drug Overdose Reporting System (SUDORS) generates public health surveillance information at the national, state, and local levels that is more detailed, useful, and timely than is currently available.

This collection will detect state and local community changes in unintentional and undetermined intent drug-related overdose mortality faster and provide in-depth state and local (*e.g.,* county) information on risk factors for fatal drug overdose deaths that can inform the selection and targeting of interventions in all 50 states, the District of Columbia and Puerto Rico. CDC requests OMB approval for three years for this revision to make the following changes: (1) Expand data collection from the 50 jurisdictions currently approved to include 52 jurisdictions (*i.e.,* all 50 states, Puerto Rico and the District of Columbia), (2) expand data

collection from its current focus on opioid overdose deaths to a broader focus on drug overdose deaths, (3) account for increasing data collection burden related to large increases in drug overdose deaths, (4) increase the timeliness of data reporting to a 6-month time lag, and (5) update the web-based system to improve performance, functionality, and accessibility as well as add data elements to the State Unintentional Drug Overdose Reporting System (SUDORS) module to capture more detailed information. This information will help develop, inform, and assess the progress of drug overdose prevention strategies at both the state and national levels. Improve identification and response to changes in fatal unintentional and undetermined intent drug-related overdose trends at the local, state, and national level. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondent | Form name | Number of respondents | Total number of responses per respondent | Average burden per response (in hours) | Total burden hours (in hours) |
|---|---|---|---|---|---|
| Public agencies | Retrieving and refile records | 52 | 1263 | 30/60 | 32,838 |
| Total | | | | | 32,838 |

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2019–11215 Filed 5–29–19; 8:45 am]

**BILLING CODE 4163–19–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–19–0469; Docket No. CDC–2019–0031]**

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled National Program of Cancer Registries Cancer Surveillance System (NPCR CSS). The NPCR CSS provides useful data on cancer incidence and trends.

**DATES:** CDC must receive written comments on or before July 29, 2019.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2019–0031 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

*Please note: Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.*

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov*.

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.
5. Assess information collection costs.

**Proposed Project**

National Program of Cancer Registries Cancer Surveillance System (OMB No. 0920–0469, Exp. 6/30/2019)—Revision—National Center for Chronic Disease Prevention and health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

In 2015, the most recent year for which complete information is available, almost 596,000 people died of cancer and more than 1.6 million were diagnosed with cancer. It is estimated that 15.8 million Americans are currently alive with a history of cancer. In the U.S., state/territory-based cancer registries are the only method for systematically collecting and reporting population based information about cancer incidence and outcomes such as

survival. These data are used to measure the changing incidence and burden of each cancer; identify populations at increased or increasing risk; target preventive measures; and measure the success or failure of cancer control efforts in the U.S.

In 1992, Congress passed the Cancer Registries Amendment Act which established the National Program of Cancer Registries (NPCR). The NPCR provides support for state/territory-based cancer registries that collect, manage and analyze data about cancer cases. The state/territory-based cancer registries report information to CDC through the National Program of Cancer Registries Cancer Surveillance System (NPCR CSS), (OMB Control No. 0920–0469). CDC plans to request OMB approval to continue collecting this information for three years. Data definitions will be updated to reflect changes in national standards for cancer diagnosis and coding. The number of respondents has been updated to reflect the increased number of states/territories supported by CDC, but the burden per respondent will not change.

The NPCR CSS allows CDC to collect, aggregate, evaluate, and disseminate cancer incidence data at the national level. The NPCR CSS is the primary source of information for *United States Cancer Statistics* (*USCS*), which CDC has published annually since 2002. The latest *USCS* report published in 2018 provided cancer statistics for 100% of the United States population from all cancer registries in the United States. Prior to the publication of *USCS,* cancer incidence data at the national level were available for only 14% of the population of the United States.

The NPCR CSS also allows CDC to monitor cancer trends over time, describe geographic variation in cancer incidence throughout the country, and provide incidence data on racial/ethnic populations and rare cancers. These activities and analyses further support CDC's planning and evaluation efforts for state and national cancer control and prevention. In addition, datasets can be made available for secondary analysis.

Respondents are NPCR-supported central cancer registries (CCR) in 46 U.S. states, three territories, and the District of Columbia. Fifty CCRs submit data elements specified for the Standard NPCR CSS Report. Each CCR is asked to transmit two data files to CDC per year. The first NPCR CSS Standard file, submitted in January, is a preliminary report consisting of one year of data for the most recent year of available data. CDC evaluates the preliminary data for completeness and quality and provides a report back to the CCR. The second NPCR CSS Standard file, submitted by November, contains cumulative cancer incidence data from the first diagnosis year for which the cancer registry collected data with the assistance of NPCR funds (*e.g.,* 1995) through 12 months past the close of the most recent diagnosis year (*e.g.,* 2016). The cumulative file is used for analysis and reporting.

The burden for each file transmission is estimated at two hours per response. Because cancer incidence data are already collected and aggregated at the state level the additional burden of reporting the information to CDC is small. All information is transmitted to CDC electronically. Participation is required as a condition of the cooperative agreement with CDC. The total estimated annual burden hours is 200. There are no costs to respondents except their time.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|---|
| Central Cancer Registries in States, Territories, and the District of Columbia. | Standard NPCR CSS Report | 50 | 2 | 2 | 200 |
| Total | | | | | 200 |

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2019–11216 Filed 5–29–19; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–19–19AWX; Docket No. CDC–2019–0042]**

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled WISEWOMAN National Program Evaluation. The goal of the study is to assess the implementation of the WISEWOMAN program under the current cooperative agreement and measure the effect of the program on individual-, organizational-, and community-level outcomes.

**DATES:** CDC must receive written comments on or before July 29, 2019.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2019–0042 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

**Please note:** Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of

the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov*.

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.
5. Assess information collection costs.

**Proposed Project**

WISEWOMAN National Program Evaluation—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

The CDC has supported the WISEWOMAN (Well-Integrated Screening and Evaluation for Women Across the Nation) program since 1995. The WISEWOMAN program is designed to serve low-income women ages 40–64 who have elevated risk factors for cardiovascular disease (CVD) and have no health insurance, or are underinsured for medical and preventive care services. Through the WISEWOMAN program, women have access to screening services for selected CVD risk factors such as elevated blood cholesterol, hypertension, and abnormal blood glucose levels; referrals to heathy behavior support programs; and referrals to medical care. WISEWOMAN participants must be co-enrolled in the CDC-sponsored National Breast and Cervical Cancer Early Detection Program (NBCCEDP).

The WISEWOMAN program is administered through cooperative agreements with state, territorial, or tribal health departments. Each WISEWOMAN recipient submits to CDC an annual progress report that describes program objectives and activities, and semi-annual data reports (known as minimum data elements, or MDE) on the screening, assessment, and healthy behavior support services offered to women who participate in the program. Participant-level MDE are de-identified prior to transmission to CDC.

In 2018, CDC released the fifth funding opportunity announcement (FOA) for the WISEWOMAN program (DP18–1816), which resulted in five-year cooperative agreements with 24 state, territorial, and tribal health departments, including 6 new and 18 continuing awardees from the previous NOFO. Key program elements were retained (*e.g.,* provision of screening services, promotion of healthy lifestyle behaviors, and linkage to healthy behavior support services and community based resources), but a number of changes were incorporated into the program at that time. The current FOA reflects increased emphasis on three strategies to reduce CVD risk and support hypertension control and management, including: (1) Tracking and monitoring clinical measures, (2) implementing team-based care, and (3) linking community resources and clinical services to support care coordination, self-management, and lifestyle change.

CDC seeks to conduct a one-time, multi-component evaluation to assess the effectiveness of the program on individual-, organizational-, and community-level outcomes. The in-depth assessment is designed to complement the routine progress and MDE information already being collected from WISEWOMAN program recipients. The new data collection will focus on obtaining qualitative and quantitative information at the organizational and community levels about process and procedures implemented, and barriers, facilitators, and other contextual factors that affect program implementation and participant outcomes. Data collection activities will include a Program Survey with all WISEWOMAN awardee programs, administered in the second and fourth program years, and a one-time site visit to each recipient spread across the three-year data collection effort. During site visits, semi-structured interviews will be conducted with WISEWOMAN staff members and staff at partner organizations, such as clinical providers and community-based resource providers, who are positioned to provide a variety of perspectives on program implementation.

OMB approval is requested for three years. Participation is voluntary and there are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|---|
| WISEWOMAN Recipient Administrators. | Program survey | 18 | 1 | 1 | 16 |
| | Site Visit Discussion Guide | 8 | 1 | 90/60 | 12 |
| | Innovation Site Visit Discussion Guide. | 2 | 1 | 45/60 | 2 |
| Recipient partners | Site Visit Discussion Guide | 16 | 1 | 1 | 16 |
| | Innovation Site Visit Discussion Guide. | 2 | 1 | 45/60 | 2 |

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|---|
| Healthy behavior support staff | Site Visit Discussion Guide | 16 | 1 | 1 | 16 |
| | Innovation Site Visit Discussion Guide. | 2 | 1 | 45/60 | 2 |
| Clinical providers | Site Visit Discussion Guide | 16 | 1 | 1 | 16 |
| | Innovation Site Visit Discussion Guide. | 2 | 1 | 45/60 | 2 |
| Total | | | | | 84 |

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2019–11220 Filed 5–29–19; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifier: CMS–10701]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments must be received by July 29, 2019.

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov*. Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html*.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*.

3. Call the Reports Clearance Office at (410) 786–1326.

**FOR FURTHER INFORMATION CONTACT:** William N. Parham at (410) 786–4669.

**SUPPLEMENTARY INFORMATION:**

### Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10701 Medicare Beneficiary Experiences With Care Survey System (MBECS).

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

### Information Collection

1. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Medicare Beneficiary Experiences with Care Survey System; *Use:* The MBECS system is designed to conduct 1–2 surveys per year on priority groups of interest, thereby allowing CMS OMH to respond quickly to the data needs of stakeholders with interests in these underrepresented groups. Data collected through the MBECS system will be used to better understand—and thus serve the needs of—Medicare beneficiaries in minority populations. The core questionnaire will collect information on communication with medical professionals, coordination of health care, experiences getting needed health care, experiences with personal doctors and specialists, and key demographics. Data will be compared to benchmarks from the FFS CAHPS, MA CAHPS, and NAM CAHPS surveys. The population-specific questionnaire module will collect information about issues most relevant for particular minority groups; population-specific modules will be

described in individual information collection requests. These data will be compared to benchmarks from the relevant CAHPS source surveys when available.

Collection of these data from people who have been identified through CMS administrative data and administrative flags as part of specific minority populations will also serve as a critical validation step of this method for identifying difficult-to-study populations, thus making it easier to study beneficiaries in these groups in the future. *Form Number:* CMS–10701 (OMB control number: 0938–NEW); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 10,000; *Total Annual Responses:* 10,000; *Total Annual Hours:* 3,333. (For policy questions regarding this collection contact Luis Perez at 410–786–8557.)

Dated: May 23, 2019.

**William N. Parham, III,**

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2019–11227 Filed 5–29–19; 8:45 am]

**BILLING CODE 4120–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2018–D–1456]**

### Maximal Usage Trials for Topically Applied Active Ingredients Being Considered for Inclusion in an Over-the-Counter Monograph: Study Elements and Considerations; Guidance for Industry; Availability; Correction

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice; correction.

**SUMMARY:** The Food and Drug Administration is correcting a notice entitled ''Maximal Usage Trials for Topically Applied Active Ingredients Being Considered for Inclusion in an Over-the-Counter Monograph: Study Elements and Considerations; Guidance for Industry; Availability'' that appeared in the **Federal Register** of May 10, 2019. The document announced the availability of a guidance for industry. The document was published with the incorrect docket number. This document corrects that error.

**FOR FURTHER INFORMATION CONTACT:** Kristen Hardin, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5443, Silver Spring, MD 20993–0002, 240–402–4246.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of Friday, May 10, 2019 (84 FR 20633), in FR Doc. 2019–09692, the following correction is made:

On page 20633, in the first column, in the headings of the document, ''[Docket No. FDA–2019–D–1798]'' is corrected to read ''[Docket No. FDA–2018–D–1456].''

Dated: May 24, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019–11313 Filed 5–29–19; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2018–P–4851]**

### Determination That LUPRON (Leuprolide Acetate) Injection, 1 Milligram/0.2 Milliliter, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) has determined that LUPRON (leuprolide acetate) injection, 1 milligram (mg)/0.2 milliliter (mL), was not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to this drug product, and it will allow FDA to continue to approve ANDAs that refer to the product as long as they meet relevant legal and regulatory requirements.

**FOR FURTHER INFORMATION CONTACT:** Meadow Platt, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6224, Silver Spring, MD 20993–0002, 301–796–1830, *Meadow.Platt@fda.hhs.gov*.

**SUPPLEMENTARY INFORMATION:** In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

LUPRON (leuprolide acetate) injection, 1 mg/0.2 mL, is the subject of NDA 019010, held by Abbvie Endocrine, Inc., and initially approved on April 9, 1985. LUPRON is indicated for palliative treatment of advanced prostatic cancer. LUPRON (leuprolide acetate) injection, 1 mg/0.2 mL, is currently listed in the ''Discontinued Drug Product List'' section of the Orange Book.

Hetero Labs Limited submitted a citizen petition dated December 20, 2018 (Docket No. FDA–2018–P–4851), under 21 CFR 10.30, requesting that the Agency determine whether LUPRON (leuprolide acetate) injection, 1 mg/0.2 mL, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that LUPRON (leuprolide acetate) injection, 1 mg/0.2 mL, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that LUPRON (leuprolide acetate) injection, 1 mg/0.2 mL, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records

concerning the withdrawal of LUPRON (leuprolide acetate) injection, 1 mg/0.2 mL, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this drug product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list LUPRON (leuprolide acetate) injection, 1 mg/0.2 mL, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. FDA will not begin procedures to withdraw approval of approved ANDAs that refer to this drug product. Additional ANDAs for this drug product may also be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: May 23, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019–11243 Filed 5–29–19; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2007–D–0429]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Labeling of Nonprescription Human Drug Products Marketed Without an Approved Application as Required by the Dietary Supplement and Nonprescription Drug Consumer Protection Act

**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.

**DATES:** Fax written comments on the collection of information by July 1, 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 0910–0641. Also include the FDA docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *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.

#### Labeling of Nonprescription Human Drug Products Marketed Without an Approved Application as Required by the Dietary Supplement and Nonprescription Drug Consumer Protection Act

*OMB Control Number 0910–0641—Extension*

Section 502(x) of the Federal, Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 352(x)), added by the Dietary Supplement and Nonprescription Drug Consumer Protection Act (Pub. L. 109–462), requires the label of a nonprescription drug product marketed without an approved application in the United States to include a domestic address or domestic telephone number through which a manufacturer, packer, and distributor may receive a report of a serious adverse event associated with the product. The guidance document entitled ''Labeling of Nonprescription Human Drug Products Marketed Without an Approved Application as Required by the Dietary Supplement and Nonprescription Drug Consumer Protection Act: Questions and Answers'' explains how FDA interprets this requirement. The guidance discusses the meaning of ''domestic address'' for purposes of the labeling requirements of section 502(x) of the FD&C Act, FDA's recommendation for the use of an introductory statement before the domestic address or phone number that is required to appear on the product label under section 502(x) of the FD&C Act, and FDA's intent regarding enforcing the labeling requirements of section 502(x) of the FD&C Act.

In the **Federal Register** of February 11, 2019 (84 FR 3192), we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

*Description of Respondents:* Respondents to this collection of information are manufacturers, packers, and distributors whose name (under section 502(b)(1) of the FD&C Act) appears on the label of a nonprescription drug product marketed in the United States without an approved application.

As indicated in table 1 of this document, we estimate that 300 manufacturers will revise approximately 900 labels to add a full domestic address or a domestic telephone number, and should they choose to adopt the guidance's recommendation, to add a statement identifying the purpose of the domestic address or telephone number. We believe that designing the label change should not take longer than 4 hours per label. Automated printing of the labels should only require a few seconds per label.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN FOR NEW OTC DRUG PRODUCTS [1]

| Activity | Number of respondents | Number of disclosures per respondent | Total annual disclosures | Average burden per disclosure | Total hours |
|---|---|---|---|---|---|
| Including a domestic address or phone number and a statement of its purpose on OTC drug labeling (section 502(x) of the FD&C Act) | 300 | 3 | 900 | 4 | 3,600 |

[1] There are no capital costs or maintenance and operating costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: May 23, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019–11295 Filed 5–29–19; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2012–D–0429]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Guidance on Meetings With Industry and Investigators on the Research and Development of Tobacco Products

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) 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 July 1, 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 0910–0731. 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.

**Guidance on Meetings With Industry and Investigators on the Research and Development of Tobacco Products**

*OMB Control Number 0910–0731—Extension*

The Family Smoking Prevention and Tobacco Control Act (Pub. L. 111–31) offers tobacco product manufacturers several pathways to obtain an order from FDA to authorize the marketing of a new tobacco product before it may be introduced or delivered into interstate commerce. To provide assistance with these pathways to market products, FDA will meet with tobacco product manufacturers, importers, researchers, and investigators (or their representatives) when appropriate as described in Guidance on Meetings with Industry and Investigators on the Research and Development of Tobacco Products. This guidance is intended to assist persons who seek meetings with FDA relating to their research to inform the regulation of tobacco products, or to support the development or marketing of tobacco products. The original guidance issued in 2012 was revised for updating and clarity in July 2016.

In the guidance, the Agency discusses, among other things:

- What information FDA recommends persons include in a meeting request;
- How and when to submit a request; and
- What information FDA recommends persons submit prior to a meeting.

This guidance describes two collections of information: (1) The submission of a meeting request containing certain information and (2) the submission of an information package in advance of the meeting. The purpose of this proposed information collection is to allow FDA to conduct meetings with tobacco manufacturers, importers, researchers, and investigators in an effective and efficient manner. FDA issued this guidance and the revisions consistent with FDA's good guidance practices regulations (21 CFR 10.115).

*Meeting Requests:* The guidance sets forth FDA's recommendations for materials to be included in a request for a meeting with FDA to discuss the research and development of tobacco products. In the guidance, FDA recommends that the following information be included in the meeting request:

1. Product name and FDA-assigned Submission Tracking Number (if applicable);
2. Product category (*e.g.,* cigarettes, smokeless tobacco) (if applicable);
3. Product use (indicate for consumer use or for further manufacturing);
4. Contact information for the authorized point of contact for the company requesting the meeting;
5. The topic of the meeting being requested (*e.g.,* a new tobacco product application, an application for permission to market a modified risk tobacco product, or investigational use of a new tobacco product);
6. A brief statement of the purpose of the meeting, which could include a discussion of the types of studies or data to be discussed at the meeting, the general nature of the primary questions to be asked, and where the meeting fits in the overall product development plans;
7. A preliminary list of the specific objectives/outcomes expected from the meeting;
8. A preliminary proposed agenda, including an estimate of the time needed and a designated speaker for each agenda item;
9. A preliminary list of specific questions, grouped by discipline (*e.g.,* chemistry, clinical, nonclinical);
10. A list of all individuals who will attend the meeting on behalf of the tobacco product manufacturer, importer, researcher, or investigator, including titles and responsibilities;
11. The date on which the meeting information package will be received by FDA; and
12. Suggested format of the meeting (*e.g.,* conference call, in-person meeting at FDA offices, video conference, or written response) and suggested dates and times for the meeting. Meetings are usually scheduled for 1 hour.

This information will be used by the Agency to: (1) Determine the utility of the meeting, (2) identify Agency staff necessary to discuss proposed agenda items, and (3) schedule the meeting.

*Meeting Information Packages:* An individual submitting a meeting information package to FDA in advance of a meeting should provide summary information relevant to the product and supplementary information pertaining to any issue raised by the individual or FDA to be discussed at the meeting. As stated in the guidance, FDA recommends that meeting information packages generally include updates of information that was submitted with the meeting request and, as applicable:

1. Product composition and design data summary;
2. Manufacturing and process control data summary;
3. Nonclinical data summary;
4. Clinical data summary;
5. Behavioral and product use data summary;

6. User and nonuser perception data summary; and

7. Investigational plans for studies and surveillance of the tobacco product, including a summary of proposed study protocols containing the following information (as applicable):

a. Study objective(s);

b. Study hypotheses;

c. Study design;

d. Study population (inclusion/exclusion criteria, comparison group(s));

e. Human subject protection information, including Institutional Review Board information;

f. Primary and secondary endpoints (definition and success criteria);

g. Sample size calculation;

h. Data collection procedures;

i. Duration of follow up and baseline and follow up assessments, and

j. Data analysis plan(s).

The purpose of the information package is to provide Agency staff the opportunity to adequately prepare for the meeting, including the review of relevant data concerning the product. In the Agency's experience, reviewing such information is critical to achieving a productive meeting. If the information package was previously submitted in the meeting request, it should be revised, as applicable, so that the information reflects the most current and accurate information available.

In the **Federal Register** of September 12, 2018 (83 FR 46174), FDA published a 60-day notice requesting public comment on the proposed collection of information. Three comments were received; however, none were PRA related.

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

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| Activity | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| **Meeting Requests** | | | | | |
| Combining and Sending Meeting Request Letters for Manufacturers, Importers, and Researchers | 83 | 1 | 83 | 10 | 830 |
| **Meeting Information Packages** | | | | | |
| Combining and Submitting Meeting Information Packages for Manufacturers, Importers, and Researchers | 83 | 1 | 83 | 18 | 1,494 |
| Total | | | | | 2,324 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA's estimate of the number of respondents for meeting requests in table 1 is based on the number of meeting requests received and projected over the next 3 years. FDA estimates that 83 preapplication meetings will be requested.

The hours per response for combining and sending meeting request letters are estimated at 10 hours each, and the total burden hours for meeting requests are expected to be 830 hours. Based on FDA's experience, the Agency expects it will take respondents this amount of time to prepare, gather, copy, and submit brief statements about the product and a description of the purpose and details of the meeting.

FDA estimates that 83 respondents will compile meeting information packages and submit to FDA at 18 hours per response. Based on FDA's experience, the Agency expects that it will take respondents, collectively, 1,494 hours (83 respondents × 18 hours) to gather, copy, and submit brief statements about the product, a description of the details of the anticipated meeting, and data and information that generally would already have been generated for the planned research and/or product development.

The total number of burden hours for this collection of information is estimated to be 2,324 hours (830 hours to prepare and submit meeting requests and 1,494 hours to prepare and submit information packages).

Our estimated burden for the information collection reflects an overall increase of 16 respondents and 448 hours. We attribute this adjustment to an increase in the number of industry meetings as the premarket tobacco application compliance deadlines will come due in the next 3 years.

Dated: May 23, 2019.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2019–11225 Filed 5–29–19; 8:45 am]

BILLING CODE 4164–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Arthritis and Musculoskeletal and Skin Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee, June 18, 2019 to June 19, 2019, which was published in the **Federal Register** on May 20, 2019, 84 FR 22866.

This notice is being amended to update location information to Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814. The date and time will remain the same. This meeting is closed to the public.

Dated: May 23, 2019.

**Natasha M. Copeland,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019–11206 Filed 5–29–19; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Arthritis and Musculoskeletal and Skin Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, which was published in the **Federal Register** on May 20, 2019, 84 FR 22870.

The meeting date, time and place remain the same. This notice is amended to update contact information—Dr. Kathy Salaita, Chief,

Scientific Review Branch, NIAMS/NIH/DHHS, 6701 Democracy Blvd., Rm. 818, Bethesda, MD 20892, *Kathy.Salaita@nih.gov*. The meeting is closed to the public.

Dated: May 23, 2019.

**Natasha M. Copeland,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019–11201 Filed 5–29–19; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The cooperative agreement applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the cooperative agreement applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Center for Advancing Translational Sciences Special Emphasis Panel CTSA.

*Date:* June 20, 2019.

*Time:* 8:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate cooperative agreement applications.

*Place:* Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

*Contact Person:* Victor Henriquez, Ph.D., Scientific Review Officer, Office of Scientific Director, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1080, Bethesda, MD 20892–4878, 301–435–0813, *henriquv@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: May 23, 2019.

**Natasha M. Copeland,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019–11202 Filed 5–29–19; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Notice of Subcommittee Meetings for the Interdepartmental Serious Mental Illness Coordinating Committee (ISMICC)

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice of subcommittee meetings (virtual).

**SUMMARY:** The Secretary of Health and Human Services (Secretary) announces subcommittee meetings of the Interdepartmental Serious Mental Illness Coordinating Committee (ISMICC).

The meetings are open to the public and can be accessed via telephone only. Agenda with call-in information will be posted on the SAMHSA website prior to the meetings at: *https://www.samhsa.gov/about-us/advisory-councils/meetings*

The meetings will include information on the following focus areas: Data, Access, Treatment and Recovery, Justice, and Finance.

*Committee Name:* Interdepartmental Serious Mental Illness Coordinating Committee (subcommittee meetings)

*Date/Time/Type:* June 20, 2019/1:00 p.m.–2:30 p.m. (EDT)/OPEN/Focus Area 1: Data, June 26, 2019/9:00 a.m.–10:30 a.m. (EDT)/OPEN/Focus Area 2: Access, June 26, 2019/9:00 a.m.–10:30 a.m. (EDT)/OPEN/Focus Area 3: Treatment and Recovery, June 26, 2019/10:45 a.m.–12:15 p.m. (EDT)/OPEN/Focus Area 4: Justice, June 26, 2019/10:45 a.m.–12:15 p.m. (EDT)/OPEN/Focus Area 5: Finance.

**ADDRESSES:** The meetings will be held (virtually) at SAMHSA Headquarters, 5600 Fishers Lane, Rockville, Maryland 20857.

Substantive meeting information and a roster of Committee members is available at the Committee's website *https://www.samhsa.gov/about-us/advisory-councils/smi-committee*.

**SUPPLEMENTARY INFORMATION:**

### I. Background and Authority

The ISMICC was established on March 15, 2017, in accordance with section 6031 of the 21st Century Cures Act, and the Federal Advisory Committee Act, 5 U.S.C. App., as amended, to report to the Secretary, Congress, and any other relevant federal department or agency on advances in serious mental illness (SMI) and serious emotional disturbance (SED), research related to the prevention of, diagnosis of, intervention in, and treatment and recovery of SMIs, SEDs, and advances in access to services and support for adults with SMI or children with SED. In addition, the ISMICC will evaluate the effect federal programs related to serious mental illness have on public health, including public health outcomes such as (A) rates of suicide, suicide attempts, incidence and prevalence of SMIs, SEDs, and substance use disorders, overdose, overdose deaths, emergency hospitalizations, emergency room boarding, preventable emergency room visits, interaction with the criminal justice system, homelessness, and unemployment; (B) increased rates of employment and enrollment in educational and vocational programs; (C) quality of mental and substance use disorders treatment services; or (D) any other criteria as may be determined by the Secretary. Finally, the ISMICC will make specific recommendations for actions that agencies can take to better coordinate the administration of mental health services for adults with SMI or children with SED. Not later than 1 (one) year after the date of enactment of the 21st Century Cures Act, and 5 (five) years after such date of enactment, the ISMICC shall submit a report to Congress and any other relevant federal department or agency.

### II. Membership

This ISMICC consists of federal members listed below or their designees, and non-federal public members.

*Federal Membership:* Members include, The Secretary of Health and Human Services; The Assistant Secretary for Mental Health and Substance Use; The Attorney General; The Secretary of the Department of Veterans Affairs; The Secretary of the Department of Defense; The Secretary of the Department of Housing and Urban Development; The Secretary of the Department of Education; The Secretary of the Department of Labor; The Administrator of the Centers for Medicare and Medicaid Services; and The Commissioner of the Social Security Administration.

*Non-Federal Membership:* Members include, 14 non-federal public members appointed by the Secretary, representing psychologists, psychiatrists, social workers, peer support specialists, and other providers, patients, family of patients, law enforcement, the judiciary, and leading research, advocacy, or service organizations. The ISMICC is required to meet at least twice per year.

**FOR FURTHER INFORMATION CONTACT:** Pamela Foote, Substance Abuse and

Mental Health Services Administration, 5600 Fishers Lane, 14E53C, Rockville, MD 20857; telephone: 240–276–1279; email: *pamela.foote@samhsa.hhs.gov*

Dated: May 24, 2019.

**Carlos Castillo,**

*Committee Management Officer.*

[FR Doc. 2019–11287 Filed 5–29–19; 8:45 am]

BILLING CODE 4162–20–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer at (240) 276–1112.

*Comments are invited on:* (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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.

**Proposed Project: Regulations To Implement SAMHSA's Charitable Choice Statutory Provisions—42 CFR Parts 54 and 54a**

*(OMB No. 0930–0242)—Extension*

Section 1955 of the Public Health Service Act (42 U.S.C. 300x–65), as amended by the Children's Health Act of 2000 (Pub. L. 106–310) and Sections 581–584 of the Public Health Service Act (42 U.S.C. 290kk *et seq.,* as added by the Consolidated Appropriations Act (Pub. L. 106–554)), set forth various provisions which aim to ensure that religious organizations are able to compete on an equal footing for federal funds to provide substance abuse services. These provisions allow religious organizations to offer substance abuse services to individuals without impairing the religious character of the organizations or the religious freedom of the individuals who receive the services. The provisions apply to the Substance Abuse Prevention and Treatment Block Grant (SABG), to the Projects for Assistance in Transition from Homelessness (PATH) formula grant program, and to certain Substance Abuse and Mental Health Services Administration (SAMHSA) discretionary grant programs (programs that pay for substance abuse treatment and prevention services, not for certain infrastructure and technical assistance activities). Every effort has been made to assure that the reporting, recordkeeping and disclosure requirements of the proposed regulations allow maximum flexibility in implementation and impose minimum burden.

No changes are being made to the regulations or the burden hours.

Information on how states comply with the requirements of 42 CFR part 54 was approved by the Office of Management and Budget (OMB) as part of the Substance Abuse Prevention and Treatment Block Grant FY 2019–2021 annual application and reporting requirements approved under OMB control number 0930–0168.

| 42 CFR citation and purpose | Number of respondents | Responses per respondent | Total responses | Hours per response | Total hours |
|---|---|---|---|---|---|
| **Part 54—States Receiving SA Block Grants and/or Projects for Assistance in Transition From Homelessness (PATH)** | | | | | |
| Reporting: | | | | | |
| 96.122(f)(5) Annual report of activities the state undertook to comply 42 CFR part 54 (SABG). | 60 | 1 | 60 | 1 | 60 |
| 54.8(c)(4) Total number of referrals to alternative service providers reported by program participants to States (respondents): | | | | | |
| SABG | 6 | 23 (avg.) | 135 | 1 | 135 |
| PATH | 10 | 5 | 50 | 1 | 50 |
| 54.8(e) Annual report by PATH grantees on activities undertaken to comply with 42 CFR part 54. | 56 | 1 | 56 | 1 | 56 |
| Disclosure: | | | | | |
| 54.8(b) State requires program participants to provide notice to program beneficiaries of their right to referral to an alternative service provider: | | | | | |
| SABG | 60 | 1 | 60 | .05 | 3 |
| PATH | 56 | 1 | 56 | .05 | 3 |
| Recordkeeping: | | | | | |
| 54.6(b) Documentation must be maintained to demonstrate significant burden for program participants under 42 U.S.C. 300x–57 or 42 U.S.C. 290cc–33(a)(2) and under 42 U.S.C. 290cc–21 to 290cc–35. | 60 | 1 | 60 | 1 | 60 |
| Part 54—Subtotal | 115 | | 477 | | 367 |
| **Part 54a—States, Local Governments and Religious Organizations Receiving Funding Under Title V of the PHS Act for Substance Abuse Prevention and Treatment Services** | | | | | |
| Reporting: | | | | | |

| 42 CFR citation and purpose | Number of respondents | Responses per respondent | Total responses | Hours per response | Total hours |
|---|---|---|---|---|---|
| 54a.8(c)(1)(iv) Total number of referrals to alternative service providers reported by program participants to states when they are the responsible unit of government. | 25 | 4 | 100 | .083 | 8 |
| 54a(8)(d) Total number of referrals reported to SAMHSA when it is the responsible unit of government. (*NOTE:* This notification will occur during the course of the regular reports that may be required under the terms of the funding award.) | 20 | 2 | 40 | .25 | 10 |
| Disclosure: | | | | | |
| 54a.8(b) Program participant notice to program beneficiaries of rights to referral to an alternative service provider. | 1,460 | 1 | 1,460 | 1 | 1,460 |
| Part 54a—Subtotal | 1,505 | | 1,600 | | 1,478 |
| Total | 1,620 | | 2,077 | | 1,845 |

Send comments to Janet Heekin, SAMHSA Reports Clearance Officer, 5600 Fishers Lane, Room 15E21–B, Rockville, Maryland 20857, *OR* email a copy to *janet.heekin@samhsa.hhs.gov*. Written comments should be received by July 29, 2019.

Dated: May 24, 2019.

**Carlos Castillo,**

*Committee Management Officer.*

[FR Doc. 2019–11307 Filed 5–29–19; 8:45 am]

**BILLING CODE 4162–20–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1112.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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.

**Proposed Project: SAMHSA Application for Peer Grant Reviewers**

*(OMB No. 0930–0255)—Revision*

Section 501(h) of the Public Health Service (PHS) Act (42 U.S.C. 290aa) directs the Assistant Secretary of the Substance Abuse and Mental Health Services Administration (SAMHSA) to establish such peer review groups as are needed to carry out the requirements of Title V of the PHS Act. SAMHSA administers a large discretionary grants program under authorization of Title V, and, for many years, SAMHSA has funded grants to provide prevention and treatment services related to substance abuse and mental health.

In support of its grant peer review efforts, SAMHSA desires to continue to expand the number and types of reviewers it uses on these grant review committees. To accomplish that end, SAMHSA has determined that it is important to proactively seek the inclusion of new and qualified representatives on its peer review groups. Accordingly, SAMHSA has developed an application form for use by individuals who wish to apply to serve as peer reviewers.

The application form has been developed to capture the essential information about the individual applicants. The most consistent method to accomplish this is through completion of a standard form by all interested persons which captures information about knowledge, education, and experience in a consistent manner from all interested applicants. SAMHSA will use the information provided on the applications to identify appropriate peer grant reviewers. Depending on their experience and qualifications, applicants may be invited to serve as grant reviewers.

The following changes are proposed in the form:

- Added the collection of License # and Expiration Date to meet 21st Century CURES Act requirements.
- Deleted the collection of experienced federal reviewer or non-federal reviewer information.
- Under No SAMHSA Experience section, added collection of whether or not the potential reviewer had completed SAMHSA reviewer training with the date.

**Under the Target Population Section**

—Added the following distinctions:
Tribes or Tribal Organizations
Minorities (African American, Hispanic/Latino, etc)

**Under the Substance Abuse and Clinical Issues Section**

—Added the following distinctions:
Medication Assisted Treatment
Emergency Treatment
Opioid Use Disorders
—Deleted the following distinctions:
Depression/Manic Depression
Ecstasy
Fetal Alcohol Syndrome
Obsessive Compulsive Disorder
Personality Disorders

**Under the Other Expertise Section**

—Added the following distinctions:
Recovery Support Services
Behavioral Healthcare
Rural Communities
—Deleted the following distinctions:
Faith Based Community Approaches
Violence Prevention Programs
Drug Courts

The following table shows the annual response burden estimate.

| Number of respondents | Responses/ respondent | Burden/ responses (hours) | Total burden hours |
|---|---|---|---|
| 500 | 1 | 1.5 | 750 |

Send comments to Janet Heekin, SAMHSA Reports Clearance Officer, 5600 Fishers Lane, Room 15E21–B, Rockville, Maryland 20857, *OR* email a copy to *janet.heekin@samhsa.hhs.gov*. Written comments should be received by July 29, 2019.

Dated: May 24, 2019.

**Carlos Castillo,**

*Committee Management Officer.*

[FR Doc. 2019–11303 Filed 5–29–19; 8:45 am]

**BILLING CODE 4162–20–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

### Notice of the Withdrawal of a 1994 Programmatic Environmental Impact Statement and a 2001 Supplemental Environmental Impact Statement Regarding Certain Activities Along the U.S. Southwest Border

**AGENCY:** U.S. Customs and Border Protection, DHS.

**ACTION:** Notice of withdrawal of a programmatic environmental impact statement and a supplemental programmatic environmental impact statement.

**SUMMARY:** This Notice is published to provide public awareness of the decision of both U.S. Customs and Border Protection (CBP), a component of the Department of Homeland Security (DHS), and Joint Task Force—North (JTF–N), a joint command of the Department of Defense (DoD), to withdraw the Records of Decision for the joint Programmatic Environmental Impact Statement (PEIS) of 1994 and the Supplemental PEIS (SPEIS) of 2001. The documents were titled ''Programmatic Environmental Impact Statement for JTF–6 Activities Along the U.S./Mexico Border'' and ''Supplemental Programmatic Environmental Impact Statement for INS and JTF–6 Activities.'' These documents were created by entities which no longer exist. These documents are no longer used to provide compliance with the National Environmental Policy Act (NEPA) for any actions of entities within either Department. Actions currently taken by either CBP or JTF–N comply with NEPA through analysis of individual projects. The successor to the Immigration and Naturalization Service (INS) is CBP, and the successor to JTF–6 is JTF–N.

**FOR FURTHER INFORMATION CONTACT:** Mr. Christopher Oh, Director, Energy and Environmental Management Division, Facilities Management and Engineering Division, Office of Facilities and Asset Management at 202–344–2448.

**SUPPLEMENTARY INFORMATION:**

### Background

The Homeland Security Act of 2002 created DHS. One of the principal mission responsibilities of DHS is border security. CBP is the DHS component with primary responsibility for border security. In 2003, Congress created CBP by combining elements of the former INS, including the United States Border Patrol (USBP), and the former U.S. Customs Service, and made it a component agency of DHS. CBP has a priority mission of keeping terrorists and their weapons out of the United States. It is also charged with enforcing customs, immigration, agriculture and other laws at the nation's borders while facilitating legitimate trade and travel through the Ports of Entry (POEs). As part of its border security mission, CBP is charged with deterring and preventing cross-border violations both at and between the POEs, including illegal immigration and illegal trafficking of human beings, narcotics, weapons, and other contraband.

Based in Fort Bliss, Texas, Joint Task Force North (JTF–N) is a joint service command comprised of active-duty and reserve component soldiers, sailors, airmen, Marines, coast guardsmen, DoD civilian employees, and contracted support personnel. JTF–N is the DoD organization tasked to support our nation's federal law enforcement agencies in the identification and interdiction of suspected transnational criminal organizations' activities conducted within and along the approaches to the continental United States.

In 1994, the INS, then a part of the Department of Justice, and JTF–6, a joint command within DoD, jointly prepared a Programmatic Environmental Impact Statement (the 1994 PEIS). The 1994 PEIS was intended to address the cumulative effects of past and reasonably foreseeable projects undertaken by JTF–6 for numerous law enforcement agencies within the four southwestern states. JTF–6 was, at the time, a recently formed military command that provided assistance and support to various counter drug law enforcement agencies along the southwest border.

In 2001, the INS and JTF–6 prepared a Supplemental PEIS (SPEIS). Instead of addressing the support activities JTF–6 would provide to numerous law enforcement agencies across the southwest border, the 2001 SPEIS focused on the support activities JTF–6 would specifically provide to USBP. The intent and purpose of the 2001 SPEIS was to assess and analyze the potential impacts of the JTF–6 activities ''in support of INS/USBP.'' The Record of Decision for this SPEIS was signed in 2002 by the INS and JTF–6. For both EISs in question, the INS was the lead agency and JTF–6 was a cooperating agency.

The 1994 PEIS and the 2001 SPEIS were created by entities that no longer exist. For this and other reasons, CBP and JTF–N no longer rely on the 1994 PEIS or the 2001 SPEIS to achieve NEPA compliance for their actions and activities on the southwest border.[1]

Rather, both CBP and JTF–N achieve NEPA compliance for their actions and activities on the southwest border through site-specific or project-specific NEPA analyses. CBP and JTF–N believe their decision-makers are well-served by site-specific or project-specific NEPA analyses. Unlike a sprawling programmatic NEPA analysis, a site-specific or project-specific NEPA analysis gives decision-makers concrete and tangible information regarding the potential impacts of a proposed action. In addition, because every site-specific or project-specific analysis includes an analysis of cumulative impacts, they also present decision-makers with a larger frame of reference in which to understand those impacts.

### Withdrawal of PEIS and Supplemental PEIS

Based on the experience of CBP and JTF–N, and the nature of the 1994 PEIS and 2001 SPEIS, CBP and JTF–N have withdrawn both the 1994 PEIS and the 2001 SPEIS and their respective Records of Decision. Both of these documents

[1] *See* National Environmental Policy Act of 1969, as amended, Public Law 91–190, 83 Stat. 852 (Jan. 1, 1970).

contain potentially valuable information. The withdrawal of the 1994 PEIS and the 2001 SPEIS and their respective Records of Decision does not in any way impinge on the ability of those preparing NEPA analyses in the future to use that information by citing the independent source(s) of the information, provided the continued accuracy of the information is validated.

Dated: May 23, 2019.

**Karl H. Calvo,**

*Assistant Commissioner, Office of Facilities and Asset Management, Office of Enterprise Services, U.S. Customs and Border Protection.*

[FR Doc. 2019–11251 Filed 5–29–19; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–HQ–MB–2019–N022; FF09M21200–189–FXMB1231099BPP0L2; OMB Control Number 1018–0067]**

### Agency Information Collection Activities; Approval Procedures for Nontoxic Shot and Shot Coatings

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew an information collection.

**DATES:** Interested persons are invited to submit comments on or before July 29, 2019.

**ADDRESSES:** Send your comments on the information collection request by mail to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov*. Please reference OMB Control Number 1018–0067 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed information collection request (ICR) that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the Service; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Service enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Service minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

*Abstract:* The Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 *et seq.*) prohibits the unauthorized take of migratory birds and authorizes the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, we control the hunting of migratory game birds through regulations in 50 CFR part 20. On January 1, 1991, we banned lead shot for hunting waterfowl and coots in the United States.

Regulations at 50 CFR 20.134 outline the application and approval process for new types of nontoxic shot. When considering approval of a candidate material as nontoxic, we must ensure that it is not hazardous in the environment and that secondary exposure (ingestion of spent shot or its components) is not a hazard to migratory birds. To make that decision, we require each applicant to provide information about the solubility and toxicity of the candidate material. Additionally, for law enforcement purposes, a noninvasive field detection device must be available to distinguish candidate shot from lead shot. This information constitutes the bulk of an application for approval of nontoxic shot. The Director uses the data in the application to decide whether to approve a material as nontoxic.

*Title of Collection:* Approval Procedures for Nontoxic Shot and Shot Coatings (50 CFR 20.134).

*OMB Control Number:* 1018–0067.

*Form Number:* None.

*Type of Review:* Extension of a currently approved collection.

*Respondents/Affected Public:* Businesses that produce and/or market approved nontoxic shot types or nontoxic shot coatings.

*Total Estimated Number of Annual Respondents:* 1.

*Total Estimated Number of Annual Responses:* 1.

*Estimated Completion Time per Response:* 3,200 hours.

*Total Estimated Number of Annual Burden Hours:* 3,200 hours.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* On occasion.

*Total Estimated Annual Nonhour Burden Cost:* $26,630 ($1,630 application processing fee and $25,000 for solubility testing).

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: May 24, 2019.

**Madonna Baucum,**

*Information Collection Clearance Officer, U.S. Fish and Wildlife Service.*

[FR Doc. 2019–11288 Filed 5–29–19; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R1–ES–2019–N060; FXES11130100000–190–FF01E00000]**

### Endangered Species; Receipt of Recovery and Interstate Commerce Permit Applications

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of permit applications; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation and survival of endangered species under the Endangered Species Act of 1973, as amended. We invite the public and local, State, Tribal, and

Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

**DATES:** We must receive your written comments on or before July 1, 2019.

**ADDRESSES:** *Document availability and comment submission:* Submit requests for copies of the applications and related documents and submit any comments by one of the following methods. All requests and comments should specify the applicant name(s) and application number(s) (*e.g.,* Dana Ross TE–08964A–2):

- *Email: permitsR1ES@fws.gov.*
- *U.S. Mail:* Marilet Zablan, Program Manager, Restoration and Endangered Species Classification, Ecological Services, U.S. Fish and Wildlife Service, Pacific Regional Office, 911 NE 11th Avenue, Portland, OR 97232–4181.

**FOR FURTHER INFORMATION CONTACT:** Colleen Henson, Regional Recovery Permit Coordinator, Ecological Services, (503) 231–6131 (phone); *permitsR1ES@fws.gov* (email). Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service, invite the public to comment on applications for permits under section 10(a)(1)(A) of the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permits would allow the applicants to conduct activities intended to promote recovery of species that are listed as endangered under the ESA.

## Background

With some exceptions, the ESA prohibits activities that constitute take of listed species unless a Federal permit is issued that allows such activity. The ESA's definition of ''take'' includes such activities as pursuing, harassing, trapping, capturing, or collecting, in addition to hunting, shooting, harming, wounding, or killing.

A recovery or interstate commerce permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered or threatened species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. These activities often include such prohibited actions as capture and collection. Our regulations implementing section 10(a)(1)(A) for these permits are found in the Code of Federal Regulations (CFR) at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

## Permit Applications Available for Review and Comment

Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild. The ESA requires that we invite public comment before issuing these permits. Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies.

| Application No. | Applicant, city, state | Species | Location | Take activity | Permit action |
|---|---|---|---|---|---|
| TE–043628–9 | Institute for Applied Ecology, Corvallis, OR. | Fender's blue butterfly (*Icaricia icarioides fenderi*), Bradshaw's desert-parsley (*Lomatium bradshawii*), Cook's lomatium (*Lomatium cookii*), Willamette daisy (*Erigeron decumbens*). | Oregon | Harass by capture, handle, identify, and release. *Plants:* Remove and reduce to possession, including collection, propagation, outplanting, and hand pollination. | Amend |
| TE–168437–1 | Jane Ragsdale, Celeste, TX. | Hawaiian goose or nene (*Branta sandvicensis*). | Texas | Captive propagation | Amend |

## Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

## Next Steps

If we decide to issue a permit to the applicants listed in this notice, we will publish a notice in the **Federal Register**.

## Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

**Rolland White,**

*Assistant Regional Director—Ecological Services, Pacific Region.*

[FR Doc. 2019–11253 Filed 5–29–19; 8:45 am]

BILLING CODE 4333–15–P

# DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[LLMT926000–19X–L14400000.BJ0000–LRCSEX602300; MO#4500134231]**

## Notice of Proposed Filing of Plats of Survey; Montana

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of proposed official filing.

**SUMMARY:** The plats of survey for the lands described in this notice are scheduled to be officially filed 30 calendar days after the date of this publication in the BLM Montana State Office, Billings, Montana. The surveys, which were executed at the request of the Director, Rocky Mountain Region, Billings, Montana, are necessary for the management of these lands.

**DATES:** A person or party who wishes to protest this decision must file a notice of protest in time for it to be received in the BLM Montana State Office no later than 30 days after the date of this publication.

**ADDRESSES:** A copy of the plats may be obtained from the Public Room at the BLM Montana State Office, 5001 Southgate Drive, Billings, Montana 59101, upon required payment. The plats may be viewed at this location at no cost.

**FOR FURTHER INFORMATION CONTACT:** Josh Alexander, BLM Chief Cadastral Surveyor for Montana; telephone: (406) 896–5123; email: *jalexand@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at (800) 877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The lands surveyed are:

**Principal Meridian, Montana**

T. 27 N, R. 52 E
Secs. 10 thru 15, and 22.
T. 27 N, R. 53 E
Sec. 7.

A person or party who wishes to protest an official filing of a plat of survey identified above must file a written notice of protest with the BLM Chief Cadastral Surveyor for Montana at the address listed in the **ADDRESSES** section of this notice. The notice of protest must identify the plat(s) of survey that the person or party wishes to protest. The notice of protest must be received in the BLM Montana State Office no later than the scheduled date of the proposed official filing for the plat(s) of survey being protested; if received after regular business hours, a notice of protest will be considered filed the next business day. A written statement of reasons in support of the protest, if not filed with the notice of protest, must be filed with the BLM Chief Cadastral Surveyor for Montana within 30 calendar days after the notice of protest is received.

If a notice of protest of the plat(s) of survey is received prior to the scheduled date of official filing or during the 10 calendar day grace period provided in 43 CFR 4.401(a) and the delay in filing is waived, the official filing of the plat(s) of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day after all timely protests have been dismissed or otherwise resolved, including appeals.

If a notice of protest is received after the scheduled date of official filing and the 10 calendar day grace period provided in 43 CFR 4.401(a), the notice of protest will be untimely, may not be considered, and may be dismissed.

Before including your address, phone number, email address, or other personal identifying information in a notice of protest or statement of reasons, you should be aware that the documents you submit—including your personal identifying information—may be made publicly available in their entirety at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Authority:** 43 U.S.C. Chapter 3.

**Joshua F. Alexander,**
*Chief Cadastral Surveyor for Montana.*

[FR Doc. 2019–11297 Filed 5–29–19; 8:45 am]

**BILLING CODE 4310–DN–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–601 and 731–TA–1411 (Final)]**

## Laminated Woven Sacks From Vietnam

### Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is materially injured by reason of imports of laminated woven sacks from Vietnam, provided for in subheading 6305.33.00 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce (''Commerce'') to be sold in the United States at less than fair value (''LTFV''), and to be subsidized by the government of Vietnam.

### Background

The Commission, pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)), instituted these investigations effective March 7, 2018, following receipt of a petition filed with the Commission and Commerce by Polytex Fibers Corporation (''Polytex''), Houston, Texas; and ProAmpac, LLC (''ProAmpac''), Cincinnati, Ohio; combined as Laminated Woven Sacks Fair Trade Coalition. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of laminated woven sacks from Vietnam were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on October 29, 2018 (83 FR 54373).[2] The hearing was held in Washington, DC, on April 4, 2019, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on May 22, 2019. The views of the Commission are contained in USITC Publication 4893 (May 2019), entitled *Laminated Woven Sacks from Vietnam: Investigation Nos. 701–TA–601 and 731–TA–1411 (Final).*

By order of the Commission.

Issued: May 23, 2019.

**Lisa Barton,**
*Secretary to the Commission.*

[FR Doc. 2019–11229 Filed 5–29–19; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

## Bureau of Alcohol, Tobacco, Firearms and Explosives

**[OMB Number 1140–0094]**

## Agency Information Collection Activities; Proposed eCollection eComments Requested; Certification of Qualifying State Relief From Disabilities Program (ATF Form 3210.12)

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Due to the lapse in appropriations and ensuing cessation of government operations, all import injury investigations conducted under authority of Title VII of the Tariff Act of 1930 accordingly were tolled pursuant to 19 U.S.C. 1671d(b)(2), 1673d(b)(2).

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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:** The proposed information collection was previously published in the **Federal Register**, on March 26, 2019, allowing for a 60-day comment period. Comments are encouraged and will be accepted for an additional 30 days until July 1, 2019.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments, particularly with respect to the estimated public burden or associated response time, have suggestions, need a copy of the proposed information collection instrument with instructions, or desire any other additional information, please contact: Jason Gluck, Firearms Industry Programs Branch either by mail at 99 New York Ave. NE, Washington, DC 20226, by email at *Fipb-informationcollection@atf.gov,* or by telephone at 202–648–7190. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 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:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension, without change, of a currently approved collection.

(2) *The Title of the Form/Collection:* Certification of Qualifying State Relief From Disabilities Program.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

*Form number:* ATF Form 3210.12.

*Component:* Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

*Primary:* State, Local or Tribal Government.

*Other:* None.

*Abstract:* This form is used by a State to certify to the U.S. Department of Justice's Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), that it has established a qualifying mental health relief from firearms disabilities program. This was based on certain minimum criteria established by the NICS Improvement Amendment Act of 2007, Public Law 110–180, Section 105, which was enacted January 8, 2008 (NIAA). This certification is required for States to be eligible for certain grants authorized by the NIAA.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 50 respondents will utilize the form, and it will take each respondent approximately 15 minutes to complete the form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 13 hours, which is equal to 50 (# of respondents) * 1 (# of responses per respondent) * .25 (15 minutes).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: May 23, 2019.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2019–11199 Filed 5–29–19; 8:45 am]

BILLING CODE 4410–14–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Job Corps Center Proposal for Deactivation: Comments Requested

**AGENCY:** Office of Job Corps, Employment and Training Administration (ETA), Labor.

**ACTION:** Notice.

**SUMMARY:** The Employment and Training Administration of the U.S. Department of Labor (DOL) is issuing this Notice announcing a new criterion for selecting Job Corps centers for deactivation, and proposing the deactivation of nine Job Corps Civilian Conservation Centers (CCC). The centers are Anaconda CCC in Anaconda, Montana; Blackwell CCC in Laona, Wisconsin; Cass CCC in Ozark, Arkansas; Flatwoods CCC in Coeburn, Virginia; Fort Simcoe CCC located in White Swan, Washington; Frenchburg CCC in Frenchburg, Kentucky; Oconaluftee CCC located in Cherokee, North Carolina; Pine Knot CCC in Pine Knot, Kentucky; and Timber Lake CCC located in Estacada, Oregon. This Notice seeks public comment on the proposed deactivation of these CCCs using the discretion provided to the Secretary of the Department of Labor in the Workforce Innovation and Opportunity Act (WIOA).

**DATES:** To be ensured consideration, comments must be submitted in writing on or before July 1, 2019.

**ADDRESSES:** You may submit comments, identified by Docket Number ETA–2019–0003, by only one of the following methods:

*Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the website instructions for submitting comments.

*Mail and hand delivery/courier:* Submit comments to Debra Carr, Acting National Director, Office of Job Corps (OJC), U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, Room N– 4459, Washington, DC 20210. Due to security-related concerns, there may be a significant delay in the receipt of submissions by United States Mail. You must consider this when preparing to meet the deadline for submitting comments. DOL will post all comments it receives on *http://www.regulations.gov,* including any personal information provided. The *http://www.regulations.gov* website is the Federal e-rulemaking portal and all comments posted there are available

and accessible to the public. Commenters should not include personal information, such as Social Security Numbers, personal addresses, telephone numbers, and email addresses, in their comments if they do not wish to make this information public. Comments submitted through *http://www.regulations.gov* will not include the email address of the commenter unless the commenter chooses to include that information as part of his or her comment. It is the responsibility of the commenter to safeguard personal information.

*Instructions:* All submissions received should include the Docket Number for the Notice: Docket Number ETA–2019–0003. Please submit your comments using only one of the available submission methods. Due to security concerns, postal mail delivery in Washington, DC may be delayed. Therefore, DOL encourages the public to submit comments on *http://www.regulations.gov*.

*Docket:* All comments on this Notice of the proposed deactivation of the identified CCCs will be available on the *http://www.regulations.gov* website. DOL will also make all of the comments it receives available for public inspection by appointment during normal business hours at the Office of Job Corps provided above. Upon request, individuals requiring assistance reviewing comments will be provided appropriate aids such as readers or print magnifiers. Copies of this Notice are available, upon request, in large print and electronic file on computer disk. To schedule an appointment to review the comments and/or obtain the Notice in an alternative format, contact the Office of Job Corps at (202) 693–3000 (this is not a toll-free number). You may also contact this office at the address listed below.

**FOR FURTHER INFORMATION CONTACT:**

Debra Carr, Acting National Director, Office of Job Corps, ETA, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–4463, Washington, DC 20210; Telephone (202) 693–3000 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at (877) 889–5627 (TTY/TDD).

**SUPPLEMENTARY INFORMATION:**

## I. Background on the Job Corps Program

Established in 1964, Job Corps is a national program administered by ETA within DOL. Through its network of 123 centers in 50 states, Puerto Rico, and the District of Columbia, Job Corps seeks to create career pathways and provide access to meaningful employment opportunities. Job Corps serves at-risk young people, ages 16 to 24, seeking to overcome barriers to employment. These barriers can include poverty, homelessness, or aging out of the foster care system. The program provides the academic, career technical, and employability skills these young people need to enter the workforce, enroll in post-secondary education, or enlist in the military. The Job Corps program is the nation's largest federally-funded, primarily residential skills instruction program.

Various entities, including large and small businesses, manage and operate 98 of the Job Corps centers through contractual agreements with DOL. These contracts are awarded pursuant to Federal procurement rules. The U.S. Department of Agriculture (USDA), through the U.S. Forest Service (FS), operates an additional 24 Civilian Conservation Centers (CCC) through an interagency agreement with DOL. CCCs are located predominantly in rural, and sometimes remote, locations. As with other Job Corps centers, these facilities provide skills training for disadvantaged young people to aid their entry into the American workforce, but with additional focus on conserving the United States' natural resources and providing assistance during natural disasters.

## II. Criteria for Proposing a Different Approach

As part of the Department's ongoing efforts to ensure that Job Corps' resources are used to deliver the best possible results for students, it may determine that a different approach will allow Job Corps to serve its students effectively.

The Workforce Innovation and Opportunity Act (WIOA), directs DOL to ''establish written criteria that the Secretary shall use to determine when a Job Corps center supported under this part is to be closed and how to carry out such closure[.]'' 29 U.S.C. 3211(c). Consequently, DOL previously published criteria for making this determination:

1. A methodology for selecting a center for closure based on its chronic low performance, first described in an August 2014 **Federal Register** Notice (FRN) (79 FR 51198), and updated in a March 2016 FRN (81 FR 12529);

2. An agreement between the Secretaries of Labor and Agriculture to close a CCC, as described in the March 2016 FRN; or

3. An evaluation of the effort required to provide a high-quality education and training program at the center, as described in the March 2016 FRN.

Through this Notice, the Department is announcing a fourth criterion—program reform and streamlining operations. The Department is engaged in an effort to reform and strengthen the overall management and operation of the Job Corps program, including USDA's recently announced decision to withdraw from the role of operating Job Corps centers. The deactivation of a center or group of centers may advance these efforts by focusing program resources on higher performing centers and improving student access to these centers, increasing cost efficiency, and enhancing the geographic match between student demand for the program and center availability. While the Department will continue to use the existing criteria to close centers when appropriate, the Department may propose a center for deactivation or repurposing when doing so furthers the Department's broad reform and streamlining efforts. In applying this criterion, the Department will not consider the Additional Considerations first discussed in the August 2014 notice and amended in a September 2017 FRN (82 FR 44842). These considerations do not appropriately reflect the importance of operational and structural management, financial management, cost efficiency, and long-term program priorities when pursuing broad agency program reform and streamlining of operations.

DOL may make its closure determination based on any one of the four criteria, and it may apply a single criterion independent of the others. Thus, while a center may qualify under more than one criterion, DOL may choose to rely on only one criterion when making its determination. The written criteria were previously established; therefore, DOL is not seeking comments on them in response to this Notice. The Department is also not seeking comment on the new, fourth criterion.

Prior to making a decision under any one of the first three criteria, DOL also applies the Additional Considerations first discussed in the August 2014 notice and amended in a September 2017 FRN (82 FR 44842).

## III. Job Corps Centers Selected for Deactivation

On May 24, 2019, DOL received a letter from USDA expressing its intent to terminate its role in operating Job Corps CCCs to allow the Forest Service to prioritize its core natural resource

mission to improve the condition and resilience of the nation's forests. Moreover, the letter established an expectation that by September 30, 2019, each FS Job Corps Civilian Conservation Center will be transitioned out, or on an established plan to transition out, of the Job Corps program.

As part of the CCC phase-out activities, DOL plans to continue Job Corps center operations at all CCC locations except nine. The nine centers proposed for deactivation are Anaconda, Blackwell, Cass, Flatwoods, Fort Simcoe, Frenchburg, Oconaluftee, Pine Knot, and Timber Lake. While the existing second criterion identified above provides for closures based on the mutual agreement of the Secretaries of Labor and Agriculture, it does not pertain to the Department's broader interest in program reform and how that can be executed through center deactivations, repurposing, consolidations/mergers, and other measures.

The proposed deactivation of the nine CCCs is pursuant to the program reform and streamlining criterion. In light of the USDA's decision, the Department considered several factors to determine how to move forward, including how to provide the highest quality services to students; how to leverage efficiencies to serve more students; and how to maximize the capacity of higher performing centers, including those formerly operated by the USDA.

Based on that review, the Department determined that deactivating these nine centers would advance broad program reform and streamlining of operations, while also serving more students. Some of the centers suffer from a variety of problems, including operating under-capacity, not achieving long-term student outcomes, and operating in an inefficient manner. Others are located in close proximity to other higher-performing centers where increasing the student capacity of the nearby center would better serve students. Deactivating these centers would give Job Corps participants access to higher quality services, allow the program to serve more students, streamline and make effective use of existing facilities, reduce student transportation costs, and eliminate the need for costly facility construction and rehabilitation activities. Accordingly, the Department proposes to deactivate the nine CCCs identified above.

## IV. Request for Public Comments

Because it is using the fourth criterion, DOL is not applying the Additional Considerations as amended in the September 2017 FRN. However, DOL contemplated the Additional Considerations and concluded that, if applied, they would not preclude the proposed deactivation of the identified CCCs.

DOL requests public comments on its proposal to deactivate the Anaconda CCC in Anaconda, Montana; Blackwell CCC in Laona, Wisconsin; Cass CCC in Ozark, Arkansas; Flatwoods CCC in Coeburn, Virginia; Fort Simcoe CCC in White Swan, Washington; Frenchburg CCC in Frenchburg, Kentucky; Oconaluftee CCC in Cherokee, North Carolina; Pine Knot CCC in Pine Knot, Kentucky; and Timber Lake CCC in Estacada, Oregon.

## V. The Process Under the Workforce Innovation and Opportunity Act

The process will follow the requirements of section 159(j) of the WIOA, which include the following:

- Announcing the proposed decision concerning a particular center in advance to the public through publication in the **Federal Register** or other appropriate means;
- Establishing a reasonable comment period, not to exceed 30 days, for interested individuals to submit written comments to the Secretary; and
- Notifying the Member of Congress who represents the district in which the center is located within a reasonable period in advance of any final decision concerning the status of the center.

This Notice serves as the public announcement of the proposals associated with the following CCCs: Anaconda, Blackwell, Cass, Flatwoods, Frenchburg, Fort Simcoe, Oconaluftee, Pine Knot, and Timber Lake. DOL is providing a 30-day period—the maximum amount of time allowed for comment under WIOA sec. 159(j)—for interested individuals to submit written comments on the proposed decision. DOL will announce its final decision following the conclusion of the comment period.

Signed in Washington, DC.

**Molly E. Conway,**

*Acting Assistant Secretary for Employment and Training, Labor.*

[FR Doc. 2019–11262 Filed 5–24–19; 4:15 pm]

BILLING CODE 4510–FT–P

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Application for Prevailing Wage Determination

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) revision titled, ''Application for Prevailing Wage Determination,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before July 1, 2019.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201905-1205-005* (this link will only become active on the day following publication of this notice) or by contacting Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov*. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov*.

**FOR FURTHER INFORMATION CONTACT:** Frederick Licari by telephone at 202–693–8073 (this is not a toll-free number) or TTY 202–693–8064 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

**SUPPLEMENTARY INFORMATION:** This ICR seeks approval under the PRA for revisions to the Form ETA–9141, Application for Prevailing Wage Determination; the instructions accompanying this form; and a new appendix to the Form ETA–9141, Appendix A, Request for Additional Worksite(s) for DOL's issuance of prevailing wages for an employer's additional worksites. This information collection has been classified as a revision. The proposed form changes will include the reorganization of the form to better correspond with related forms for the temporary and permanent employment certification programs. Also, the proposed form changes will collect: (1) Attorney or agent information; and (2) alternative requirements in a standardized format. The proposed revisions will better align information collection requirements with DOL's current regulatory framework, provide greater clarity to employers on regulatory and procedural requirements, standardize and streamline information collection to reduce the employer's time and burden when preparing applications, and promote greater efficiency and transparency in prevailing wages determinations. The proposed Appendix A, Request for Additional Worksite(s), will provide employers with a standardized format to request prevailing wage determinations for additional worksites. Appendix A will also enable DOL efficiently to determine prevailing wages for job opportunities with additional worksites. With the 30-day proposal, DOL has modified Appendix A to include sections ''for official government use only,'' which DOL will complete to provide employers with prevailing wage details for multiple worksites. The information collection is required by the Immigration and Nationality Act (INA), sections 103(a)(6); 203(b)(3); 212(a)(5)(A); 212(n), (p), (t); and 214(c) [8 U.S.C. 1103(a)(6); 1153(b)(3); 1182(a)(5)(A); 1182(n), (p), (t); and 1184(c)]; 8 CFR 214.2(h) and 20 CFR 655.10, 655.731, and 656.40, which establish procedures for employers seeking prevailing wages.

The Form ETA–9141 is used to determine the prevailing wages for job opportunities for which employers seek to hire foreign workers in the H–2B, H–1B, H–1B1, and E–3 temporary employment certification programs and the permanent employment certification program (PERM program). Prior to submitting foreign labor certification applications to the DOL for the H–2B and Permanent foreign labor certification programs, employers must obtain from DOL a prevailing wage for their job opportunities based on the occupation and location of intended employment. Employers may also request a prevailing wage for H–1B, H–1B1, and E–3 labor condition applications. The information DOL collects from employers on the Form ETA–9141serves as the basis by which DOL determines the prevailing wages employers must pay foreign workers under the above foreign labor certification programs to ensure employment of the foreign workers will not adversely affect the wages of similarly employed U.S. workers.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0508. The current approval is scheduled to expire on May 31, 2019; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 12, 2019 (84 FR 3494).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0508 The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Agency:* DOL–ETA.

*Title of Collection:* Application for Prevailing Wage Determination.

*OMB Control Number:* 1205–0508.

*Affected Public:* Individuals or Households, Private Sector (businesses or other for-profit institutions).

*Total Estimated Number of Respondents:* 88,599.

*Total Estimated Number of Responses:* 320,850.

*Total Estimated Annual Time Burden:* 143,194.

*Total Estimated Annual Other Costs Burden:* $0.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

Dated: May 23, 2019.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2019–11316 Filed 5–29–19; 8:45 am]

**BILLING CODE 4510–FP–P**

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## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; H–2A Temporary Agricultural Labor Certification Program

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Department of Labor (DOL) is submitting the Employment and Training (ETA) sponsored information collection request (ICR) revision titled, ''H–2A Temporary Agricultural Labor Certification Program,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before July 1, 2019.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden,

may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201903-1205-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov*. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov*.

**FOR FURTHER INFORMATION CONTACT:** Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number), TTY 202–693–8064, (this is not a toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

**SUPPLEMENTARY INFORMATION:** This ICR seeks approval under the PRA for revisions to the H–2A Temporary Agricultural Labor Certification Program information collection. This information collection has been classified as a revision because the DOL is proposing modifications to: Align information collection requirements with its current regulatory framework better; provide greater clarity to employers on regulatory requirements; standardize and streamline information collection to reduce employer time and burden preparing applications; and promote greater efficiency and transparency in the ETA's review and issuance of labor certification decisions under the H–2A visa program. The Immigration and Nationality Act (INA) and the Department of Homeland Security's (DHS) and DOL's regulations authorize this information collection. *See* INA Sections 101(a)(15)(H)(ii)(a), 214(c), and 218 (8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188) and 8 CFR 214.2(h)(5) and 20 CFR 655, subpart B.

The H–2A visa program enables employers to bring nonimmigrant foreign workers to the United States to perform agricultural work of a seasonal or temporary nature as defined in 8 U.S.C. 1101(a)(15)(H)(ii)(a). Before an employer can file a petition with DHS to import temporary workers as H–2A nonimmigrants, the INA and DHS regulations require an employer first to obtain a determination from DOL, certifying whether a qualified U.S. worker is available to fill the job opportunity described in the employer's petition for a temporary agricultural worker and whether a foreign worker's employment in the job opportunity will adversely affect the wages or working conditions of similarly employed U.S. workers. *See* 8 U.S.C. 1188, INA section 218; 8 CFR 214.2(h)(5)(i), (ii) and (iv)(B). DOL's regulations establish the processes by which an employer must obtain a temporary labor certification from DOL and the rights and obligations of workers and employers. *See* 20 CFR part 655, subpart B.

This ICR includes the collection of information related to the temporary labor certification process and agricultural clearance order process in the H–2A program. The information contained in the application Form ETA–9142A, *H–2A Application for Temporary Employment Certification,* and the job order Form ETA–790/790A, *H-2A Agricultural Clearance Order,* serve as the basis for the Secretary of Labor's determination that qualified U.S. workers are not available to perform the services or labor needed by the employer and that the wages and working conditions of similarly employed U.S. workers will not be adversely affected by the employment of H–2A workers. Employers use *Appendix A* of the Form ETA–9142A to attest that they will comply with all of the terms, conditions, and obligations of the H–2A program.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. DOL obtains OMB approval for this information collection under Control Number 1205–0466. The current approval is scheduled to expire on May 31, 2019; however, DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 25, 2018 (83 FR 53911).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0466. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Agency:* DOL–ETA.

*Title of Collection:* H–2A Temporary Agricultural Labor Certification Program.

*OMB Control Number:* 1205–0466.

*Affected Public:* Individuals or Households; Private Sector (businesses or other for-profit institutions); Federal Government; and State, Local and Tribal Governments.

*Total Estimated Number of Respondents:* 8,783.

*Annual Frequency:* On Occasion.

*Total Estimated Number of Responses:* 273,537.

*Total Estimated Annual Time Burden:* 52,385 hours.

*Total Estimated Annual Other Costs Burden:* $2,521,940.

**Authority:** 44 U.S.C. 3507(a)(1)(D).

Dated: May 23, 2019.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2019–11315 Filed 5–29–19; 8:45 am]

BILLING CODE 4510–FP–P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[NOTICE: (19–033)]**

### Name of Information Collection: Flight Analog Projects (FAP) Crew Selection Questionnaire

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of information collection—New

**SUMMARY:** The National Aeronautics and Space Administration, 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.

**DATES:** All comments should be submitted within 60 calendar days from the date of this publication.

**ADDRESSES:** All comments should be addressed to Gatrie Johnson, National Aeronautics and Space Administration, 300 E Street SW, Washington, DC 20546–0001.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Gatrie Johnson, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546 or email *Gatrie.Johnson@NASA.gov*.

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

This site contains a questionnaire to become a crew/experiment subject for Flight Analog Project (FAP) missions such as Human Exploration Research Analog (HERA), Scientific International Research in a Unique Station (SIRIUS) and other analog studies. The questionnaire is used to screen potential applicants for initial qualifications. In addition, the website describes the FAP facilities and experiments conducted to inform and promote interest in the FAP missions.

#### II. Methods of Collection

Public website, Web Form.

#### III. Data

*Title:* FAP Crew Application.
*OMB Number:* 2700–xxxx.
*Type of Review:* New.
*Affected Public:* General Public.
*Average Expected Annual Number of Activities:* 1.
*AverageNumber of Respondents per Activity:* 100.
*Annual Responses:* 100.
*Frequency of Responses:* 1.
*Average Minutes per Response:* 15 minutes.
*Burden Hours:* 25.

#### IV. Request for Comments

*Comments are invited on:* (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

**Gatrie Johnson,**
*NASA PRA Clearance Officer.*

[FR Doc. 2019–11299 Filed 5–29–19; 8:45 am]

**BILLING CODE 7510–13–P**

## NATIONAL SCIENCE FOUNDATION

### Membership of National Science Foundation's Senior Executive Service Performance Review Board

**AGENCY:** National Science Foundation.

**ACTION:** Notice.

**SUMMARY:** The National Science Foundation is announcing the members of the Senior Executive Service Performance Review Board.

**ADDRESSES:** Comments should be addressed to Branch Chief, Executive Services, Division of Human Resource Management, National Science Foundation, Room W15219, 2415 Eisenhower Avenue, Alexandria, VA 22314.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jennifer Munz at the above address or (703) 292–2478.

**SUPPLEMENTARY INFORMATION:** The membership of the National Science Foundation's Senior Executive Service Performance Review Board is as follows:

- F. Fleming Crim, Chief Operating Officer, Chairperson
- Wonzie Gardner, Chief Human Capital Officer and Office Head, Office of Information and Resource Management
- Anne Kinney, Assistant Director, Directorate for Mathematical and Physical Sciences
- Suzanne C. Iacono, Office Head, Office of Integrative Activities
- Michael Wetklow, Deputy Chief Financial Officer and Division Director, Budget Division
- Joanne Tornow, Assistant Director, Directorate for Biological Sciences
- Erwin Gianchandani, Deputy Assistant Director, Directorate for Computer and Information Science and Engineering

This announcement of the membership of the National Science Foundation's Senior Executive Service Performance Review Board is made in compliance with 5 U.S.C. 4314(c)(4).

Dated: May 24, 2019.

**Suzanne H. Plimpton,**
*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2019–11245 Filed 5–29–19; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Request for Information on National Strategic Overview for Quantum Information Science

**AGENCY:** National Science Foundation.

**ACTION:** Notice of Request for Information.

**SUMMARY:** The National Science and Technology Council (NSTC) Subcommittee on Quantum Information Science (SCQIS) release of the ''National Strategic Overview for Quantum Information Science'' (hereafter ''Strategic Overview'') calls upon agencies to develop plans to address six identified key policy areas to enable continued American leadership in quantum information science. The National Science Foundation (NSF), working with the NSTC, is requesting information from the American research and development (R&D) community working within quantum information science (QIS) to inform the Subcommittee as the Government develops the means to address specific policy recommendations. This notice reopens the prior Request for Information described in FR Doc. 2018–26754 and FR Doc. 2018–27151, enabling and encouraging additional input in response to the passage of the National Quantum Initiative Act.

**DATES:** Interested persons are invited to submit comments on or before 11:59 p.m. (ET) on July 29, 2019.

**ADDRESSES:** Comments submitted in response to this notice may be sent by either of the following methods:

• *Email: nsfscqis@nsf.gov*. Email submissions should be machine-readable and not be copyright-protected. Submissions should include ''RFI Response: National Strategic Overview for Quantum Information Science'' in the subject line of the message.

• *Direct input to the website: https://www.surveymonkey.com/r/QIS-RFI_Responses*.

*Instructions:* Response to this RFI is voluntary. Each individual or institution is requested to submit only one response. Submissions must not exceed the equivalent of one page for each question, or eight pages total, in 12 point or larger font, with a page number provided on each page. Responses should include the name of the person(s) or organization(s) filing the comment.

Responses to this RFI may be posted online as discussions proceed. Therefore, we request that no business proprietary information, copyrighted information, or personally identifiable information be submitted in response to this RFI.

In accordance with FAR 15.202(3), responses to this notice are not offers and cannot be accepted by the Government for the purposes of forming a binding contract. Responders are solely responsible for all expenses associated with responding to this RFI.

**FOR FURTHER INFORMATION CONTACT:** C. Denise Caldwell at (703) 292–7371 or *nsfscqis@nsf.gov*. Individuals who use a telecommunications device 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. (ET), Monday through Friday for assistance.

**SUPPLEMENTARY INFORMATION:** The National Science and Technology Council's Subcommittee on Quantum Information Science released its ''National Strategic Overview for Quantum Information Science'' (hereafter ''Strategic Overview'') in September 2018. This document calls upon agencies to develop plans to address six identified key policy areas to enable continued American leadership in quantum information science. On December 21, 2018, the National Quantum Initiative Act was signed into law to further the Nation's efforts in quantum information science. Now the NSTC Subcommittee on Quantum Information Science seeks public input to inform the Subcommittee as the Government develops the means to address the specific policy recommendations included in the ''Strategic Overview'' and the overall goals of the National Quantum Initiative Act. Responders are asked to answer one or more of the following questions, consistent with the prior published RFI:

1. What specific actions could the U.S. Government take that would contribute best to implementing the policy recommendations in the Strategic Overview? What challenges, not listed in section 3, should also be taken into account in implementation of the Strategic Overview recommendations?

2. What are the scientific and technological challenges that, with substantial resources and focus over the next ten years, will transform the QIS research and development landscape?

3. Regarding industrial engagement, what roles can the U.S. Government play in enabling the innovation ecosystem around QIS-related technologies? Are there critical barriers for industrial innovation in this space? How can these barriers be addressed? What role can the U.S. Government play in mitigating early or premature investment risks?

4. How can the U.S. Government engage with academia and other workforce development programs and stakeholders to appropriately train and maintain researchers in QIS while expanding the size and scope of the 'quantum-smart' workforce?

5. What existing infrastructure should be leveraged, and what new infrastructure could be considered, to foster future breakthroughs in QIS research and development?

6. What other activities/partnerships could the U.S. Government use to engage with stakeholders to ensure America's prosperity and economic growth through QIS research and development?

7. How can the United States continue to attract and retain the best domestic and international talent and expertise in QIS?

8. How can the United States ensure that U.S. researchers in QIS have access to cutting-edge international technologies, research facilities, and knowledge?

*Reference: National Strategic Overview for Quantum Information Science, https://www.whitehouse.gov/wp-content/uploads/2018/09/National-Strategic-Overview-for-Quantum-Information-Science.pdf*.

Submitted by the National Science Foundation in support of the NSTC Subcommittee on Quantum Information Science on May 24, 2019.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2019–11317 Filed 5–29–19; 8:45 am]

BILLING CODE 7555–01–P

## NUCLEAR REGULATORY COMMISSION

**[NRC–2016–0270 and NRC–2019–0086]**

## Guidance for Changes, Tests, and Experiments

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Regulatory guide, issuance; draft regulatory guide, request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 1 of regulatory guide (RG) 1.187, ''Guidance for Implementation of 10 CFR 50.59, 'Changes, Tests, and Experiments.' '' Concurrently the NRC is issuing for public comment DG–1356, which is proposed Revision 2 of RG 1.187.

**DATES:** Revision 1 to RG 1.187 is available on May 30, 2019.

Submit comments on DG–1356 [NRC–2019–0086] by July 15, 2019. Because of the extensive communication about NEI 96–07 Appendix D over the past year, the NRC believes that stakeholders will be able to submit comments quickly. In addition, the NRC seeks to issue DG–1356 as expeditiously as possible. Therefore, the NRC is publishing the DG–1356 with a 45-day comment period. 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. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

**ADDRESSES:** Please refer to Docket ID NRC–2016–0270 when contacting the NRC about the availability of information regarding RG 1.187, Revision 1. You may obtain publicly-available information related to RG 1.187, Revision 1, by using any of the following methods:

• *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for RG 1.187, Revision 1, by using Docket ID NRC–2016–0270. Address questions about NRC docket IDs in *regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *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*. Revision 1 to RG 1.187 and the regulatory analysis may be found in ADAMS under Accession Nos. ML17195A655 and ML16089A379 respectively.

Please refer to Docket ID NRC–2019–0086 when contacting the NRC about DG–1356 (proposed RG 1.187, Revision 2). You may submit comments on DG–1356 (ADAMS Accession No. ML19045A435) by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID: NRC–2019–0086. Address questions about NRC docket IDs in *regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov*. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7A06, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

**FOR FURTHER INFORMATION CONTACT:** Philip McKenna, telephone: 301–415–0037; email: *Philip.McKenna@nrc.gov,* or Stephen Burton, telephone: 301–415–0038; email: *Stephen.Burton@nrc.gov*. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**SUPPLEMENTARY INFORMATION:**

## I. Discussion

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe, and make available to the public, information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses.

The purpose of issuing the final RG 1.187, Revision 1, concurrent with issuing DG–1356 for comment is to provide clarity for, and coordination of, NRC activities on guidance for implementing section 50.59 of title 10 of the *Code of Federal Regulations* (10 CFR).

Revision 1 of RG 1.187 was issued with a temporary identification of Draft Regulatory Guide, DG–1334. RG 1.187, Revision 1, endorses, with clarifications, Nuclear Energy Institute (NEI) 96–07, ''Guidelines for 10 CFR 50.59 Evaluations,'' which provides licensees with a method that the staff considers acceptable for use in complying with the Commission's regulations on the process by which licensees, under certain conditions, may make changes to their facilities and procedures as described in the final safety analysis report (FSAR), and conduct tests or experiments not described in the FSAR, without prior NRC approval.

Concurrent with issuing Revision 1 of RG 1.187, the NRC is issuing DG–1356 for public comment under NRC docket number NRC–2019–0086. DG–1356 proposes additional guidance on digital instrumentation and control modifications. Specifically, DG–1356 endorses with exceptions and clarifications, NEI 96–07, Appendix D, Revision 0, ''Supplemental Guidance for Application of 10 CFR 50.59 to Digital Modifications.'' If finalized, DG–1356 would become RG 1.187, Revision 2.

## II. Additional Information: RG 1.187, Revision 1

The NRC published a notice of the availability of DG–1334 in the **Federal Register** on December 23, 2016 (81 FR 94275) for a 60-day public comment period. The public comment period closed on February 21, 2017. Public comments on DG–1334 and the staff responses to the public comments are available in ADAMS under Accession No. ML18123A363.

The NRC is issuing RG 1.187, Revision 1, to implement lessons-learned from the NRC Report ''Review of Lessons Learned from the San Onofre Steam Generator Tube Degradation Event,'' dated March 6, 2015. (ADAMS Package Accession No. ML15062A125).

Specifically, RG 1.187, Revision 1, clarifies statements in Section 4.3.8 of NEI 96–07, Revision 1, regarding the definition in 10 CFR 50.59(a)(2) of ''departure from a method of evaluation described in the FSAR (as updated).'' Revision 1 also clarifies statements in Section 4.3.5 of NEI 96–07, Revision 1, regarding the meaning in 10 CFR 50.59(c)(2)(v) of ''an accident of a different type than any previously evaluated in the final safety analysis report (as updated).'' This revision of RG 1.187 explains how licensees should apply these NEI guidelines to ensure they are meeting the requirements of 10 CFR 50.59.

III. Additional Information: DG–1356 (Draft RG 1.187, Revision 2)

The NRC is issuing for public comment a DG in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific issues or postulated events, and data that the staff needs in its review of applications for permits and licenses.

The DG, titled, ''Guidance for Implementation of 10 CFR 50.59, 'Changes, Tests, and Experiments,' '' temporarily identified by its task number, DG–1356, is proposed Revision 2 of RG 1.187. DG–1356 provides guidance on complying with the requirements of 10 CFR 50.59 when performing a digital instrumentation and controls (digital I&C) modification. Specifically, Nuclear Energy Institute (NEI) 96–07, Appendix D, Revision 0, ''Supplemental Guidance for Application of 10 CFR 50.59 to Digital Modifications,'' was submitted to the NRC on November 30, 2018. As discussed in Section C of RG 1.187, DG–1356 endorses NEI 96–07 and finds that it provides an acceptable approach for the application of 10 CFR 50.59 guidance when conducting digital I&C modifications, with certain exceptions and clarifications.

DG–1356 is being issued for public comment to facilitate the Commission's direction in the Staff Requirements Memorandum (SRM)—SECY–16–0070, ''Staff Requirements—SECY–16–0070—Integrated Strategy to Modernize the Nuclear Regulatory Commission's Digital Instrumentation and Control Regulatory Infrastructure'' (ADAMS Accession No. ML16299A157). The NRC staff has engaged the public, NEI, and industry representatives to improve the guidance for applying 10 CFR 50.59 to digital I&C-related design modifications as part of a broader effort to modernize the regulatory infrastructure for digital I&C.

## IV. Congressional Review Act

RG 1.187, Revision 1, is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as

defined in the Congressional Review Act.

**V. Backfitting and Issue Finality**

*Revision 1 of Regulatory Guide 1.187*

Revision 1 of Regulatory Guide 1.187 clarifies statements in Section 4.3.8 and 4.3.5 of Nuclear Energy Institute (NEI) 96–07, Revision 1, ''Guidelines for 10 CFR 50.59 Implementation'' (ML003771157), which the NRC first endorsed in RG 1.187, Rev 0 (ML003759710). Issuance of RG 1.187, Revision 1, does not constitute backfitting under § 50.109 and is not otherwise inconsistent with issue finality under 10 CFR part 52. As discussed in the ''Implementation'' section of this RG, NRC staff does not intend or approve any imposition or backfitting of the guidance in this RG. If, in the future, the NRC seeks to impose a position in Revision 1 of RG 1.187 in a manner that does not provide issue finality as described in an applicable issue finality provision, then the NRC must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

**Draft Regulatory Guide DG–1356**

Draft regulatory guide DG–1356, if finalized as Regulatory Guide 1.187, Revision 2, would endorse NEI 96–07, Appendix D, with conditions and clarifications. NEI 96–07, Appendix D, and the NRC staff's conditions and clarifications, provide guidance on the application of the 10 CFR 50.59 change process to digital I&C modifications. The draft regulatory guide, if finalized, would not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52, ''Licenses, Certifications and Approvals for Nuclear Power Plants.'' As discussed in the ''Implementation'' section of this RG, NRC staff does not intend or approve any imposition or backfitting of the guidance in this RG. If, in the future, the NRC seeks to impose a position in Revision 2 of RG 1.187 in a manner that does not provide issue finality as described in an applicable issue finality provision, then the NRC must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

Dated at Rockville, Maryland, this 23rd day of May, 2019.

For the Nuclear Regulatory Commission.

**Thomas H. Boyce,**

*Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.*

[FR Doc. 2019–11246 Filed 5–29–19; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–293; NRC–2019–0098]**

## Entergy Nuclear Operations, Inc.; Pilgrim Nuclear Power Station

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Exemption; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has issued a partial exemption in response to a February 8, 2019, request from Entergy Nuclear Operations, Inc. (the licensee or Entergy). The issuance of the exemption would grant Entergy a partial exemption from regulations that require the retention of records for certain systems, structures, and components associated with the Pilgrim Nuclear Power Station (Pilgrim) until the termination of the Pilgrim operating license.

**DATES:** The exemption was issued on May 21, 2019.

**ADDRESSES:** Please refer to Docket ID NRC–2019–0098 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2019–0098. Address questions about NRC dockets IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *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.

**FOR FURTHER INFORMATION CONTACT:** Scott P. Wall, Office of Nuclear Reactor Regulation; U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2855; email: *Scott.Wall@nrc.gov*.

**SUPPLEMENTARY INFORMATION:** The text of the exemption is attached.

Dated at Rockville, Maryland, this 24th day of May 2019.

For the Nuclear Regulatory Commission.

**John G. Lamb,**

*Senior Project Manager, Special Projects and Process Branch, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

**NUCLEAR REGULATORY COMMISSION**

**Docket No. 50-293**

**Entergy Nuclear Operations, Inc.**

**Pilgrim Nuclear Power Station**

**Exemption**

**I. Background**

The Pilgrim Nuclear Power Station (Pilgrim) is a single-unit facility located in the town of Plymouth, Plymouth County, in the Commonwealth of Massachusetts. It is situated on the western coast of Cape Cod Bay, on approximately 1,600 acres of land. The Pilgrim facility employs a General Electric boiling-water reactor nuclear steam supply system licensed to generate 2,028 megawatts-thermal. The boiling-water reactor and supporting facilities are owned and operated by the Entergy Nuclear Operations, Inc. (Entergy, the licensee). Entergy is the holder of the Pilgrim Renewed Facility Operating License No. DPR-35. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

By letter dated November 10, 2015 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML15328A053), Entergy submitted a notification to the NRC indicating that it would permanently shut down Pilgrim no later than June 1, 2019. Once Entergy certifies that it has permanently defueled the Pilgrim reactor vessel and placed the fuel in the spent fuel pool (SFP), accordingly, pursuant to § 50.82(a)(2) of Title 10 of the *Code of Federal Regulations* (10 CFR), the Pilgrim renewed facility

operating license will no longer authorize operation of the reactor or emplacement or retention of fuel in the reactor vessel. However, the licensee is still authorized to possess and store irradiated nuclear fuel. Irradiated fuel is currently being stored onsite in an SFP and in independent spent fuel storage installation (ISFSI) dry casks. The irradiated fuel will be stored in the ISFSI until it is shipped off site. With the reactor emptied of fuel, the reactor, reactor coolant system, and secondary system will no longer be in operation and will have no function related to the safe storage and management of irradiated fuel.

**II. Request/Action**

By letter dated February 8, 2019 (ADAMS Accession No. ML19044A374), Entergy submitted a partial exemption request for NRC approval from the record retention requirements of: (1) 10 CFR part 50, Appendix B, Criterion XVII, ''Quality Assurance Records,'' which requires certain records (e.g., results of inspections, tests, and materials analyses) be maintained consistent with applicable regulatory requirements; (2) 10 CFR 50.59(d)(3), which requires that records of changes in the facility must be maintained until termination of a license issued pursuant to 10 CFR part 50; and (3) 10 CFR 50.71(c), which requires certain records to be retained for the period specified by the appropriate regulation, license condition, or technical specification, or until termination of the license if not otherwise specified.

The licensee requested the partial exemptions because it wants to eliminate: (1) records associated with structures, systems, and components (SSCs) and activities that were applicable to the nuclear unit, which are no longer required by the 10 CFR part 50 licensing basis (i.e., removed from the Updated Final Safety Analysis Report (UFSAR) and/or technical specifications by appropriate change mechanisms; and (2) records associated with the storage of spent nuclear fuel in the SFP once all fuel has been removed from the SFP and the Pilgrim license no longer allows storage of fuel in the SFP. The licensee cites record retention partial exemptions granted to Zion Nuclear Power Station, Units 1 and 2 (ADAMS Accession No. ML111260277), Millstone Power Station, Unit 1 (ADAMS Accession No. ML070110567), Vermont Yankee Nuclear Power Station (ADAMS Accession No. ML15344A243), San Onofre Nuclear Generating Station, Units 1, 2, and 3 (ADAMS Accession No. ML15355A055), and Kewaunee Power Station (ADAMS Accession No. ML17069A394) as examples of the NRC granting similar requests.

Records associated with residual radiological activity and with programmatic controls necessary to support decommissioning, such as security and quality assurance, are not affected by the partial exemption request because they will be retained as decommissioning records, as required by 10 CFR part 50, until the termination of the Pilgrim license. In addition, the licensee did not request an exemption associated with any other recordkeeping requirements for the storage of spent fuel at its ISFSI under 10 CFR part 50 or the general license requirements of 10 CFR part 72. No exemption was requested from the decommissioning records retention requirements of 10 CFR 50.75, or any other requirements of 10 CFR part 50 applicable to decommissioning and dismantlement.

**III. Discussion**

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security. However, the Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are described in 10 CFR 50.12(a)(2).

Many of the Pilgrim reactor facility SSCs are planned to be abandoned in place pending dismantlement. Abandoned SSCs are no longer operable or maintained. Following permanent removal of fuel from the SFP, those SSCs required to support safe storage of spent fuel in the SFP will also be abandoned. In its February 8, 2019, partial exemption request, the licensee stated that the basis for eliminating records associated with reactor facility SSCs and activities is that these SSCs have been (or will be) removed from service per regulatory change processes, dismantled or demolished, and no longer have any function regulated by the NRC.

The licensee recognizes that some records related to the nuclear unit will continue to be under NRC regulation primarily due to residual radioactivity. The radiological and other necessary programmatic controls (such as security, quality assurance, etc.) for the facility and the implementation of controls for the defueled condition and the decommissioning activities are and will continue to be appropriately addressed through the license and current plant documents such as the UFSAR and technical specifications. Except for future changes made through the applicable change process defined in the regulations (e.g., 10 CFR 50.48(f), 10 CFR 50.59, 10 CFR 50.90, 10 CFR 50.54(a), 10 CFR 50.54(p), 10 CFR 50.54(q), etc.), these programmatic elements and their associated records are unaffected by the requested partial exemption.

Records necessary for SFP SSCs and activities will continue to be retained through the period that the SFP is needed for safe storage of irradiated fuel. Analogous to other plant records, once the SFP is permanently emptied of fuel, there will be no need for retaining SFP related records.

Entergy's general justification for eliminating records associated with Pilgrim SSCs that have been or will be removed from service under the NRC license, dismantled, or demolished, is that these SSCs will not in the future serve any Pilgrim functions regulated by the NRC. Entergy's decommissioning plans for Pilgrim is described in the Post Shutdown Decommissioning Activities Report (PSDAR) dated November 16, 2018 (ADAMS Accession No. ML18320A034). The licensee's decommissioning process involves evaluating SSCs with respect to the current facility safety analysis; progressively removing them from the licensing basis where necessary through appropriate change mechanisms (e.g., 10 CFR 50.59 or via NRC-approved technical specification changes, as applicable); revising the defueled safety analysis report and/or UFSAR as necessary; and then proceeding with an orderly dismantlement.

Entergy intends to retain the records required by its license as the facility's decommissioning transitions. However, equipment abandonment will obviate the regulatory and business needs for maintenance of most records. As the SSCs are removed from the licensing basis, Entergy asserts that the need for their records is, on a practical basis, eliminated. Therefore, Entergy is requesting partial exemptions from the associated records retention requirements for SSCs and historical activities that are no longer relevant. Entergy is not requesting exemptions from any recordkeeping requirements for storage of spent fuel at an ISFSI under 10 CFR part 50 or the general license requirements of 10 CFR part 72.

**A. Authorized by Law**

As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from 10 CFR part 50 requirements if it makes certain findings. As described here and

in the sections below, the NRC has determined that special circumstances exist to grant the partial exemptions. In addition, granting the licensee's proposed partial exemptions will not result in a violation of the Atomic Energy Act of 1954, as amended, other laws, or the Commission's regulations. Therefore, the granting of the partial exemption request from the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR part 50, Appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) is authorized by law.

**B. No Undue Risk to Public Health and Safety**

As SSCs are prepared for SAFSTOR and eventual decommissioning and dismantlement, they will be removed from NRC licensing basis documents through appropriate change mechanisms, such as through the 10 CFR 50.59 process or through a license amendment request approved by the NRC. These change processes involve either a determination by the licensee or an approval from the NRC that the affected SSCs no longer serve any safety purpose regulated by the NRC. Therefore, the removal of the SSC would not present an undue risk to the public health and safety. In turn, elimination of records associated with these removed SSCs would not cause any additional impact to public health and safety.

The granting of the partial exemption request from the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR part 50, Appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) for the records described is administrative in nature and will have no impact on any remaining decommissioning activities or on radiological effluents. The granting of the partial exemption request will only advance the schedule for disposition of the specified records. Because these records contain information about SSCs associated with reactor operation and contain no information needed to maintain the facility in a safe condition when the facility is permanently defueled and the SSCs are dismantled, the elimination of these records on an advanced timetable will have no reasonable possibility of presenting any undue risk to the public health and safety.

**C. Consistent With the Common Defense and Security**

The elimination of the recordkeeping requirements does not involve information or activities that could potentially impact the common defense and security of the United States. Upon dismantlement of the affected SSCs, the records have no functional purpose relative to maintaining the safe operation of the SSCs, maintaining conditions that would affect the ongoing health and safety of workers or the public, or informing decisions related to nuclear security.

Rather, the partial exemptions requested are administrative in nature and would only advance the current schedule for disposition of the specified records. Therefore, the partial exemption request from the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR part 50, Appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) for the types of records described is consistent with the common defense and security.

**D. Special Circumstances**

Paragraph 50.12(a)(2) states, in part: ''The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever— . . . (ii) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule; [and] (iii) Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted . . . .''

Criterion XVII of 10 CFR part 50, Appendix B, states in part: ''Sufficient records shall be maintained to furnish evidence of activities affecting quality.''

Paragraph 50.59(d)(3) states in part: ''The records of changes in the facility must be maintained until the termination of an operating license issued under this part . . . .''

Paragraph 50.71(c), states in part: ''Records that are required by the regulations in this part or Part 52 of this chapter, by license condition, or by technical specifications must be retained for the period specified by the appropriate regulation, license condition, or technical specification. If a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility license . . . .''

In the Statement of Considerations for the final rulemaking, ''Retention Periods for Records'' (53 FR 19240; May 27, 1988), in response to public comments received during the rulemaking process, the NRC stated that records must be retained ''for NRC to ensure compliance with the safety and health aspects of the nuclear environment and for the NRC to accomplish its mission to protect the public health and safety.'' In the Statement of Considerations, the Commission also explained that requiring licensees to maintain adequate records assists the NRC ''in judging compliance and noncompliance, to act on possible noncompliance, and to examine facts as necessary following any incident.''

These regulations apply to licensees in decommissioning. During the decommissioning process, safety-related SSCs are retired or disabled and subsequently removed from NRC licensing basis documents by appropriate change mechanisms. Appropriate removal of an SSC from the licensing basis requires either a determination by the licensee or an approval from the NRC that the SSC no longer has the potential to cause an accident, event, or other problem which would adversely impact public health and safety.

The records subject to removal under this partial exemption request are associated with SSCs that had been important to safety during power operation or operation of the SFP, but are no longer capable of causing an event, incident, or condition that would adversely impact public health and safety, as evidenced by their appropriate removal from the licensing basis documents. If the SSCs no longer have the potential to cause these scenarios, then it is reasonable to conclude that the records associated with these SSCs would not reasonably be necessary to assist the NRC in determining compliance and noncompliance, taking action on possible noncompliance, and examining facts following an incident. Therefore, their retention would not serve the underlying purpose of the rule.

In addition, once removed from the licensing basis documents (e.g., UFSAR or technical specification), SSCs are no longer governed by the NRC's regulations, and therefore are not subject to compliance with the safety and health aspects of the nuclear environment. As such, retention of records associated with SSCs that are or will no longer part of the facility serves no safety or regulatory purpose, nor does it serve the underlying purpose of the rule of maintaining compliance with the safety and health aspects of the nuclear environment in order to accomplish the NRC's mission. Accordingly, special circumstances are present which the NRC may consider, pursuant to 10 CFR 50.12(a)(2)(ii), to grant the requested partial exemptions.

Records which continue to serve the underlying purpose of the rule, that is, to maintain compliance and to protect public health and safety in support of the NRC's mission, will continue to be

retained pursuant to the regulations in 10 CFR part 50 and 10 CFR part 72. Retained records that are not subject to the proposed partial exemption include those associated with programmatic controls, such as those pertaining to residual radioactivity, security, and quality assurance, as well as records associated with the ISFSI and spent fuel assemblies.

The retention of records required by 10 CFR 50.71(c); 10 CFR part 50, Appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) provides assurance that records associated with SSCs will be captured, indexed, and stored in an environmentally suitable and retrievable condition. Given the volume of records associated with the SSCs, compliance with the records retention rule results in a considerable cost to the licensee. Retention of the volume of records associated with the SSCs during the operational phase is appropriate to serve the underlying purpose of determining compliance and noncompliance, taking action on possible noncompliance, and examining facts following an incident, as discussed.

However, the cost effect of retaining operational phase records beyond the operations phase until the termination of the license was not fully considered or understood when the records retention rule was put in place. For example, existing records storage facilities are eliminated as decommissioning progresses. Retaining records associated with SSCs and activities that no longer serve a safety or regulatory purpose would therefore result in an unnecessary financial and administrative burden. As such, compliance with the rule would result in an undue cost in excess of that contemplated when the rule was adopted. Accordingly, special circumstances are present which the NRC may consider, pursuant to 10 CFR 50.12(a)(2)(iii), to grant the partial exemption request.

**E. Environmental Considerations**

Pursuant to 10 CFR 51.22(b) and (c)(25), the granting of an exemption from the requirements of any regulation in Chapter I of 10 CFR meets the eligibility criteria for categorical exclusion provided that: (1) There is no significant hazards consideration; (2) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (3) there is no significant increase in individual or cumulative public or occupational radiation exposure; (4) there is no significant construction impact; (5) there is no significant increase in the potential for or consequences from radiological accidents; and (6) the requirements from which an exemption is sought are among those identified in 10 CFR 51.22(c)(25)(vi).

The partial exemption request is administrative in nature. The partial exemption request has no effect on SSCs and no effect on the capability of any plant SSC to perform its design function. The partial exemption request would not increase the likelihood of the malfunction of any plant SSC. The probability of occurrence of previously evaluated accidents is not increased, since most previously analyzed accidents will no longer be able to occur and the probability and consequences of the remaining fuel handling accident are unaffected by the partial exemption request. Therefore, the partial exemption request does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The partial exemption request does not involve a physical alteration of the plant. No new or different type of equipment will be installed and there are no physical modifications to existing equipment associated with the partial exemption request. Similarly, the partial exemption request will not physically change any SSCs involved in the mitigation of any accidents. Thus, no new initiators or precursors of a new or different kind of accident are created. Furthermore, the partial exemption request does not create the possibility of a new accident as a result of new failure modes associated with any equipment or personnel failures. No changes are being made to parameters within which the plant is normally operated, or in the setpoints which initiate protective or mitigative actions, and no new failure modes are being introduced. Therefore, the partial exemption request does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The partial exemption request does not alter the design basis or any safety limits for the plant. The partial exemption request does not impact station operation or any plant SSC that is relied upon for accident mitigation. Therefore, the partial exemption request does not involve a significant reduction in a margin of safety.

For these reasons, the NRC has determined that approval of the partial exemption request involves no significant hazards consideration because granting the licensee's partial exemption request from the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR part 50, Appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) at the decommissioning Pilgrim does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety (10 CFR 50.92(c)). Likewise, there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite, and no significant increase in individual or cumulative public or occupational radiation exposure.

The exempted regulations are not associated with construction, so there is no significant construction impact. The exempted regulations do not concern the source term (i.e., potential amount of radiation involved an accident) or accident mitigation; therefore, there is no significant increase in the potential for, or consequences from, radiological accidents. Allowing the licensee partial exemption from the record retention requirements for which the exemption is sought involves recordkeeping requirements, as well as reporting requirements of an administrative, managerial, or organizational nature.

Therefore, pursuant to 10 CFR 51.22(b) and 10 CFR 51.22(c)(25), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this partial exemption request.

**IV. Conclusions**

The NRC has determined that the granting of the partial exemption request from the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR part 50, Appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) will not present an undue risk to the public health and safety. The destruction of the identified records will not impact remaining decommissioning activities; plant operations, configuration, and/or radiological effluents; operational and/or installed SSCs that are quality-related or important to safety; or nuclear security. The NRC staff determined that the destruction of the identified records is administrative in nature and does not involve information or activities that could potentially impact the common defense and security of the United States.

The purpose for the recordkeeping regulations is to assist the NRC in carrying out its mission to protect the public health and safety by ensuring that the licensing and design basis of the facility is understood, documented, preserved and retrievable in such a way that will aid the NRC in determining

compliance and noncompliance, taking action on possible noncompliance, and examining facts following an incident. Since the Pilgrim SSCs that were safety-related or important to safety have been or will be removed from the licensing basis and removed from the plant, the NRC has determined that the records identified in the partial exemption request will no longer be required to achieve the underlying purpose of the records retention rule.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the partial exemptions are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants Entergy a partial exemption from the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR part 50, Appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) for Pilgrim only to the extent necessary to allow the licensee to advance the schedule to remove records associated with SSCs that have been or will be removed from NRC licensing basis documents by appropriate change mechanisms (e.g., 10 CFR 50.59 or via NRC-approved license amendment request, as applicable).

This partial exemption is effective upon submittal of the licensee's certification of permanent fuel removal, under § 50.82(a)(1).

Dated at Rockville, Maryland, this 21st day of May 2019.

For the Nuclear Regulatory Commission.

Craig G. Erlanger,
Director, Division of Operating Reactor Licensing

[FR Doc. 2019–11250 Filed 5–29–19; 8:45 am]

BILLING CODE 7590–01–P

## OFFICE OF PERSONNEL MANAGEMENT

### Excepted Service

**AGENCY:** Office of Personnel Management (OPM).

**ACTION:** Notice.

**SUMMARY:** This notice identifies Schedule A, B, and C appointing authorities applicable to a single agency that were established or revoked from November 1, 2018 to November 30, 2018.

**FOR FURTHER INFORMATION CONTACT:** Julia Alford, Senior Executive Resources Services, Senior Executive Services and Performance Management, Employee Services, 202–606–2246.

**SUPPLEMENTARY INFORMATION:** In accordance with 5 CFR 213.103, Schedule A, B, and C appointing authorities available for use by all agencies are codified in the Code of Federal Regulations (CFR). Schedule A, B, and C appointing authorities applicable to a single agency are not codified in the CFR, but the Office of Personnel Management (OPM) publishes a notice of agency-specific authorities established or revoked each month in the **Federal Register** at *www.gpo.gov/fdsys/*. OPM also publishes an annual notice of the consolidated listing of all Schedule A, B, and C appointing authorities, current as of June 30, in the **Federal Register**.

### Schedule A

**11. Department of Homeland Security (Sch. A, 213.3111)**

(d) General

(1) Not to exceed 800 positions to perform cyber risk and strategic analysis, incident handling and malware/vulnerability analysis, program management, distributed control systems security, cyber incident response, cyber exercise facilitation and management, cyber vulnerability detection and assessment, network and systems engineering, enterprise architecture, intelligence analysis, investigation, investigative analysis and cyber-related infrastructure interdependency analysis requiring unique qualifications currently not established by OPM. Positions will be in the following occupations: Security (GS–0080), intelligence analysts (GS–0123), investigators (GS–1810), investigative analysts (GS–1805), and criminal investigators (GS–1811) at the General Schedule (GS) grade levels 09–15. No new appointments may be made under this authority after January 5, 2020 or the effective date of the completion of regulations implementing the Border Patrol Agency Pay Reform Act of 2014 or, whichever comes first.

### Schedule B

No Schedule B Authorities to report during November 2018.

### Schedule C

The following Schedule C appointing authorities were approved during November 2018.

| Agency name | Organization name | Position title | Authorization No. | Effective date |
|---|---|---|---|---|
| DEPARTMENT OF AGRICULTURE | Office of the Assistant Secretary for Congressional Relations. | Associate Director | DA180236 | 11/26/2018 |
| | | Staff Assistant | DA180255 | 11/26/2018 |
| | Office of the Secretary | Advance Associate | DA180263 | 11/26/2018 |
| | | Deputy Chief of Staff for Outreach | DA180264 | 11/26/2018 |
| | | Policy Advisor | DA190011 | 11/26/2018 |
| | Office of the Under Secretary for Farm Production and Conservation. | Confidential Assistant | DA190013 | 11/28/2018 |
| DEPARTMENT OF COMMERCE | Office of the Assistant Secretary for Enforcement and Compliance. | Senior Advisor | DC190009 | 11/19/2018 |
| | Office of Minority Business Development Agency. | Special Advisor for Strategic Initiatives. | DC190018 | 11/30/2018 |
| | Office of the Assistant Secretary for Economic Development. | Legislative Affairs Specialist | DC190010 | 11/19/2018 |
| | Office of the Deputy Assistant Secretary. | Special Assistant | DC190014 | 11/26/2018 |
| | Office of the Deputy Secretary | Senior Advisor | DC190015 | 11/19/2018 |
| DEPARTMENT OF DEFENSE | Office of the Deputy Under Secretary of Defense (Asian and Pacific Security Affairs). | Special Assistant (East Asia) | DD190003 | 11/05/2018 |
| | Office of the Assistant Secretary of Defense (Asian and Pacific Security Affairs). | Special Assistant (East Asia) | DD190004 | 11/05/2018 |
| | Office of the Assistant Secretary of Defense (Legislative Affairs). | Special Assistant (Legislative Affairs). | DD190005 | 11/05/2018 |

| Agency name | Organization name | Position title | Authorization No. | Effective date |
|---|---|---|---|---|
| | Office of the Secretary of Defense | Advance Officer | DD190018 | 11/19/2018 |
| | Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics). | Special Assistant (Acquisition and Sustainment). | DD190009 | 11/19/2018 |
| | | Special Assistant for Engineering and Technology. | DD190012 | 11/19/2018 |
| | Washington Headquarters Services | Defense Fellow (2) | DD190002 | 11/15/2018 |
| | | | DD190013 | 11/30/2018 |
| DEPARTMENT OF EDUCATION | Office of Communications and Outreach. | Special Assistant | DB190004 | 11/14/2018 |
| | | Confidential Assistant | DB190013 | 11/30/2018 |
| | Office of Elementary and Secondary Education. | Confidential Assistant for Policy | DB190015 | 11/27/2018 |
| | Office of the Deputy Secretary | Special Assistant | DB190012 | 11/26/2018 |
| DEPARTMENT OF ENERGY | Office of the Assistant Secretary for Congressional and Intergovernmental Affairs. | Director of Intergovernmental and External Affairs. | DE190008 | 11/26/2018 |
| | Office of the Assistant Secretary for International Affairs. | Chief of Staff | DE190019 | 11/26/2018 |
| ENVIRONMENTAL PROTECTION AGENCY. | Office of the Administrator | Senior Advisor for Strategic Initiatives. | EP190005 | 11/26/2018 |
| | Office of the Associate Administrator for Congressional and Intergovernmental Relations. | Director of Intergovernmental Affairs. | EP190012 | 11/27/2018 |
| FEDERAL ENERGY REGULATORY COMMISSION. | Office of the Chairman | Policy Advisor | DR190001 | 11/06/2018 |
| GENERAL SERVICES ADMINISTRATION. | Office of the Administrator | Special Assistant | GS190007 | 11/19/2018 |
| | Office of Congressional and Intergovernmental Affairs. | Congressional Policy Analyst | GS190008 | 11/26/2018 |
| DEPARTMENT OF HEALTH AND HUMAN SERVICES. | Centers for Medicare and Medicaid Services. | Deputy Director of Communications. | DH190021 | 11/16/2018 |
| | Office of Intergovernmental and External Affairs. | Regional Director, Dallas, TX, Region VI. | DH190022 | 11/21/2018 |
| | Office of the National Coordinator for Health Information Technology. | Senior Advisor for Health Information Technology. | DH190002 | 11/19/2018 |
| | Office of the Secretary | Special Assistant | DH190024 | 11/19/2018 |
| DEPARTMENT OF HOMELAND SECURITY. | Office of the Assistant Secretary for Public Affairs. | Assistant Press Secretary | DM190012 | 11/05/2018 |
| | | Speechwriter | DM190016 | 11/06/2018 |
| | | Press Assistant | DM190021 | 11/20/2018 |
| | Office of the Secretary | White House Liaison | DM190019 | 11/19/2018 |
| DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. | Office of Public Affairs | Special Assistant | DU190011 | 11/19/2018 |
| | Office of the General Counsel | Paralegal Specialist | DU190013 | 11/30/2018 |
| | Office of Field Policy and Management. | Special Assistant | DU190014 | 11/30/2018 |
| DEPARTMENT OF THE INTERIOR | Secretary's Immediate Office | Press Secretary | DI180110 | 11/19/2018 |
| | | Assistant | DI180112 | 11/19/2018 |
| DEPARTMENT OF JUSTICE | Office of Public Affairs | Lead Media Affairs Coordinator | DJ180148 | 11/05/2018 |
| | Office of Justice Programs | Senior Advisor | DJ180136 | 11/15/2018 |
| | Office of Legislative Affairs | Confidential Assistant | DJ180153 | 11/26/2018 |
| NATIONAL AERONAUTICS AND SPACE ADMINISTRATION. | Office of Legislative and Intergovernmental Affairs. | Legislative Affairs Specialist | NN190002 | 11/15/2018 |
| OFFICE OF MANAGEMENT AND BUDGET. | Office of Legislative Affairs | Deputy for Legislative Affairs (Senate). | BO190002 | 11/28/2018 |
| OFFICE OF PERSONNEL MANAGEMENT. | Office of the Director | Special Assistant | PM190005 | 11/19/2018 |
| DEPARTMENT OF STATE | Bureau of Legislative Affairs | Special Assistant | DS190009 | 11/21/2018 |
| | Office of the Counselor | Staff Assistant | DS190010 | 11/26/2018 |
| DEPARTMENT OF THE TREASURY. | Office of the Assistant Secretary (Public Affairs). | Public Affairs Coordinator | DY190008 | 11/09/2018 |
| | Secretary of the Treasury | Special Assistant | DY190010 | 11/09/2018 |

The following Schedule C appointing authorities were revoked during November 2018.

| Agency name | Organization name | Position title | Request No. | Date vacated |
|---|---|---|---|---|
| COMMODITY FUTURES TRADING COMMISSION. | Office of Public Affairs | Public Affairs Specialist | CT170013 | 11/30/2018 |
| DEPARTMENT OF COMMERCE | Bureau of Industry and Security | Senior Counselor | DC180182 | 11/10/2018 |
| | Office of Scheduling and Advance | Advance Assistant | DC180076 | 11/10/2018 |
| DEPARTMENT OF EDUCATION | Office of the General Counsel | Attorney Adviser | DB170132 | 11/18/2018 |
| DEPARTMENT OF ENERGY | Office of Advanced Research Projects Agency—Energy. | Senior Advisor and Chief of Staff | DE170187 | 11/10/2018 |
| | | Principal Deputy Director | DE180081 | 11/10/2018 |
| | | Executive Support Specialist | DE180090 | 11/24/2018 |
| | Office of the Assistant Secretary for Electricity Delivery and Energy Reliability. | Chief of Staff | DE180045 | 11/10/2018 |
| | Office of Assistant Secretary for International Affairs. | Senior Advisor and Chief of Staff | DE170224 | 11/10/2018 |
| | Office of the Associate Under Secretary for Environment, Health, Safety, and Security. | Senior Advisor—Veterans Relations. | DE170218 | 11/01/2018 |
| | | Senior Project Advisor | DE170219 | 11/13/2018 |
| DEPARTMENT OF HEALTH AND HUMAN SERVICES. | Office of the Secretary | Advisor to the Chief Technology Officer. | DH180095 | 11/01/2018 |
| | | Senior Policy Advisor | DH180214 | 11/04/2018 |
| | Office of the Assistant Secretary for Legislation. | Advisor | DH180141 | 11/16/2018 |
| | Office of the Assistant Secretary for Health. | Advisor | DH180210 | 11/24/2018 |
| | Office of Substance Abuse and Mental Health Services Administration. | Director of Communications | DH180112 | 11/24/2018 |
| DEPARTMENT OF HOMELAND SECURITY. | Office of the Assistant Secretary for Intergovernmental Affairs. | Confidential Assistant | DM170239 | 11/10/2018 |
| DEPARTMENT OF JUSTICE | Office of Legislative Affairs | Attorney Advisor | DJ170077 | 11/03/2018 |
| | Office of Justice Programs | Senior Advisor to the Assistant Attorney General. | DJ170177 | 11/10/2018 |
| | Office of Public Affairs | Confidential Assistant | DJ170080 | 11/10/2018 |
| DEPARTMENT OF TRANSPORTATION. | Office of the Administrator | Director of Communications | DT170101 | 11/03/2018 |
| ENVIRONMENTAL PROTECTION AGENCY. | Office of the Chief Financial Officer | Special Advisor for Budgets and Audits. | EP180013 | 11/10/2018 |
| OFFICE OF MANAGEMENT AND BUDGET. | Office of Natural Resource Programs. | Confidential Assistant | BO170054 | 11/04/2018 |
| OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE. | Office of Congressional Affairs | Senior Director for Congressional Affairs. | TN170017 | 11/11/2018 |

**Authority:** 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

Office of Personnel Management.

**Alexys Stanley,**

*Regulatory Affairs Analyst.*

[FR Doc. 2019–11228 Filed 5–29–19; 8:45 am]

**BILLING CODE 6325–39–P**

## POSTAL REGULATORY COMMISSION

**[Docket No. CP2019–159]**

## New Postal Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* June 3, 2019.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

### Table of Contents

I. Introduction
II. Docketed Proceeding(s)

### I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance

with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

**II. Docketed Proceeding(s)**

1. *Docket No(s).:* CP2019–159; *Filing Title:* Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 1E Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* May 23, 2019; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* June 3, 2019.

This Notice will be published in the **Federal Register**.

**Stacy L. Ruble,**

*Secretary.*

[FR Doc. 2019–11256 Filed 5–29–19; 8:45 am]

**BILLING CODE 7710–FW–P**

## POSTAL SERVICE

### Product Change—Priority Mail Express Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Date of required notice:* May 30, 2019.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Reed, 202–268–3179.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on May 22, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express Contract 76 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–142, CP2019–157.

**Elizabeth Reed,**

*Attorney, Corporate and Postal Business Law.*

[FR Doc. 2019–11214 Filed 5–29–19; 8:45 am]

**BILLING CODE 7710–12–P**

## POSTAL SERVICE

### Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Date of required notice:* May 30, 2019.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Reed, 202–268–3179.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on May 21, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 101 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–141, CP2019–156.

**Elizabeth Reed,**

*Attorney, Corporate and Postal Business Law.*

[FR Doc. 2019–11217 Filed 5–29–19; 8:45 am]

**BILLING CODE 7710–12–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85931; File No. SR–C2–2019–011]**

### Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend Rule 6.11

May 23, 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 May 16, 2019, Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') proposes to amend Rule 6.11. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/ctwo/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The proposed rule change makes enhancements to the Exchange's opening auction process. The Exchange recently adopted an opening auction process, which the Exchange intends to implement on June 17, 2019.[5] The Exchange intends to implement the

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 85788 (May 6, 2019), 84 FR 20673 (May 10, 2019), SR–C2–2019–009. The changes in SR–C2–2019–009 are currently effective but not yet operative; however, the proposed rule text in this rule filing assume operativeness of those effective changes.

enhancements proposed in this rule filing at that time.

First, the proposed rule change amends the definition of Composite Market in Rule 6.11(a). The term ''Composite Market'' means the market for a series comprised of (1) the higher of the then-current best appointed Market-Maker bulk message bid on the Queuing Book and the away best bid (''ABB'') (if there is an ABB) and (2) the lower of the then-current best appointed Market-Maker bulk message offer on the Queuing Book and the away best offer (''ABO'') (if there is an ABO).[6] The Queuing Book means the book into which Users may submit orders and quotes (and onto which good-til-cancelled and good-til-day orders remaining on the Book from the previous trading session or trading day, as applicable, are entered) during the Queuing Period for participation in the applicable opening rotation. The Queuing Period means the time period prior to the initiation of an opening rotation during which the System accepts orders and quotes for participation in the opening rotation for the applicable trading session. Therefore, in an All Sessions Class (*i.e.,* a class that trades during both the Global Trading Hours (''GTH'') and Regular Trading Hours (''RTH'') trading sessions), the Composite Market will be based on the appointed Market-Maker bulk message bids and offers in the RTH Queuing Book (available from 7:30 a.m. through the opening of trading). It currently will not consider any appointed Market-Maker bulk message bids and offers in that class in the GTH book (on which trading will be occurring in that class from 8:30 a.m. through 9:15 a.m.).

Market-Makers are generally responsible for pricing the markets in their appointed classes, which is why the Exchange considers Market-Makers' bulk message bids and offers when determining the Composite Market in connection with the opening auction process. For that reason, the price protection measures applied during the opening auction process (the Maximum Composite Width check and the Opening Collar) are based on the Composite Market. The Exchange believes it would be beneficial, and may lead to more accurate pricing during the opening auction process, for the Composite Market to be used for the RTH opening auction process to incorporate all available bulk message bids and offers from appointed Market-Makers, including any in the GTH book. Therefore, the proposed rule change amends the definition of Composite Market to provide that it will be comprised of the higher (lower) of the then-current best appointed Market-Maker bulk message bid (offer) on the Exchange (which includes both the RTH Queuing Book and the GTH book), rather than just the Queuing Book.

Second, the proposed rule change amends Rule 6.11(e)(1) to provide that a series is not eligible to open if the Composite Market is crossed (*i.e.,* the Composite Bid is higher than the Composite Offer). A series will be eligible to open if the Composite Width is less than or equal to the Maximum Composite Width, or is greater than the Maximum Composite Width but there are no non-M Capacity market orders or buy (sell) limit orders with prices higher (lower) than the Composite Bid (Offer) and no orders or quotes marketable against each other (*i.e.,* locked or crossed).[7] The Maximum Composite Width Check is a price protection measure intended to prevent orders from executing at extreme prices at the open. A crossed market is generally unreliable, and opening with a crossed Composite Market may create price risk for any executions that may occur during the opening rotation (pursuant to subparagraph (e)(3)). Therefore, the proposed rule change enhances the Maximum Composite Width check price protection to provide that the Composite Market may not be crossed for a series to be eligible to open.

Third, the proposed rule change harmonizes how the opening auction process will be used following all trading halts. Current Rule 6.11(g) provides that if there is a Regulatory Halt,[8] the Queuing Period begins immediately when the Exchange halts trading in the class. If the Exchange declares any other type of halt in a class (*i.e.,* a non-Regulatory Halt), there will be no Queuing Period. Additionally, if there is a Regulatory Halt, the System queues a User's open orders or quotes, unless the User entered instructions to cancel its open resting orders and quotes, but if there is a non-Regulatory Halt, the System cancels a User's open orders and quotes. The Exchange has determined to eliminate the distinction between how the opening auction process applies following a Regulatory Halt and a non-Regulatory Halt. The proposed rule change provides that the opening auction process following any trading halt will apply in the manner it currently applies following a Regulatory Halt. In other words, following a non-Regulatory Halt, there will be a Queuing Period during the trading halt. Additionally, in the event of a non-Regulatory Halt, the System will queue a User's orders and quotes resting on the book at the time of the trading halt for participation in the opening rotation following the trading halt, unless the User entered instructions to cancels its resting orders and quotes. This will provide Users with the ability to decide how its resting orders and quotes should be handled in the event of a non-Regulatory Halt, as they are currently able to do in the event of a Regulatory Halt. The Exchange also believes elimination of this distinction will eliminate potential investor confusion regarding how the System will handle orders and quotes in the event of a trading halt.[9]

Finally, the proposed rule change makes several nonsubstantive changes in Rule 6.11:

- The proposed rule change makes a grammatical change in subparagraph (b)(2).
- The proposed rule change adds the word ''process'' in subparagraph (b)(2)(E) after the term ''opening auction,'' as it was inadvertently omitted (throughout Rule 6.11, the entire opening is referred to as the ''opening auction process'').

The proposed rule change updates subparagraph (e)(2) to clarify when the System will and will not be able to determine an Opening Trade Price. The System determines an Opening Trade Price if there are orders and quotes marketable against each other at a price not outside the Opening Collar (this is consistent with the current rule, which states there is no Opening Trade Price if there are no locked or crossed orders or quotes (*i.e.,* marketable orders and quotes) at a price not outside the Opening Collar). The proposed rule change merely modifies the language, which the Exchange believes is clearer, and makes corresponding changes to the paragraph numbering and lettering. Additionally, the proposed rule change adds the defined term ''VMIM price'', which is the price determined by the process described in current subparagraphs (e)(2)(A)(i) through (iii) (proposed subparagraphs (e)(2)(A) through (3)). The proposed rule change

[6] The term ''Composite Bid (Offer)'' means the bid (offer) used to determine the Composite Market.

[7] The proposed rule change makes a nonsubstantive change to this language in Rule 6.11(e)(1)(B). Once a series satisfies the conditions in the Maximum Composite Width Check, the System will determine an Opening Trading Price pursuant to Rule 6.11(e)(2), and then open the series pursuant to Rule 6.11(e)(3).

[8] If the primary market for the applicable underlying security declares a regulatory trading halt, suspension, or pause with respect to such security, it is referred to as a ''Regulatory Halt.''

[9] The proposed rule change also makes nonsubstantive changes to paragraph (g).

does not modify the process used to determine that price.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[10] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[11] 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)[12] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed revision to the definition of Composite Market will remove impediments to and perfect the mechanism of a free and open market and a national market system and protect investors, because it will ensure the price protection measures used during the opening auction process, which are based on the Composite Market, for the RTH opening in an All Sessions Class will incorporate all available pricing information on the Exchange from appointed Market-Makers in that class. The Exchange believes this may lead to a more accurate Opening Trade Price. The proposed rule change to not open a series if the Composite Market is crossed will promote just and equitable principles of trade and protect investors, because crossed markets are generally unreliable. The Exchange believes not opening a series if the Composite Market is crossed may reduce the risk of erroneously priced executions during the opening rotation. The proposed rule change to harmonize the opening auction process following all types of trading halts will protect investors by eliminating potential confusion regarding how the Exchange will open series following trading halts, and by providing Users with flexibility regarding how the System will handle their orders and quotes following a non-Regulatory Halt (as they currently have following a Regulatory Halt). The proposed nonsubstantive changes will benefit investors by providing additional clarity to the Rules.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes to the price protection measures used during the opening auction process will apply in the same manner to all orders and quotes of all Users. All Users will have the same flexibility regarding how the System will handle their orders and quotes following non-Regulatory Halts, which is the same flexibility currently available to Users following Regulatory Halts. If a User wants its orders and quotes to be handled following a non-Regulatory Halt in the manner they are today, that User can instruct the Exchange to do so. The proposed rule change will not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes to the price protections used during the opening auction process only impact how series will open on the Exchange prior to the opening of trading. The proposed changes are intended to enhance the price protections used during the opening process and are not intended as competitive changes, and to provide Users with flexibility with respect to the handling of their orders and quotes following a non-Regulatory Halt. The proposed nonsubstantive changes do not impact trading, and thus have no competitive impact; they merely provide additional clarity to the Rules.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,[13] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[14] and Rule 19b–4(f)(6) thereunder.[15]

At any time within 60 days of the filing of 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–C2–2019–011 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–C2–2019–011. 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

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *Id.*

[13] The Exchange has satisfied this requirement.

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

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–C2–2019–011 and should be submitted on or before June 20, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11238 Filed 5–29–19; 8:45 am]

**BILLING CODE 8011–01–P**

[16] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85924; File No. SR–OCC–2019–803]**

## Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Advance Notice Concerning the Options Clearing Corporation's Proposal To Enter Into a New Credit Facility Agreement

May 23, 2019.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled Payment, Clearing and Settlement Supervision Act of 2010 (''Clearing Supervision Act'')[1] and Rule 19b–4(n)(1)(i)[2] under the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[3] notice is hereby given that on April 26, 2019, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') an advance notice (''Advance Notice'') as described in Items I, II and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the advance notice from interested persons.

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] 15 U.S.C. 78a *et seq.*

### I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

This advance notice is submitted in connection with a proposed change to OCC's operations in the form of the replacement of a revolving credit facility that OCC maintains for a 364-day term and that it may use: (i) In anticipation of a potential default by or suspension of a Clearing Member; (ii) to meet obligations arising out of the default or suspension of a Clearing Member; (iii) to meet reasonably anticipated liquidity needs for same-day settlement as a result of the failure of any bank or securities or commodities clearing organization to achieve daily settlement; or (iv) to meet obligations arising out of the failure of a bank or securities or commodities clearing organization to perform its obligations due to its bankruptcy, insolvency, receivership or suspension of operations. OCC has provided a summary of the terms and conditions of the proposed renewal in confidential Exhibit 3. The proposed change is described in additional detail in Item 10 below.

The advance notice is available on OCC's website at *https://www.theocc.com/about/publications/bylaws.jsp.* All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[4]

### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the advance notice and discussed any comments it received on the advance notice. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections A and B below, of the most significant aspects of these statements.

*(A) Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants or Others*

Written comments were not and are not intended to be solicited with respect to the advance notice and none have been received. OCC will notify the Commission of any written comments received by OCC.

[4] OCC's By-Laws and Rules can be found on OCC's public website: *http://optionsclearing.com/about/publications/bylaws.jsp.*

*(B) Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing, and Settlement Supervision Act*

Description of Proposed Change

Background

This advance notice is being filed in connection with a proposed change in the form of the replacement of a revolving credit facility that OCC maintains for a 364-day term and that it may use: (i) In anticipation of a potential default by or suspension of a Clearing Member; (ii) to meet obligations arising out of the default or suspension of a Clearing Member; (iii) to meet reasonably anticipated liquidity needs for same-day settlement as a result of the failure of any bank or securities or commodities clearing organization to achieve daily settlement; or (iv) to meet obligations arising out of the failure of a bank or securities or commodities clearing organization to perform its obligations due to its bankruptcy, insolvency, receivership or suspension of operations (''Permitted Use Circumstances''). In any such Permitted Use Circumstance, OCC has certain conditional authority under its By-Laws and Rules to borrow or otherwise obtain funds from third parties using Clearing Member margin deposits and/or Clearing Fund contributions.[5]

OCC's existing credit facility (''Existing Facility'') was implemented as of June 28, 2018, through the execution of a credit agreement among OCC, the administrative agent, collateral agent and the lenders that are parties to the agreement from time to time. The Existing Facility provides short-term secured borrowings in an aggregate principal amount of $2 billion but may be increased to $3 billion if OCC so requests and sufficient commitments from lenders are received and accepted. To obtain a loan under the Existing Facility, OCC must pledge as collateral U.S. dollars, securities issued or guaranteed by the U.S. Government or the Government of Canada, S&P 500 Market Index equities, Exchange-Traded Funds (''ETFs''), American Depositary Receipts (''ADRs'') or certain government-sponsored enterprise (''GSE'') debt securities. Certain mandatory prepayments or deposits of additional collateral are required depending on changes in the collateral's

[5] *See generally* Article VIII of OCC's By-Laws and OCC Rules 1006(f), 1102 and 1104(b).

market value. In connection with OCC's past implementation of the Existing Facility, OCC filed an advance notice with the Commission on May 25, 2018, and the Commission published a Notice of No-Objection on June 27, 2018.[6]

Description of the Proposal

*Renewal.* The Existing Facility is set to expire on June 27, 2019. OCC is currently negotiating the terms of a new credit facility (''New Facility'') on substantially similar terms as the Existing Facility, and the definitive documentation concerning the New Facility is expected to be substantially similar to the definitive documentation concerning the Existing Facility. The proposed terms and conditions that are expected to be applicable to the New Facility, subject to agreement by the lenders, are set forth in the Summary of Terms and Conditions, which is not a public document.[7]

The conditions regarding the availability of the New Facility, which OCC anticipates will be satisfied on or about June 26, 2019, include the execution and delivery of: (i) A credit agreement between OCC and the administrative agent, collateral agent and various lenders under the New Facility; (ii) a pledge agreement between OCC and the administrative agent or collateral agent; and (iii) such other documents as may be required by the parties. The definitive documentation concerning the New Facility is expected to be consistent with the Summary of Terms and Conditions that is provided in confidential Exhibit 3, although it may include certain changes to business terms as may be necessary to obtain the agreement of lenders with sufficient funding commitments and certain changes as may be necessary regarding administrative and operational terms being finalized between the parties.

Certain changes are presently expected in connection with the New Facility regarding the securities collateral that OCC would be permitted to pledge to obtain a loan. Specifically, as described below, OCC would be permitted to pledge securities that are issued or guaranteed by certain foreign governments.

*Expansion of Permitted Collateral.* As noted above, OCC proposes to expand the types of permitted collateral under the New Facility. As proposed, OCC would be permitted to pledge a wider range of collateral under the New Facility to the extent that Clearing Members are permitted to use such collateral to make margin deposits and/or Clearing Fund contributions.

As described above, to obtain a loan under the Existing Facility OCC must pledge as collateral certain cash or securities that Clearing Members have contributed to the Clearing Fund or deposited as margin. Under OCC's By-Laws and Rules, Government Securities presently may be deposited by Clearing Members as margin assets[8] and Clearing Fund contributions.[9] The term Government Securities is defined in relevant part in OCC's By-Laws to mean ''securities issued or guaranteed by the United States or Canadian Government, or by any other foreign government acceptable to OCC . . .''[10] The Summary of Terms and Conditions for the New Facility contemplates that it would expand the scope of such collateral that OCC may pledge to include other categories of Government Securities that OCC may accept in the future. Specifically, the expanded Government Securities collateral regarding Clearing Member margin assets and Clearing Fund contributions would be debt securities that are issued by the Federal Republic of Germany, the Republic of France, Japan or the United Kingdom (''Additional G7 Governments'').[11] Under the proposed terms of the New Facility, debt securities of Additional G7 Governments would only be able to be used as collateral if they have minimum ratings of A (by Standard & Poor's) and A2 (by Moody's).[12]

Although OCC has not yet decided to accept as Clearing Member collateral any debt securities issued by the Additional G7 Governments, it may do so prior to the expiration of the New Facility because OCC believes that it would benefit some Clearing Members that have such securities and that would like to use them as collateral. Before OCC may accept a particular foreign sovereign's debt securities as margin assets or Clearing Fund contributions, the Collateral Risk Management Policy[13] provides that the Credit and Liquidity Risk Working Group within OCC must perform an analysis of the sovereign credit, market, and liquidity risks associated therewith, and it must also consider operational aspects of maintaining custody of the collateral and the manner in which OCC can perfect a security interest in the collateral given applicable bankruptcy and insolvency laws. Upon requisite approvals, including regarding any necessary rule filings with the Commission, OCC would accept the relevant debt securities of the Additional G7 Governments as Government Securities, and, in turn, it would be able to pledge such Government Securities in Permitted Use Circumstances to support the New Facility.[14]

Adding debt securities of Additional G7 Governments as permitted Government Securities collateral to the New Facility serves the purpose of aligning the scope of permitted collateral for the New Facility with the scope of Clearing Member collateral that may become available to OCC for borrowing purposes. Should OCC draw upon the New Facility in connection with a Permitted Use Circumstance at a time when the proposed debt securities of the Additional G7 Governments are permitted as margin assets and/or Clearing Fund contributions, OCC believes that it would be appropriate for it to be able to pledge those debt securities of the Additional G7 Governments.

Anticipated Effect on and Management of Risk

Completing timely settlement is a key aspect of OCC's role as a clearing agency performing central counterparty services. Overall, the New Facility would continue to promote the reduction of risks to OCC, its Clearing Members and the markets OCC serves in general because it would allow OCC to obtain short-term funds in the Permitted Use Circumstances. The existence of the

[6] *See* Securities Exchange Act Release No. 83529 (June 27, 2018), 83 FR 31237 (July 3, 2018) (SR–OCC–2018–802).

[7] OCC has separately submitted a request for confidential treatment to the Commission regarding the Summary of Terms and Conditions, which is included in this filing as Exhibit 3.

[8] *See* OCC Rule 604(b)(1).

[9] *See* OCC Rule 1002(a).

[10] *See* OCC By-Laws, Art. I, Section 1.G.(5).

[11] These four countries, like the U.S. and Canada, are also members of what is referred to as the Group of Seven, or simply the G7, that meets annually to confer regarding economic policies.

[12] Like other Government Securities that may be pledged as collateral under the Existing Facility, debt securities of the Additional G7 Governments would be subject to certain haircuts based on their remaining time to maturity.

[13] *See* Securities Exchange Act Release No. 82311 (December 13, 2017), 82 FR 60252 (December 19, 2017) (SR–OCC–2017–008).

[14] The Summary of Terms and Conditions explicitly provides that the securities of Additional G7 Governments may constitute collateral under the New Facility only after they are permitted to be pledged by Clearing Members into the Clearing Fund or deposited as margin deposits by Clearing Members. In 2017, the Commission issued a notice of no objection in connection with a similar change in the renewal of the credit facility where the terms were amended to permit OCC to pledge certain securities as collateral that OCC had not yet approved as acceptable collateral for margin deposits. *See* Securities Exchange Act Release No. 81058 (June 30, 2017), 82 FR 31371, 31373 (July 6, 2017) (SR–OCC–2017–803).

New Facility would therefore help OCC minimize losses in the event of a Permitted Use Circumstance, by allowing it to obtain funds on extremely short notice to ensure clearance and settlement of transactions in options and other contracts without interruption. OCC believes that the reduced settlement risk presented by OCC resulting from the New Facility would correspondingly reduce systemic risk and promote the safety and soundness of the clearing system. By drawing on the New Facility, OCC would also be able to avoid liquidating margin deposits or Clearing Fund contributions in what would likely be volatile market conditions, which would preserve funds available to cover any losses resulting from the failure of a Clearing Member, bank or other clearing organization. Expanding the scope of collateral that OCC is permitted to pledge to the New Facility to include the debt securities of the Additional G7 Governments would further this purpose by giving OCC greater flexibility to pledge a broader range of collateral that it determines is appropriate under the circumstances.

OCC otherwise believes that the proposed change would not otherwise affect or alter the management of risk at OCC because the New Facility would generally preserve the same terms and conditions as the Existing Facility.

Consistency With the Payment, Clearing and Settlement Supervision Act

The stated purpose of the Clearing Supervision Act is to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities and strengthening the liquidity of systemically important financial market utilities.[15] Section 805(a)(2) of the Clearing Supervision Act [16] also authorizes the Commission to prescribe risk management standards for the payment, clearing and settlement activities of designated clearing entities, like OCC, for which the Commission is the supervisory agency. Section 805(b) of the Clearing Supervision Act [17] states that the objectives and principles for risk management standards prescribed under Section 805(a) shall be to:

- Promote robust risk management;
- promote safety and soundness;
- reduce systemic risks; and
- support the stability of the broader financial system.

The Commission has adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act and the Exchange Act in furtherance of these objectives and principles.[18] Rule 17Ad–22 requires registered clearing agencies, like OCC, to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.[19] Therefore, the Commission has stated [20] that it believes it is appropriate to review changes proposed in advance notices against Rule 17Ad–22 and the objectives and principles of these risk management standards as described in Section 805(b) of the Clearing Supervision Act.[21]

OCC believes that the proposed changes are consistent with Section 805(b)(1) of the Clearing Supervision Act [22] because the New Facility would provide OCC with continued access to a stable and reliable source of committed liquidity that can be accessed in a timely manner to meet its settlement obligations, contain losses and liquidity pressures and mitigate OCC's liquidity risk. Accordingly, OCC believes that the proposed changes: (i) Are designed to promote robust risk management; (ii) are consistent with promoting safety and soundness; and (iii) are consistent with reducing systemic risks and promoting the stability of the broader financial system.

OCC believes that the New Facility is also consistent with the requirements of Rule 17Ad–22(e)(7) under the Act.[23] Rule 17Ad–22(e)(7) requires OCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively measure, monitor, and manage liquidity risk that arises in or is borne by OCC, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity, as specified in the rule.[24] In particular, Rule 17Ad–22(e)(7)(i) under the Act [25] directs that OCC meet this obligation by, among other things, ''[m]aintaining sufficient liquid resources at the minimum in all relevant currencies to effect same-day . . . settlement of payment obligations with a high degree of confidence under a wide range of foreseeable stress scenarios that includes, but is not limited to, the default of the participant family that would generate the largest aggregate payment obligation for [OCC] in extreme but plausible market conditions.''

As described above, the New Facility would provide OCC with a readily available liquidity resource that would enable it to, among other things, continue to meet its obligations in a timely fashion in a Permitted Use Circumstance and as an alternative to selling Clearing Member collateral under what may be stressed and volatile market conditions. The expansion of permitted collateral under the New Facility to include the debt securities of Additional G7 Governments would better enable OCC to manage liquidity risk associated with its settlement obligations in the event that OCC in the future accepts such debt securities as Government Securities by giving OCC the ability to pledge that broader range of Clearing Member collateral to the New Facility in Permitted Use Circumstances. For these reasons, OCC believes that the proposal is consistent with Rule 17Ad–22(e)(7)(i).[26]

Rule 17Ad–22(e)(7)(ii) under the Act requires OCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to hold qualifying liquid resources sufficient to satisfy payment obligations owed to Clearing Members.[27] Rule 17Ad–22(a)(14) of the Act defines ''qualifying liquid resources'' to include, among other things, lines of credit without material adverse change provisions, that are readily available and convertible into cash.[28] As with the Existing Facility, the New Facility would not be subject to any material adverse change provision and would continue to be designed to permit OCC to, among other things, help ensure that OCC has sufficient, readily-available qualifying liquid resources to meet the cash settlement obligations of its largest Clearing Member Group. Therefore, OCC believes that the proposal is consistent with Rule 17Ad–22(e)(7)(ii).[29]

For the foregoing reasons, OCC believes that the proposed changes are consistent with Section 805(b)(1) of the

[15] 12 U.S.C. 5461(b).

[16] 12 U.S.C. 5464(a)(2).

[17] 12 U.S.C. 5464(b).

[18] 17 CFR 240.17Ad–22. *See* Securities Exchange Act Release Nos. 68080 (October 22, 2012), 77 FR 66220 (November 2, 2012) (S7–08–11) (''Clearing Agency Standards''); 78961 (September 28, 2016), 81 FR 70786 (October 13, 2016) (S7–03–14) (''Standards for Covered Clearing Agencies'').

[19] 17 CFR 240.17Ad–22.

[20] *See supra* note 6.

[21] 12 U.S.C. 5464(b).

[22] 12 U.S.C. 5464(b)(1).

[23] 17 CFR 240.17Ad–22(e)(7).

[24] *Id.*

[25] 17 CFR 240.17Ad–22(e)(7)(i).

[26] *Id.*

[27] 17 CFR 240.17Ad–22(e)(7)(ii).

[28] 17 CFR 240.17Ad–22(a)(14).

[29] 17 CFR 240.17Ad–22(e)(7)(ii).

Clearing Supervision Act[30] and Rule 17Ad–22(e)(7)[31] under the Act.

Accelerated Commission Action Requested

Pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act,[32] OCC requests that the Commission notify OCC that it has no objection to the New Facility not later than Monday, June 24, 2019, which shall be two business days prior to the expected June 26, 2019 availability of the New Facility. OCC requests Commission action by this date to ensure that there is no period that OCC operates without this essential liquidity resource, given its importance to OCC's borrowing capacity in connection with its management of liquidity and settlement risk and timely completion of clearance and settlement.

## III. Date of Effectiveness of the Advance Notice and Timing for Commission Action

The proposed change may be implemented if the Commission does not object to the proposed change within 60 days of the later of (i) the date the proposed change was filed with the Commission or (ii) the date any additional information requested by the Commission is received. OCC shall not implement the proposed change if the Commission has any objection to the proposed change.

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension. A proposed change may be implemented in less than 60 days from the date the advance notice is filed, or the date further information requested by the Commission is received, if the Commission notifies the clearing agency in writing that it does not object to the proposed change and authorizes the clearing agency to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

OCC shall post notice on its website of proposed changes that are implemented. The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the advance notice is consistent with the Clearing Supervision 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–OCC–2019–803 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–OCC–2019–803. 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 advance notice that are filed with the Commission, and all written communications relating to the advance notice 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 self-regulatory organization and on OCC's website at *https://www.theocc.com/about/publications/bylaws.jsp*.

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–OCC–2019–803 and should be submitted on or before June 14, 2019.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11219 Filed 5–29–19; 8:45 am]

**BILLING CODE 8011–01–P**

[30] 12 U.S.C. 5464(b)(1).

[31] 17 CFR 240.17Ad–22(e)(7).

[32] 12 U.S.C. 5465(e)(1)(I).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85927; File Nos. SR–BOX–2018–24, SR–BOX–2018–37, and SR–BOX–2019–04]**

## In the Matter of the BOX Exchange LLC Regarding an Order Disapproving Proposed Rule Changes To Amend the Fee Schedule on the BOX Market LLC Options Facility To Establish BOX Connectivity Fees for Participants and Non-Participants Who Connect to the BOX Network; Order Granting Petition for Review and Scheduling Filing of Statements

May 23, 2019.

This matter comes before the Securities and Exchange Commission (''Commission'') on petition to review the disapproval, through delegated authority, of the BOX Exchange LLC (f/k/a BOX Options Exchange LLC) (''BOX'' or ''Exchange'') proposed rule changes (File Nos. SR–BOX–2018–24, SR–BOX–2018–37, and SR–BOX–2019–04) to amend the fee schedule on the BOX Market LLC (''BOX'') options facility to establish certain connectivity fees and reclassify its high speed vendor feed connection as a port fee.

On July 19, 2018, the Exchange filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change (SR–BOX–2018–24) (''BOX 1'') to amend the BOX fee schedule to establish certain connectivity fees and reclassify its high speed vendor feed connection as a port fee. BOX 1 was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[3] BOX 1 was published for comment in the **Federal Register** on August 2, 2018.[4] On September 17, 2018, the Division of Trading and Markets (''Division''), acting on behalf of the Commission by delegated authority, issued an order temporarily suspending BOX 1 pursuant to Section 19(b)(3)(C) of the Act[5] and simultaneously instituting proceedings under Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove BOX 1 (''Order Instituting Proceedings I'').[7]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] *See* Securities Exchange Act Release No. 83728 (July 27, 2018), 83 FR 37853.

[5] 15 U.S.C. 78s(b)(3)(C).

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 84168 (September 17, 2018), 83 FR 47947 (September 21, 2018).

On September 26, 2018, the Exchange filed a petition for review of Order Instituting Proceedings I (''BOX 1 Petition'').[8] On November 16, 2018, the Commission granted the BOX 1 Petition.[9] On January 25, 2019, pursuant to Section 19(b)(2) of the Act,[10] the Commission designated a longer period within which to approve or disapprove BOX 1.[11] On February 25, 2019, the Commission issued an order affirming the staff's action by delegated authority temporarily suspending the rule filing and instituting proceedings.[12]

On November 30, 2018, the Exchange filed with the Commission a second proposed rule change (SR–BOX–2018–37) (''BOX 2'') to amend the BOX fee schedule to establish the same fees established by BOX 1.[13] BOX 2 was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[14] On December 14, 2018, the Division, acting on behalf of the Commission by delegated authority, issued a notice of BOX 2 and order temporarily suspending BOX 2 pursuant to Section 19(b)(3)(C) of the Act[15] and simultaneously instituting proceedings under Section 19(b)(2)(B) of the Act[16] to determine whether to approve or disapprove BOX 2.[17]

On February 13, 2019, the Exchange filed with the Commission a third proposed rule change (SR–BOX–2019–04) (''BOX 3'' and, together with BOX 1 and BOX 2, ''proposed rule changes'') to amend the BOX fee schedule to establish the same fees proposed by BOX 1 and BOX 2.[18] BOX 3 was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[19] On February 26, 2019, the Division, acting on behalf of the Commission by delegated authority, issued a notice of BOX 3 and order temporarily suspending BOX 3 pursuant to Section 19(b)(3)(C) of the Act[20] and simultaneously instituting proceedings under Section 19(b)(2)(B) of the Act[21] to determine whether to approve or disapprove BOX 3 (''Order Instituting Proceedings III'').[22] On March 5, 2019, the Exchange filed a petition for review of Order Instituting Proceedings III (''BOX 3 Petition'').[23] On March 22, 2019, the Commission granted the BOX 3 Petition and issued an order affirming the action by delegated authority.[24]

After consideration of the record in the proposed rule changes, the Division, pursuant to delegated authority,[25] issued an order disapproving the proposed rule changes on March 29, 2019.[26] On April 8, 2019, pursuant to Rule 430 of the Commission's Rules of Practice,[27] the Exchange filed a petition for review of the Disapproval Order.

Pursuant to Rule 431 of the Commission's Rules of Practice,[28] the Exchange's petition for review of the Disapproval Order is granted. Further, the Commission hereby establishes that any party to the action or other person may file a written statement in support of or in opposition to the Disapproval Order on or before June 20, 2019.

For the reasons stated above, it is hereby:

*Ordered* that the Exchange's petition for review of the Division's action to disapprove the proposed rule changes by delegated authority is *granted*; and

It is further *ordered* that any party or other person may file a statement in support of or in opposition to the action made pursuant to delegated authority on or before June 20, 2019.

The order disapproving the proposed rule changes shall remain in effect.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11230 Filed 5–29–19; 8:45 am]

**BILLING CODE 8011–01–P**

[8] *See* Petition for Review of Order Temporarily Suspending BOX Exchange LLC's Proposal to Amend the Fee Schedule on BOX Market LLC, dated September 26, 2018.

[9] *See* Securities Exchange Act Release No. 84614 (November 16, 2018), 83 FR 59432 (November 23, 2018).

[10] 15 U.S.C. 78s(b)(2).

[11] *See* Securities Exchange Act Release No. 84989, 84 FR 858 (January 31, 2019). The Commission designated March 29, 2019, as the date by which the Commission would approve or disapprove BOX 1.

[12] *See* Securities Exchange Act Release No. 85184, 84 FR 6842 (February 28, 2019).

[13] The proposed fees in BOX 2 were identical to those proposed in BOX 1 and the Form 19b–4 for the two filings were substantively identical, except BOX 2 also identified the categories of the Exchange's costs to offer connectivity services and stated that the proposed fees would ''offset'' the Exchange's costs. *See* Securities Exchange Act Release No. 85459 (March 29, 2019), 84 FR 13363, 13364, n.22 (April 4, 2019) (''Disapproval Order'').

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 15 U.S.C. 78s(b)(3)(C).

[16] 15 U.S.C. 78s(b)(2)(B).

[17] *See* Securities Exchange Act Release No. 84823 (December 14, 2018), 83 FR 65381 (December 20, 2018).

[18] The proposed fees in BOX 3 were identical to those proposed in BOX 2 and the Form 19b–4 for the two filings were substantively identical. *See* Disapproval Order, *supra* note 13, at 13364, n.28.

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 15 U.S.C. 78s(b)(3)(C).

[21] 15 U.S.C. 78s(b)(2)(B).

[22] *See* Securities Exchange Act Release No. 85201, 84 FR 7146 (March 1, 2019).

[23] *See* Petition for Review of Order Temporarily Suspending BOX Exchange LLC's Proposal to Amend the Fee Schedule on BOX Market LLC, dated March 5, 2019.

[24] *See* Securities Exchange Act Release No. 85399, 84 FR 11850 (March 28, 2019).

[25] 17 CFR 200.300–3(a)(12).

[26] *See* Disapproval Order, *supra* note 13.

[27] 17 CFR 201.430.

[28] 17 CFR 201.431.

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85922; File No. SR–NYSEArca–2019–35]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 6.60–O

May 23, 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 May 10, 2019, NYSE Arca, Inc. (''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 amend Rule 6.60–O (Price Protection—Orders) to enhance its current price protection mechanisms and adopt certain new price protection functionality for orders. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend Rule 6.60–O (Price Protection—Orders) to enhance its current price protection mechanisms and adopt certain new price protection functionality for Limit Orders, specifically, Price Reasonability Checks.

The Exchange has in place various price check mechanisms that are designed to prevent incoming orders from automatically executing at potentially erroneous prices.[4] These mechanisms are designed to help maintain a fair and orderly market by mitigating potential risks associated with orders trading at prices that are extreme and potentially erroneous. The Exchange proposes to adopt Rule 6.60–O(c) to add new price protection mechanisms for orders to help further prevent potentially erroneous executions.

Price Reasonability Checks

Proposed Rule 6.60–O(c) would provide Price Reasonability Checks (the ''Price Checks'' or ''Checks'') for Limit Orders based on the principle that an option order is in error and should be rejected (or canceled) when the same result can be achieved on the market for the underlying equity security at a lesser cost.[5] The proposed Checks are based on the consolidated last sale price of the security underlying the option, once the security opens for trading (or reopens following a Trading Halt).[6] The Exchange notes that it currently has price checks in place for Market Maker quotes that are similar to the checks for options orders proposed herein (the ''MM Quote Price Checks'').[7]

Buy Orders Arbitrage Checks

Proposed Rule 6.60–O(c)(1) would protect buyers of puts and calls from presumptively erroneous executions. A buy order in a put series provides the right to *sell* the underlying security at the strike price, which strike price represents the option's maximum value. Proposed Rule 6.60–O(c)(1)(A) would provide that an order to buy a put would be rejected or canceled if the price of the order is equal to or greater than the strike price of the option. For example, assume that SeriesA is a put series based on Underlying ABC, which has a strike price of $50.00. FIRM1 submits a new buy order on SeriesA for $50.00, which would be rejected because it is priced equal to the $50.00 strike price. Because the Exchange presumes such orders with a price that equals or exceeds the strike price of the option to be erroneous, the Exchange believes it would be appropriate to reject or cancel such orders. In addition to being similar to the MM Quote Check, this functionality is also available on at least one other options exchange.[8]

A buy order in a call series provides the right to *buy* the underlying security at the strike price. Proposed Rule 6.60–O(c)(1)(B) would provide that an order to buy a call option would be canceled or rejected if the price of the order is equal to or greater than the consolidated last sale price of the underlying security (the ''last sale price''), plus a dollar amount to be determined by the Exchange (the ''specified dollar amount'') and announced by Trader Update.[9] In general, a derivative product that conveys the right to buy the underlying should not be priced higher than the prevailing value of the underlying itself. In that case, a market participant could just purchase the underlying at the prevailing value rather than pay a larger amount for the call by incurring the option premium. However, the Exchange believes a specified dollar amount is reasonable because in certain situations, market participants opt to execute certain trades (which may be part of a strategy) even if such trades occur for a price more than the last sale price.[10] However, absent the cap provided by the specified dollar, such trades could occur at prices that are too far away from the last sale price and would be deemed potentially erroneous. The Exchange also believes that allowing for the specified dollar amount above the last sale price for buy orders in call options would help address certain market scenarios, including during periods of extreme price volatility. In addition to being similar to the MM Quote Check, this functionality is also available on at least one other options exchange.[11]

The following examples illustrate this proposed functionality. For each example SeriesA is a call series based on Underlying ABC, which has a last sale price of $50.00.

*Example 1:* The Exchange-determined specified dollar amount is $0.00, which means orders equal to or greater than $50.00 will be rejected (*i.e.,* $50.00 (last sale) + $0.00 (specified dollar amount)). FIRM1 submits an order to buy a call in SeriesA for $51.00, which would be rejected because it is greater than $50.00. Similarly, if FIRM1 submits an order to buy a call in SeriesA for $50.00 during pre-open, the order would be accepted and held until series opens. When SeriesA opens, the order would be rejected because it is equal to $50.00.

*Example 2:* The Exchange-determined specified dollar amount is $5.00, which means orders equal to or greater than $55.00 will be rejected (*i.e.,* $50.00 (last sale) + $5.00 (specified dollar amount)). FIRM1 submits an order to buy a call in SeriesA for $55.00, which would be rejected because it is equal to $55.00. However, if the FIRM1 were to submit an order to buy a call in SeriesA for $50.00, this would be accepted because $50.00 is less than $55.00.

Sell Orders Intrinsic Value Checks

Proposed Rule 6.60–O(c)(2) would protect sellers of calls and puts based on the ''Intrinsic Value'' of an option, which is measured as the difference

[4] *See, e.g.,* Rules 6.60–O(a) (trading collars) and (b) (limit order price filter), 6.61–O (price protection for Market Maker quotes).

[5] A Limit Order is an order to buy or sell a stated number of option contracts at a specified price, or better. *See* Rule 6.62–O(b). The proposed Price Checks apply solely to single-leg Limit Orders and are not available for Complex Orders. The Exchange notes that Complex Orders are subject to separate price protections. *See* Rule 6.91–O, Commentary .05 (price protection filter) and .06 (debit/credit reasonability checks).

[6] *See* proposed Rule 6.60–O(c).

[7] *See* Rule 6.61–O (providing two layers of price protection for quotes. The first layer assesses incoming sell quotes against the NBB and incoming buy quotes against the NBO; the second layer assesses the price of call or put bids against a specified (price) benchmark).

[8] *See* Rule 6.61–O(a)(3) (providing in relevant part that ''[a] Market Maker bid for Put options will be rejected if the price of the bid is equal to or greater than the strike price of the option''). *See also* Chicago Board Options Exchange, Inc. (''CBOE'') Rule 6.14(a)(i)(A) (providing, in relevant part, that quote or buy limit orders for a put will be rejected if the price of the quote bid or order is equal to or greater than the strike price of the option).

[9] The Exchange anticipates that it would initially set the specified dollar amount to $0.50 and whether and when that amount changes would depend upon the interest and/or behavior of market participants.

[10] A small incremental allowance outside of the last sale price allows for a small premium to offset commissions associated with trading and may incentivize participants to take the other side of trades at or slightly outside of the last sale price. For the participant looking to close out their position, it may be financially beneficial to pay a small premium and close out the position rather than carry such position to expiration and take delivery. The purpose of this rule change is not to impede current order handling but to ensure execution prices are within a reasonable range of the last sale price.

[11] *See* Rule 6.61–O(a)(2) (providing in relevant part that ''Market Maker bids for Call options will be rejected if the price of the bid is equal to or greater than the price of the underlying security''). *See* CBOE Rule 6.14(a)(i)(B) (providing, in relevant part, that quote or buy limit orders for a call will be rejected if ''the quote bid or order is equal to or greater than the consolidated last sale price of the underlying security'' for equity and ETF options). CBOE also applies this check to index options based on the last disseminated value of the underlying index, which check the Exchange is not proposing in this filing. Unlike the current proposal, CBOE does not retain discretion to cancel/reject orders that are a specified dollar amount greater than the strike price.

between the strike price and the last sale price. A sell order in a call series creates an obligation to *sell* the underlying security at the strike price and a sell order in a put series creates an obligation to *buy* the underlying security at the strike price. Thus, the Intrinsic Value for a call option is equal to the last sale price minus the strike price; whereas the Intrinsic Value for a put option is equal to the strike price minus the last sale price.[12]

Proposed Rule 6.60–O(c)(2)(A) would provide that orders to sell for both calls and puts would be canceled or rejected as presumptively erroneous if the price of the order is equal to or lower than its Intrinsic Value, minus a threshold percentage (the ''threshold percentage'') to be determined by the Exchange and announced by Trader Update.[13] The Exchange believes having a threshold percentage is reasonable because in certain situations market participants willingly want to execute certain trading strategies even if such trades occur for a price less than the Intrinsic Value.[14] However, absent the cap provided by the threshold percentage, such trades could occur at prices that are too far away from the Intrinsic Value and would be deemed potentially erroneous. In addition, the threshold percentage would allow the Exchange to account for market scenarios, including during periods of extreme price volatility.

The following examples illustrate this proposed functionality.

*Example 1:* SeriesA is a call series based on Underlying ABC, which has a last sale price of $220.00 and a strike price of $210.00. The Exchange-determined threshold percentage is 0%, which means the Intrinsic Value is $10.00. FIRM1 submits a new sell order on SeriesA for $9.90, which would be rejected because it is below the threshold of $10.00 ($220.00 – $210.00) * (100 – 0%) / 100.

*Example 2:* SeriesA is a put series based on Underlying ABC, which has a last sale price of $210.00 and a strike price of $220.00. The Exchange-determined threshold percentage is 0%, which means the Intrinsic Value is $10.00. FIRM1 submits a sell order on SeriesA for $10.00, which would be rejected because it is equal to the threshold of $10.00 ($220.00 – $210.00) * (100 – 0%) / 100.

*Example 3:* SeriesA is a call series based on Underlying ABC, which has a last sale price of $220.00 and a strike price of $210.00.The Exchange-determined threshold percentage is 10%, which means the Intrinsic Value is $9.00. FIRM1 submits a sell order on SeriesA for $9.90, which would be accepted because it is above the threshold of $9.00 ($220.00 – $210.00) * (100 – 10%) / 100.

Excluded From Price Checks

Consistent with the operation of the MM Quote Price Checks,[15] proposed Commentary .01 to the Rule would provide that the Price Checks would not apply to ''(i) any options series for which the underlying security has a non-standard cash or stock deliverable as part of a corporate action; (ii) any options series for which the underlying security is identified as over-the counter ('OTC' or 'Pink Sheets'); (iii) any option series on an index; and (iv) Binary Return Derivatives ('ByRDs')'' (the ''Excluded Options'').[16]

The proposed change would enable the Exchange to implement the Price Checks and apply the Checks to securities for which there is reliable price data for the underlying security to perform the Check. Specifically, like the MM Quote Checks, the Exchange would exclude any options series for which the underlying security has a non-standard cash or stock deliverable as part of a corporate action because the last sale information would not have been adjusted for the non-standard deliverable, and would therefore be unreliable. Also, like the MM Quote Checks, options whose underlying security is traded OTC or Pink Sheets would be considered Excluded Options because the last sale information for such underlying securities is not available on an active market data feed. The Exchange would also exclude any options series overlying a stock index because Exchange does not subscribe to receive last sale information for such indices. Moreover, like the MM Quote Checks, the Exchange would exclude options on ByRDs because ByRDS track a value weighted average price (''VWAP'') and not the last sale of the underlying security.[17]

Consistent with the MM Quote Checks, the Exchange also proposes to exempt from the Price Check any option series for which the Exchange determines it is necessary to exclude underlying securities in the interests of maintaining a fair and orderly market.[18] The Exchange believes this proposed change would enable the Exchange to exclude option series, other than Excluded Options, from the Price Checks if the Exchange determines that the price protection feature would not function for the purpose of preventing erroneous orders.[19] For example, if the last sale is zero, for whatever reason, the Exchange would have the discretion to forego the price check for a particular order. Similarly, if there was some other event or change that impacted the underlying security (for example if there was a change to the ticker symbol for the underlying security), the Exchange would retain discretion to exclude the affected options series from the Price Checks. The Exchange has retained discretion to maintain a fair and orderly market for the MM Quote Checks and notes that another options exchange likewise has retained discretion for similar checks as relates to orders.[20]

Technical Change To Limit Order Filter

Rule 6.60–O(b) describes the Limit Order Filter, which is another price protection that rejects limit orders that are priced a specified percentage away from the contra-side NBB or NBO feature offered by Exchange. The current Rule provides that limit orders received prior to the open ''will be rejected immediately before the Exchange conducts a Trading Auction of Rule 6.64–O.'' The Exchange proposes to clarify that such orders are not ''rejected immediately,'' but are instead accepted and then ''canceled'' before the Exchange conducts the Trading Auction ''per Rule 6.64–O''—as ''of Rule 6.64–O'' is not grammatically correct.[21] These proposed textual changes would more accurately reflect the treatment of such orders.

[12] *See* proposed Rule 6.60–O(c)(2).

[13] The Exchange anticipates that it would initially set the threshold percentage to ten percent (10%) and whether and when that amount changes would depend upon the interest and/or behavior of market participants.

[14] A small incremental allowance outside of the Intrinsic Value allows for a small premium to offset commissions associated with trading and may incentivize participants to take the other side of trades at or slightly outside of the Intrinsic Value. For the participant looking to close out their position, it may be financially beneficial to pay a small premium and close out the position rather than carry such position to expiration and take delivery. The purpose of this rule change is not to impede current order handling but to ensure execution prices are within a reasonable range of the Intrinsic Value of the option.

[15] *See* Rule 6.61–O, Commentary .01.

[16] *See* proposed Rule 6.60–O, Commentary .01. *See also* proposed Rule 6.60–O(c) (providing that the Price Checks would apply, ''except as provided in Commentary .01 to this Rule'').

[17] *See generally* Section 8, Binary Return Derivatives, Rules 5.82–O—5.95–O. ByRDs are European-style option contracts on individual stocks, exchange-traded funds and Index-Linked Securities that have a fixed return in cash based on a set strike price.

[18] *See* proposed Rule 6.60–O, Commentary .01(v).

[19] The Exchange would document, retain, and periodically review any Exchange decision to not apply the Price Checks, including the reason for the decision.

[20] *See* Rule 6.61–O, Commentary .01. CBOE Rule 6.14(a)(ii) (providing that CBOE ''may determine not to apply to a class either the put check in subparagraph (i)(A) or the call check in subparagraph (i)(B) above if a senior official at the Exchange's Help Desk determines the applicable check should not apply in the interest of maintaining a fair and orderly market'').

[21] *See* proposed Rule 6.60–O(b).

Implementation

The Exchange will announce by Trader Update the implementation date of the proposed rule change.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[22] in general, and furthers the objectives of Section 6(b)(5) of the Act,[23] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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.

In particular, the Exchange believes the proposed Price Checks would protect investors and the public interest and maintain fair and orderly markets by mitigating potential risks associated with market participants entering orders at unintended prices and orders trading at prices that are potentially erroneous, which may likely have resulted from human or operational error. The proposed Price Checks of the reasonability of Limit Order prices would assist in the maintenance of a fair and orderly market and protect investors by rejecting (or canceling) orders that exceed the corresponding benchmark. With regard to the proposed use of the specified dollar amount (as relates to buy orders for call options) and the threshold percentage (as relates to sell orders for puts and calls), the Exchange notes that in certain situations, market participants may opt to execute certain trades (that may be part of a strategy) even if such trades occur outside/away from the last sale price of the underlying or intrinsic value at seemingly erroneous prices. The Exchange believes it is appropriate to provide market participants flexibility to allow them to execute these trading strategies and therefore to adopt a buffer to permit the execution of such trades.[24]

Similarly, the Exchange believes it is appropriate to have this flexibility to determine times when the check should not apply to respond to market events, such as times of extreme price volatility. This assists the Exchange's maintenance of a fair and orderly market, which ultimately removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest.

With regard to the Excluded Options, the Exchange believes that where no reliable pricing data is available, it is appropriate to exclude such options from the Price Checks. Without such pricing information, there is risk that the Exchange may cancel or reject appropriately priced Limit Orders, which could negatively impact market participants. Further, the Exchange believes it is appropriate to have the flexibility to disable the Price Checks in response to a market event (for example, if dissemination of data was delayed and resulting in unreliable underlying values) to maintain a fair and orderly market. This will promote just and equitable principles of trade and ultimately protect investors.

The Exchange believes that the proposed Price Checks, which are substantially similar to the MM Quote Checks, would further mitigate the risk to market participants that orders are executed at erroneous prices. Specifically, the Exchange believes that the Price Checks, which are responsive to member input, will facilitate transactions in securities and perfect the mechanism of a free and open market by providing OTP Holders and OTP Firms (''OTPs'') with additional functionality that will assist them with managing their risk. Thus, the Exchange is proposing the Price Checks for the benefit of, and in consultation with, OTPs. The Exchange believes the proposed rule change will help the Exchange to maintain a fair and orderly market, and provide a valuable service to investors.

Technical Changes

The Exchange notes that the proposed change to Rule 6.60–O(b) regarding the treatment of certain orders subject to the Limit Order Filter would provide clarity and transparency to Exchange rules and would promote just and equitable principles of trade and remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The proposed rule amendments would also provide internal consistency within Exchange rules and operate to protect investors and the investing public by making the Exchange rules easier to navigate and comprehend.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change adds price protection mechanisms for option orders of all OTPs submitted to the Exchange to help further prevent potentially erroneous executions, which benefits all market participants. The Price Checks apply in same manner to all OTPs that submit orders that are subject to the Price Checks. The Exchange believes the proposed rule change would provide market participants with additional protection from anomalous or erroneous executions.

The Exchange does not believe that the proposed enhancement to the existing price protections would impose a burden on competing options exchanges. Rather, it provides OTPs with the opportunity to avail themselves of similar protections that are currently available on the Exchange for Market Maker quotes and on another exchange for orders.[25]

Finally, the Exchange does not believe that the proposed clarifications to Limit Order Filter would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act as these changes are not intended to address any competitive issues and would instead add more specificity, clarity and transparency regarding this functionality.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[26] and Rule 19b–4(f)(6) thereunder.[27]

[22] 15 U.S.C. 78f(b).

[23] 15 U.S.C. 78f(b)(5).

[24] Nasdaq ISE, LLC has adopted a buffer when determining the calculation of the minimum/maximum values for certain complex order strategies. *See* Securities Exchange Act Release No. 83464 (June 19, 2018), 83 FR 29583 (June 25, 2018) (SR–ISE–2018–55).

[25] *See supra* nn. 8, 11, 15, 19–20, 24.

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f)(6).

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2019–35 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–2019–35. 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–NYSEArca–2019–35 and should be submitted on or before June 20, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11234 Filed 5–29–19; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85923; File No. SR–ISE–2019–15]**

## Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Market Maker Plus Program Under Options 7, Section 3

May 23, 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 May 10, 2019, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Market Maker Plus program under Options 7, Section 3.

The text of the proposed rule change is available on the Exchange's website at *http://ise.cchwallstreet.com/*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to amend the qualifications for Market Makers to achieving Market Maker Plus status.

The Exchange initially filed the proposed pricing changes on May 1, 2019 (SR–ISE–2019–13). On May 10, 2019, the Exchange withdrew that filing and submitted this filing.

As set forth in note 5 under Section 3 of the Pricing Schedule, the Exchange operates a Market Maker Plus program for regular orders in Select Symbols[3] that provides the below tiered rebates to Market Makers[4] based on time spent quoting at the National Best Bid or National Best Offer (''NBBO'').[5] This program is designed to reward Market Makers that contribute to market quality by maintaining tight markets in Select Symbols.

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[28] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''Select Symbols'' are options overlying all symbols listed on the Nasdaq ISE that are in the Penny Pilot Program.

[4] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* ISE Rule 100(a)(32).

[5] If a Market Maker would qualify for a different Market Maker Plus tier in each of the two successive 30 calendar day periods, then the lower of the two Market Maker Plus tier rebates shall apply to all contracts. The Market Maker Plus tiered rebate amounts and the specified percentage thresholds outlined in this filing will remain unchanged under this proposal.

SELECT SYMBOLS OTHER THAN SPY, QQQ, IWM, AMZN, FB, AND NVDA

| Market Maker Plus tier (specified percentage) | Maker rebate |
|---|---|
| Tier 1 (80% to less than 85%) | ($0.15) |
| Tier 2 (85% to less than 95%) | (0.18) |
| Tier 3 (95% or greater) | (0.22) |

SPY, QQQ, AND IWM

| Market Maker Plus tier (specified Percentage) | Regular Maker rebate | Linked Maker rebate |
|---|---|---|
| Tier 1 (70% to less than 80%) | ($0.00) | N/A |
| Tier 2 (80% to less than 85%) | (0.18) | (0.15) |
| Tier 3 (85% to less than 90%) | (0.22) | (0.19) |
| Tier 4 (90% or greater) | (0.26) | (0.23) |

AMZN, FB, AND NVDA

| Market Maker Plus tier (specified percentage) | Maker rebate |
|---|---|
| Tier 1 (70% to less than 85%) | (0.15) |
| Tier 2 (85% to less than 95%) | (0.18) |
| Tier 3 (95% or greater) | (0.22) |

Market Makers are evaluated each trading day for the percentage of time spent on the NBBO for qualifying series that expire in two successive thirty calendar day periods beginning on that trading day.[6] A Market Maker Plus is a Market Maker who is on the NBBO a specified percentage of the time on average for the month based on daily performance in the qualifying series for each of the two successive periods described above.[7]

Market Makers may enter quotes in a symbol using one or more unique, exchange assigned identifiers—*i.e.,* badge/suffix combinations. Market Maker Plus status is calculated independently based on quotes entered in a symbol for each of the Market Maker's badge/suffix combinations, and the highest tier achieved for any badge/suffix combination quoting that symbol applies to executions across all badge/suffix combinations that the member uses to trade in that symbol. Thus, as currently implemented in the Exchange's billing system, the rebates are applied across the entire firm based on the highest Market Maker Plus tier achieved by one of the firm's badge/suffix combination in a particular symbol within a particular billing month.[8] Furthermore, a Market Maker's worst quoting day each month for each of the two successive periods described above, on a per symbol basis, is excluded in calculating whether a Market Maker qualifies for this rebate.[9]

While the Exchange believes that the Market Maker Plus program has been successful overall in encouraging better market quality in Select Symbols, and that the language selecting the highest badge/suffix combination of a firm seeks to reward the Market Maker for consistent quoting, the Exchange has also identified certain instances where allowing the program benefits to accrue to all badge/suffix combinations once a single badge/suffix combination qualifies for a Market Maker Plus tier would not necessarily improve market quality, particularly in instances where a Market Maker shuts down one of its badge/suffix combinations mid-month.

For example, assume Market Maker A is configured to trade AAPL in the following badge/suffix combinations: 123A, 123B, and 123C. Assume further that Market Maker A's performance for the following trading days in May for both successive 30 calendar day periods are as follows:

- May 1: Market Maker A is at the NBBO for 95% of the time in 123A, and 50% of the time in 123B and 123C. As of May 1, Market Maker A would qualify for Market Maker Plus Tier 3 based on the tier achieved by 123A.
- May 2: Market Maker A is at the NBBO for 10% of the time in 123A, 123B, and 123C.
- May 3: Market Maker A decides to shut down 123A, and quotes at the NBBO for 50% of the time in 123B and 123C.
- Market Maker A is at the NBBO for 50% of the time in 123B and 123C for the rest of May.

The Exchange currently rebates the above example based on the Market Maker Plus language which states that the Exchange will apply the rebate for the highest tier achieved for any badge/suffix combination quoting that symbol across all badge/suffix combinations that the member uses to trade in that symbol. The language also provides that a Market Maker's worst quoting day each month will be thrown out. As a result, Market Maker A would receive the $0.22 per contract Tier 3 rebate for May because the Exchange's billing system picked up 123A as the highest achieving badge/suffix combination within that month (which is then

[6] Qualifying series are series trading between $0.03 and $3.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $3.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium.

[7] Thus, for example, on May 1 the periods referenced above would include all expirations: (1) From May 1–May 30 and (2) from May 31–June 29.

[8] For example, assume Market Maker A is configured to trade in AAPL in the following badge/suffix combinations: 123A, 123B, and 123C, and is on the NBBO 95% of the time in 123A, 85% of the time in 123B, and 10% of the time in 123C. Based on these facts, Market Maker A would qualify for the Tier 3 rebate of $0.22 per contract in AAPL for 123A based on a time at the NBBO of 95% or greater. In addition, Market Maker A would qualify for the same Tier 3 rebate in AAPL for 123B and 123C as the highest tier achieved is applied to all badge/suffix combinations.

[9] In addition, the Exchange may exclude from any member's monthly Market Maker Plus tier calculation any Unanticipated Event; provided that the Exchange will only remove the day for members that would have a lower time at the NBBO for the specified series with the day included. *See* Options 7, Section 1(a)(2) for the definition of ''Unanticipated Event.''

applied across all badge/suffix combinations—*i.e.,* 123B and 123C), and also struck May 2 as its worst quoting day. In this case, the market has not necessarily improved in this symbol because Market Maker A was quoting on 123A for only two days. This is further compounded by the fact that one of those days was thrown out under the current rule, such that Market Maker A only needed to quote above the Tier 3 threshold for one day in order to receive the rebate.

The Exchange therefore proposes to change its Market Maker Plus qualifications to ensure that Market Makers make quality markets for a significant number of days within a month. In particular, the Exchange proposes to add the following language in Section 3, note 5: ''Only badge/suffix combinations quoting a minimum of ten trading days within the month will be used to determine whether the Market Maker Plus status has been met and the specific tier to be applied to the Market Maker's performance for that month.'' Thus under the proposal, Market Makers would need to quote in a badge/suffix combination for at least 10 trading days within a given month as a prerequisite to qualifying for Market Maker Plus, and the Market Maker's quoting activity on such badge/suffix combination would be used to determine which Market Maker Plus tier (if any) applies to that Market Maker for that month.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[11] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the Market Maker Plus specification that the highest badge/suffix combination will be used for calculation honors the Market Maker Plus participants in their best efforts to improve the quality of the markets. The Exchange, in light of the above example and similar situations, would like to ensure that the participants of the Market Maker Plus program are making quality markets for an appreciable number of days in order to qualify for the enhanced rebate. The Exchange believes that the proposed changes to impose a minimum number of trading days for quoting on a single badge/suffix combination to include that badge/suffix combination into the calculation of Market Maker Plus status are reasonable and equitable as these changes are designed to encourage Market Makers to make quality markets in Select Symbols and thereby further the goal of the Market Maker Plus program. The Exchange believes that the proposed minimum of ten trading days is reasonable and equitable because it requires a Market Maker to quote using a badge/suffix combination for a significant amount of days within a month in order to receive the enhanced rebates. The Exchange believes its proposal is appropriate in light of how the current program is implemented on the billing system, and avoids situations where members can glean program benefits without particularly improving market quality.

The Exchange believes that the proposed changes to the qualifications to Market Maker Plus are not unfairly discriminatory as all Market Makers will be subject to the same qualification criteria for Market Maker Plus. The Exchange also continues to believe that it is not unfairly discriminatory to offer rebates under this program to only Market Makers since Market Makers and, in particular, those Market Makers that participate in the Market Maker Plus Program and achieve Market Maker Plus status, are subject to additional requirements and obligations (such as quoting obligations) that other market participants are not.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are designed to ensure that the goals of the Exchange's Market Maker Plus program are furthered by ensuring that Market Makers make quality markets in Select Symbols for a significant amount of days within the month. The Exchange operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[12] and Rule 19b–4(f)(2) [13] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov. Please include File Number SR–ISE–2019–15 on the subject line.*

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2019–15. 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

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4) and (5).

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number *SR–ISE–2019–15* and should be submitted on or before June 20, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11235 Filed 5–29–19; 8:45 am]

**BILLING CODE 8011–01–P**

[14] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85930; File No. SR–NYSE–2019–26]**

## Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change of New Rule 7.44 To Operate Its Retail Liquidity Program on Pillar, the Exchange's New Technology Trading Platform

May 23, 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 May 13, 2019, New York Stock Exchange LLC (''NYSE'' or the ''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 new Rule 7.44 to operate its Retail Liquidity Program on Pillar, the Exchange's new technology trading platform. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Rule 107C sets forth the Exchange's Retail Liquidity Program (the ''Program''). To support the transition of NYSE-listed securities to the Exchange's Pillar trading platform, the Exchange proposes to relocate the substance of Rule 107C to Rule 7.44. As part of the transition of the Program to Pillar, the Exchange proposes the following substantive differences: (i) Define Retail Price Improvement Orders using Pillar terminology based on text used by NYSE Arca, Inc., the Exchange's affiliate, and new proposed rule text that uses Pillar terminology to describe the existing offset functionality and rank such orders as Priority 3—Non-Display Orders; (ii) remove unused functionality by adopting a single category of Retail Order and eliminating the Type 2 and Type 3 Retail Orders; and (iii) trade Retail Orders against eligible contra-side orders at the best available prices rather than a single ''clean-up price'' and allocate resting orders at the same price pursuant to the Exchange's established Pillar parity allocation process under Rule 7.37(b).

The Exchange established the Program on a pilot basis to attract retail order flow to the Exchange, and allow such order flow to receive potential price improvement.[3] The Program is limited to trades in NYSE-listed securities occurring at prices equal to and greater than $1.00 a share and was recently approved by the Commission to operate on a permanent, rather than pilot, basis.[4]

Under Rule 107C, a class of market participant called Retail Liquidity Providers (''RLPs'') and non-RLP member organizations are able to provide potential price improvement to retail investor orders in the form of a non-displayed order that is priced at least $0.001 better than the best protected bid or offer (''PBBO''), called a Retail Price Improvement Order (''RPI'').[5] When there is an RPI in a particular security, the Exchange disseminates an indicator, known as the Retail Liquidity Identifier (''RLI''), that such interest exists. Retail Member Organizations (''RMOs'') can submit a Retail Order to the Exchange, which interacts, to the extent possible, with available contra-side RPIs and orders with a working price between the PBBO. The segmentation in the Program allows retail order flow to receive potential price improvement as a result of their order flow being deemed more desirable by liquidity providers.[6]

Proposed Rule 7.44, Retail Liquidity Program

The Exchange proposes that Rule 7.44 would set forth the Program under the Exchange's Pillar Platform Rules and would use Pillar terminology based on NYSE Arca, Inc. (''NYSE Arca'') Rule 7.44–E. Except for the differences described below, proposed Rule 7.44 is substantively based on Rule 107C: Proposed Rules 7.44(a)(1)–(3), 7.44(b), 7.44(c), 7.44(d), 7.44(e), 7.44(f), 7.44(g), 7.44(h), 7.44(i), and 7.44(j) are based on current rules 107C(a)(1)–(3), 107C (b), 107C (c), 107C (d), 107C (e), 107C (f), 107C (g), 107C (h), 107C (i), and 107C (j), respectively, with only minor non-substantive differences to replace the term ''shall'' with ''will'' and update internal cross-references to the Pillar rule. Proposed Rule 7.44(m) is based on the last sentence of current Rule 107C(l).

[3] *See* Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40673 (July 10, 2012) (SR–NYSE–2011–55) (''RLP Pilot Approval Order'').

[4] *See* Securities Exchange Act Release No. 85160 (February 15, 2019), 84 FR 5754 (February 22, 2019) (SR–NYSE–2018–28) (''RLP Permanent Approval Order'').

[5] *See* Rule 107C(a)(4). The Program also allows for RLPs to register with the Exchange. However, any firm can enter RPI orders into the system.

[6] RLP Pilot Approval Order, 77 FR at 40679–40680.

The Exchange proposes non-substantive differences for proposed Rules 7.44(a)(3) and 7.44(a)(4)(E), which are based on Rule 107C(a)(3) and the last sentence of Rule 107C(a)(4), respectively, to replace the term ''PRL'' with the term ''mixed lot'' to conform to Pillar terminology. Both a PRL and a mixed lot are an order of any amount greater than one round lot that is not a multiple of a round lot.[7]

The Exchange further proposes a non-substantive difference for proposed Rule 7.44(c)(3), which is based on Rule 107C(c)(3), to not include references to mnemonics, which will not be used on the Pillar trading platform for RLPs. Proposed Rule 7.44(c)(3) would continue to require an RLP to use Exchange-supplied designations that identify to the Exchange RLP trading activity in assigned RLP securities. This proposed rule text is based on NYSE Arca Rule 7.44–E(c)(3).

The Exchange also proposes a non-substantive difference for proposed Rule 7.44(i)(2), which is based on current Rule 107C(i)(2), to reference the ''Exchange's Chief Regulatory Officer'' rather than the ''NYSE's Chief Regulatory Officer,'' and to use the phrase ''two qualified Exchange employees'' instead of ''officers of the Exchange designated by the Co-Head of U.S. Listings and Cash Execution.'' The Exchange proposes not to include specific titles, other than Chief Regulatory Officer, in Pillar rules because the Exchange has restructured and no longer has the position of Co-Head of U.S. Listings and Cash Executions. In addition, as a result of the restructuring, the title of ''officer'' is no longer used by employees who were previously designated for this role. The Exchange believes that the term ''qualified Exchange employees'' would provide the Exchange with discretion to delegate this responsibility to appropriate Exchange staff. As amended, proposed Rule 7.44(i)(2) is based on NYSE Arca Rule 7.44–E(i)(2).

The Exchange also proposes a non-substantive difference for proposed Rule 7.44(j), which is based on current Rule 107C(j), to replace the phrase ''or as appropriate'' with ''and'' in the first sentence. The first sentence of Rule 107C(j) provides that a Retail Liquidity Identifier is ''disseminated through proprietary data feeds *or as appropriate* through the Consolidation Quotation System when RPI interest priced at least $0.001 better than the PBB or PBO for a particular security is available in Exchange systems'' (*emphasis added*). This non-substantive change would clarify that the Exchange disseminates the Retail Liquidity Identifier through both its proprietary data feeds and the Consolidated Quotation System.

Because proposed Rule 7.44 would have identical requirements to be approved as either an RMO (proposed Rule 7.44(b)) or a Retail Liquidity Provider (proposed Rule 7.44(c)–(d)) as under current Rules 107C(b) and (c)–(d), the Exchange further proposes that any member organizations that are approved as either an RMO or RLP under current Rule 107C would be deemed approved as either an RMO or RLP under proposed Rule 7.44 and would not have to re-apply. The Exchange believes this will promote continuity for the RLP Program when NYSE-listed securities transition to the Pillar trading platform and will reduce the administrative burden on member organizations that are already approved as either an RMO or RLP.

Currently, all member organizations communicate with the Exchange using Pillar phase I protocols, which support trading both on the Pillar trading platform and in Exchange-listed securities. The Exchange notes that currently on the Pillar trading platform, orders with a limit price of less than $1.00 in securities that are priced at $100,000 or above, are rejected if not entered with an MPV of $0.01. The Exchange further notes that this functionality is only applicable to one security traded on the Exchange. The Exchange proposes to codify this functionality as it applies to the Program in proposed Commentary .01 to Rule 7.44, which would provide that when using Pillar phase 1 protocols, for securities that trade at prices of $100,000 or above, RPI Orders would be rejected if not entered with an MPV of $0.01.[8]

Retail Price Improvement Orders

Proposed Rule 7.44(a)(4) would define the RPI. The rule text is based on current Rule 107C(a)(4), and the Exchange is not proposing any substantive changes to the definition of RPI Orders. However, the proposed rule would include non-substantive differences to use Pillar terminology to describe RPIs.

As proposed, new Rule 7.44(a)(4) would provide that an RPI would be non-displayed interest that would trade at prices better than the PBB or PBO by at least $0.001 and that is identified as such. This rule text is based on the first sentence of current Rule 107C(a)(4), with non-substantive differences to use the terms PBB and PBO and delete the reference to Regulation NMS definition as redundant of the definition of PBB/PBO in Rule 1.1(o). The Exchange also proposes to replace the term ''is priced better than'' the PBB or PBO to ''would trade at prices better than'' the PBB or PBO. Because RPI interest does not need to be priced better than the PBB or PBO on arrival, but could trade in sub-penny increments, the Exchange believes the proposed non-substantive difference describes how RPIs would operate in Pillar. This proposed rule text also uses Pillar terminology that is based on NYSE Arca Rule 7.44–E(a)(4).

Proposed Rule 7.44(a)(4)(A) would provide that an RPI would remain non-displayed in its entirety and would be ranked Priority 3—Non-Display Orders. This proposed rule text is based on the third sentence of current Rule 107C(a)(4), which provides that an RPI remains non-displayed in its entirety and uses Pillar terminology to describe the priority category to which RPIs would belong. The proposed rule also uses Pillar terminology that is based on NYSE Arca Rule 7.44–E(a)(4)(A).

Proposed Rule 7.44(a)(4)(B) would provide that Exchange systems would monitor whether RPI buy or sell interest would be eligible to trade with incoming Retail Orders and if it is priced at or outside the PBBO, the RPI would not be eligible to trade with an incoming Retail Order. The rule would further provide that an RPI to buy (sell) with a limit price at or below (above) the PBB (PBO) or at or above (below) the PBO (PBB) would not be eligible to trade with incoming Retail Orders to sell (buy) and that if not cancelled, an RPI to buy (sell) with a limit price that is no longer at or below (above) the PBB (PBO) or at or above (below) the PBO (PBB) would again be eligible to trade with incoming Retail Orders. This rule text is based on Rule 107C(a)(4), which provides that an RPI must be priced better than the PBB or PBO and that the Exchange monitors whether such orders are eligible to trade, with non-substantive differences to use Pillar terminology. This proposed rule text also uses Pillar terminology that is based on NYSE Arca Rule 7.44–E(a)(4)(B) with one difference to account for a proposed change to the definition of Retail Order described below. The proposed rule text would, therefore, not include text from NYSE Arca Rule 7.44–E(a)(4)(B) that provides for the cancellation of an RPI if a Retail Order

[7] *See* Rules 7.5 and 61(a)(ii).

[8] Pursuant to its authority under Rule 612(c) of Regulation NMS, 17 CFR 242.612(c), the Commission grants the Exchange a limited exemption from Rule 612 of Regulation NMS, 17 CFR 242.612, (the ''Sub-Penny Rule'') to operate the Program. *See* Securities Exchange Act Release No. 85160 (February 15, 2019), 84 FR 5754 (February 22, 2019) (SR–NYSE–2018–28).

to sell (buy) trades with all displayed liquidity at the PBB (PBO).

Proposed Rule 7.44(a)(4)(C) would provide that an RPI may include an optional offset, which may be specified up to three decimals. As further proposed, the working price of an RPI to buy (sell) with an offset would be the lower (higher) of the PBB (PBO) plus (minus) the offset or the limit price of the RPI; an RPI with an offset would not be eligible to trade if the working price is below $1.00, and if an RPI to buy (sell) with an offset would have a working price that is more than three decimals, the working price would be truncated to three decimals. This proposed rule text is based on the second and third sentences of current Rule 107C(a)(4), which provide that an RPI may be adjusted by any offset subject to a ceiling or floor price and that the offset is non-displayed. Proposed Rule 7.44(a)(4)(C) uses Pillar terminology to describe this existing offset functionality, which the Exchange believes promotes transparency and clarity in its rules.

The Exchange proposes to make a related change to Rule 7.16(f)(5)(C) to specify that, like Pegged Orders and MPL Orders, RPIs with an offset would use the National Best Bid (''NBB'') instead of the PBB as the reference price when a Short Sale Price Test is triggered pursuant to Rule 201 of Regulation SHO.[9]

Proposed Rule 7.44(a)(4)(D) would provide that, for securities to which it is assigned, an RLP may only enter an RPI in its RLP capacity, and that an RLP would be permitted, but not required, to submit RPI Orders for securities to which it is not assigned, and would be treated as a non-RLP member organization for those particular securities. Additionally, the rule would provide that member organizations other than RLPs would be permitted, but not required, to submit RPI Orders. This proposed rule text is based on the fifth and sixth sentences of current Rule 107C(a)(4) without any substantive differences. This proposed rule text also uses Pillar terminology that is based on NYSE Arca Rule 7.44–E(a)(4)(C).

Proposed Rule 7.44(a)(4)(E) would provide that an RPI may be an odd lot, round lot, or mixed lot and will interact with incoming Retail Orders only. This proposed text is based on the last sentence of Rule 107C(a)(4), with the non-substantive difference described above to use the term ''mixed lot'' instead of ''PRL,'' as described above. The Exchange also proposes to provide greater specificity that RPIs would interact with incoming Retail Orders only, which is how RPIs currently function. This proposed rule text is based in part on NYSE Arca Rule 7.44–E(a)(4)(D).

Retail Orders

Pursuant to Rule 107C(k), Retail Orders may be designated as Type 1, Type 2, or Type 3. Proposed Rule 7.44(k) would be based on Rule 107C(k) with two substantive differences. The first substantive difference would be to remove unused functionality by eliminating the Type 2 and Type 3 Retail Orders. The second substantive difference would be to expand the scope of contra-side orders against which a Retail Order may trade to include all orders between the PBBO, not just RPI Orders and MPL Orders.

To date, the Exchange has not received a Retail Order designated as Type 2 or Type 3 and, therefore, proposes to no longer support this functionality. On Pillar, the Exchange would offer a single category of Retail Orders under proposed Rule 7.44(k) that would operate in a substantially similar manner as the current Type 1 Retail Order, but would be described using Pillar terminology. The title of Rule 7.44 would therefore differ from Rule 107C to replace the word ''Designation'' with ''Operation'' to reflect the availability of a single type of Retail Order.

As proposed, ''Retail Order,'' as defined in proposed Rule 7.44(k), would be described as:

> A Retail Order to buy (sell) is a Limit IOC Order that will trade only with available Retail Price Improvement Orders to sell (buy) and all other orders to sell (buy) with a working price below (above) the PBO (PBB) on the Exchange Book and will not route. The quantity of a Retail Order to buy (sell) that does not trade with eligible orders to sell (buy) will be immediately and automatically cancelled. A Retail Order will be rejected on arrival if the PBBO is locked or crossed. A Retail Order may not be designated with an MTS Modifier.

This proposed functionality is based on the Type-1 designated Retail Order, as described in Rule 107C(k)(1), with a substantive difference that Retail Orders would no longer be limited to interact only with contra-side RPI and MPL Orders. The Exchange believes that this proposed difference would increase the potential for a Retail Order to receive an execution as such orders would be eligible to trade with any orders between the PBBO. The Exchange further proposes to specify that a Retail Order may not be designated with an MTS Modifier.[10] This proposed rule text uses Pillar terminology to describe current functionality. The proposed text of Rule 7.44(k) is otherwise substantially similar to current Rule 107C(k)(1) with minor changes to confirm to Pillar terminology and to remove references to ''Type 1.''

Rule 7.44(l), Priority and Order Allocation

Similar to Rule 107C(l), proposed Rule 7.44(l) would set forth the priority and allocation rules for the Program. With Pillar, the Exchange proposes to simplify the operation of the Program and rank and allocate RPIs with all other interest at the same price as Priority 3—Non-Display Orders. In addition, incoming Retail Orders would trade with contra-side interest between the PBBO at each price point, rather than at a single clean-up price. At each price point between the PBBO, resting orders would be allocated consistent with Rule 7.37(b) (including, for example, odd lot orders ranked Priority 2—Display Orders). With these proposed changes, the allocation of Retail Orders in the Program would be aligned with the allocation of orders outside of the Program under the Exchange's established Pillar allocation process.[11]

To effect these differences, proposed Rule 7.44(l) would provide that RPIs in the same security would be ranked together with all other interest at that price ranked as Priority 3—Non-Display Orders and would be allocated with other resting orders at that price pursuant to Rule 7.37(b). This would be new functionality for the Program and is consistent with how all other orders are allocated on the Exchange. The Exchange believes that the proposed substantive difference to the priority and allocation of orders in the Program would reduce potential confusion because the Program would no longer have different allocation rules as compared to how orders trade outside the Program.

The Exchange proposes to make a related amendment to Rule 7.37(b)(2)(D), which describes the circumstances when a Participant would be moved to the last position on an allocation wheel.[12] Because RPIs are only eligible to trade with Retail Orders,

[9] 17 CFR 242.201.

[10] Pursuant to Rule 7.31(i)(3), a Limit IOC Order may be designated with an MTS Modifier. Because a Retail Order is a type of Limit IOC Order, the Exchange proposes to specify that, unlike a Limit IOC Order, Retail Orders may not be designated with an MTS Modifier.

[11] *See* Rule 7.37(b), Allocation.

[12] Rule 7.37(b)(2)(D) provides that if an order receives a new working time or is cancelled and replaced at the same working price, the Participant that entered such order will be moved to the last position on an allocation wheel if that Participant has no other orders at that price.

they would be skipped on an allocation wheel for the allocation of an Aggressing Order that is not a Retail Order. The Exchange proposes that if an RPI has been skipped in an allocation because it was not eligible to trade, the Participant that entered such order would be moved to the last position on an allocation wheel if such Participant has no other orders at that price. This proposed rule change would be applicable to RPIs that are priced the same as other Priority 3—Non-Display Orders and have been skipped in an allocation. This proposed rule text is consistent with how Rule 7.37(b)(2)(D) currently operates with respect to a Participant that has an order that receives a new working time or cancels and replaces an order, and such Participant does not have any other orders at that price.

Proposed Rule 7.44(l) would further provide that any remaining unexecuted RPI interest would remain available to trade with other incoming Retail Orders and that any remaining unfilled quantity of the Retail Order would cancel in accordance with proposed Rule 7.44(k). This proposed rule text is based in part on Rule Arca Rule 7.44–E(l). This proposed rule text is also consistent with the proposed change, described above, that Retail Orders would, by definition, have an IOC time-in-force condition.

Because the Exchange proposes that allocations in the Program would not differ from how orders are allocated outside the Program, the Exchange proposes that unlike Rule 107C(l), proposed Rule 7.44(l) no longer needs to include examples of how executions in the Program would operate. The Exchange included those examples in Rule 107C because allocations in that version of the Program differed from the Exchange's regular allocation process. Those concerns are now moot.

Implementation of Proposed Rule Change

Subject to effectiveness of this proposed rule change, the Exchange proposes to implement this proposed change when the Exchange transitions NYSE-listed securities to its Pillar trading platform.[13] To promote transparency of which rule relating to the Program would govern trading on the Exchange both before and after the Pillar transition, the Exchange proposes to amend the preamble to Rule 107C to provide that such rule would not be applicable to trading on the Pillar trading platform, and delete the reference to UTP Securities in that preamble.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Sections 6(b)(5) of the Act,[15] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed rule change seeks to provide for the Program on Pillar, the Exchange's new technology trading platform. The proposed non-substantive differences between proposed Rule 7.44 and Rule 107C to use Pillar terminology would remove impediments to and perfect the mechanism of a fair and orderly market because the proposed differences would promote transparency through the use of consistent terminology in Pillar rules. The Exchange believes that proposed Rule 7.44(a)(4), describing RPIs, would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule text would use Pillar terminology to describe existing functionality. The Exchange believes that the use of Pillar terminology promotes transparency and clarity in Exchange rules.

The Exchange believes that the proposed Commentary .01 to Rule 7.44 to reject RPIs in securities that are priced at $100,000 or above if not entered with an MPV of $0.01 would remove impediments to and perfect the mechanism of a free and open market and a national market system because it provides transparency of the circumstances when an RPI would be rejected depending on the communication protocol used by the member organization and the MPV in which it is entered.

The Exchange believes that its proposal to eliminate the Type 2 and Type 3 Retail Orders would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system by simplifying and streamlining the operation of Retail Orders. To date, the Exchange has not received a Retail Order designated as Type 2 or Type 3 for participation in the Program. Therefore, no longer offering the Type 2 or Type 3 Retail Orders should not impact market participants' trading activity and would serve to remove unused functionality from the Program and the Exchange's rules. The Proposal would also simplify the operation of the Program and allow the Exchange to no longer support functionality that is not utilized. The Exchange further believes that the proposed substantive difference that Type 1 Retail Orders, which would simply be referred to as ''Retail Orders,'' would be eligible to trade with all contra-side orders on the Exchange Book would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would increase the potential that a Retail Order would receive an execution on the Exchange.

The proposed substantive difference to allow Retail Orders to execute at the best available prices under proposed Rule 7.44(l) rather than a single clean-up price would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would align how a Retail Order would trade under the Program with how incoming orders outside of the Program trade on the Exchange. In addition, the proposed substantive difference that RPIs would be ranked Priority 3—Non-Display Orders, and all resting orders at a price would be allocated on parity pursuant to Rule 7.37(b), would remove impediments to and perfect the mechanism of a fair and orderly market because it would align the allocation of orders in the Program with the allocation of orders outside of the Program. This proposed substantive difference would therefore promote transparency in Exchange rules and reduce potential confusion because the Program would no longer operate differently from the allocation of orders outside the Program.

The Exchange further believes that the proposed amendment to Rule 7.37(b)(2)(D) to specify that the Participant that entered an order that is skipped in an allocation because it would not be eligible to trade would be

[13] The Exchange has announced that, subject to rule approvals, the Exchange will begin transitioning Exchange-listed securities to Pillar on August 5, 2019, available here: *https://www.nyse.com/publicdocs/nyse/markets/nyse/Revised_Pillar_Migration_Timeline.pdf*. The Exchange will publish by separate Trader Update a complete symbol migration schedule.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

moved to the last position on the allocation wheel if such Participant has no other orders at that price would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would promote transparency in Exchange rules regarding how the Exchange determines the position of a Participant on an allocation wheel. The Exchange further believes it would remove impediments to and perfect the mechanism of a free and open market and a national market system to move a Participant to the last position on the allocation wheel because it would simplify how such orders are processed; if an order is skipped, other orders at that price may be fully executed or cancelled or new orders may be added and it would be difficult to assess in such fluid circumstances the exact position of that Participant on the allocation wheel if that Participant does not have any other orders at that price. Moving such Participant to the last position on the wheel also promotes consistency with current Rule 7.37(b)(2)(D) regarding how a Participant is moved on an allocation wheel if its order receives a new working time or is cancelled and replaced at the same working price and such Participant does not have any other orders at that price.

The Exchange believes that the proposed amendment to Rule 7.16(f)(5)(C) to specify that during a Short Sale Period, RPIs with an offset would use the NBBO rather than the PBBO as the reference price would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would ensure compliance with Rule 201 of Regulation SHO.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[16] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is to adopt new rules to support continuity of the Program when Exchange-listed securities transition to the Exchange's new Pillar trading platform. As discussed in detail above, the Exchange proposes to adopt rules for Pillar relating to the Retail Liquidity Program that are be based on current rules, with both substantive and non-substantive differences. The proposed substantive differences proposed for Rule 7.44 as compared to Rule 107C would promote competition because they streamline the operation of the Program by eliminating unused order types and aligning the allocation of orders in the Program with the allocation of orders outside of the Program. The proposed non-substantive differences include using new Pillar terminology to describe the Program and are based on NYSE Arca Rule 7.44–E. The Exchange believes that the proposed rule change would promote consistent use of terminology to support the Pillar trading platform, making the Exchange's rules easier to navigate.

The proposal to eliminate Type 2 and Type 3 Retail Orders are not intended to have a competitive impact. These changes simply remove functionality from the Program that has not been used at all to date.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[17] and Rule 19b–4(f)(6) thereunder.[18] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[19] of the Act to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2019–26 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–2019–26. 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–NYSE–2019–26, and should be submitted on or before June 20, 2019.

[16] 15 U.S.C. 78f(b)(8).

[17] 15 U.S.C. 78s(b)(3)(A)(iii).

[18] 17 CFR 240.19b–4(f)(6).

[19] 15 U.S.C. 78s(b)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11237 Filed 5–29–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85921; File No. 4–274]**

## Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Notice of Filing of an Amendment to the Agreement Between the Financial Industry Regulatory Authority, Inc. and the NYSE Chicago, Inc.

May 23, 2019.

Pursuant to Section 17(d) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 17d–2 thereunder,[2] notice is hereby given that on May 8, 2019, the Financial Industry Regulatory Authority, Inc. (''FINRA'') and the NYSE Chicago, Inc. (''CHX'') (together with FINRA, the ''Parties'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') an amendment to their July 9, 2010 Agreement Between Financial Industry Regulatory Authority, Inc. and Chicago Stock Exchange, Inc. (''17d–2 Plan'' or the ''Plan'') for the allocation of regulatory responsibilities. The Commission is publishing this notice to solicit comments on the amendment to the 17d–2 Plan from interested persons.

### I. Introduction

Section 19(g)(1) of the Act,[3] among other things, requires every self-regulatory organization (''SRO'') registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or Section 19(g)(2) of the Act.[4] 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 (''common members''). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act[5] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[6] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[7] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[8] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.[9] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for appropriate notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors; to foster cooperation and coordination among the SROs; to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system; and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

### II. The Plan

On September 26, 1978, the Commission approved the Plan allocating regulatory responsibilities pursuant to Rule 17d–2 on a provisional basis.[10] Under the Plan, the predecessor to FINRA was responsible, in part, for conducting on-site examination of each dual member for which it was the DEA. On February 20, 1980, the Commission noticed for comment an amendment to the Plan, which provided, in part, for the handling of customer complaints, the review of dual members' advertising, and the arbitration of disputes under the Plan.[11] On May 30, 1980, the Commission approved the Plan, as amended.[12] On September 8, 2010, the Commission approved an amendment to replace the previous Plan in its entirety.[13]

### III. Proposed Amendment to the Plan

On May 8, 2019, the Parties submitted a proposed amendment to the Plan. The primary purpose of the amendment is to the extent that it becomes a member of the exchange, allocate regulatory responsibility to FINRA for CHX's affiliated routing broker-dealer, Archipelago Securities LLC. The text of the proposed amended 17d–2 plan is as follows (additions are *italicized;* deletions are [bracketed]):

**AGREEMENT BETWEEN FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC. AND *NYSE* CHICAGO [STOCK EXCHANGE], INC. PURSUANT TO RULE 17d–2 UNDER THE SECURITIES EXCHANGE ACT OF 1934**

This Agreement, by and between the Financial Industry Regulatory Authority, Inc. (''FINRA'') and the *NYSE* Chicago [Stock Exchange], Inc. (''CHX''), is made this [9th]*7th* day of [July]*May,* [2010]*2019* (the ''Agreement''), pursuant to Section 17(d)

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

[3] 15 U.S.C. 78s(g)(1).

[4] 15 U.S.C. 78q(d) and 15 U.S.C. 78s(g)(2), respectively.

[5] 15 U.S.C. 78q(d)(1).

[6] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[7] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[8] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

[9] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

[10] *See* Securities Exchange Act Release No. 15191 (September 26, 1978), 43 FR 46093 (October 5, 1978).

[11] *See* Securities Exchange Act Release No. 16591 (February 20, 1980), 45 FR 12573 (February 26, 1980).

[12] *See* Securities Exchange Act Release No. 16858 (May 30, 1980), 45 FR 37927 (June 5, 1980).

[13] *See* Securities Exchange Act Release No. 62866 (September 8, 2010), 75 FR 55833 (September 14, 2010).

of the Securities Exchange Act of 1934 (the ''Exchange Act'') and Rule 17d–2 thereunder which permits agreements between self-regulatory organizations to allocate regulatory responsibility to eliminate regulatory duplication. FINRA and CHX may be referred to individually as a ''party'' and together as the ''parties.''

This Agreement amends and restates the agreement entered into between the parties on [September 16, 1977]*July 9, 2010,* entitled ''Agreement Between [the National Association of Securities Dealers, Inc.]*Financial Industry Regulatory Authority, Inc.* and [the Midwest]*Chicago* Stock Exchange [Incorporated]*Inc.* Pursuant to SEC Rule 17d–2 Under the Securities Exchange Act of 1934,'' and any subsequent amendments thereafter.

*Whereas*, Finra and CHX desire to reduce duplication in the examination of their Dual Members (as defined herein) and in the filing and processing of certain registration and membership records; and

*Whereas*, Finra and CHX desire to execute an agreement covering such subjects pursuant to the provisions of Rule 17d–2 under the Exchange Act and to file such agreement with the Securities and Exchange Commission (the ''SEC'' or ''Commission'') for its approval.

*Now, Therefore*, in consideration of the mutual covenants contained hereinafter, FINRA and CHX hereby agree as follows:

1. *Definitions*. Unless otherwise defined in this Agreement or the context otherwise requires, the terms used in this Agreement shall have the same meaning as they have under the Exchange Act and the rules and regulations thereunder. As used in this Agreement, the following terms shall have the following meanings:

(a) ''*CHX Rules*'' or ''*FINRA Rules*'' shall mean: (i) The rules of the CHX, or (ii) the rules of FINRA, respectively, as the rules of an exchange or association are defined in Exchange Act Section 3(a)(27).

(b) ''*Common Rules*'' shall mean the CHX Rules that are substantially similar to the applicable FINRA Rules and certain provisions of the Exchange Act and SEC rules set forth on *Exhibit 1* in that examination for compliance with such rules would not require FINRA to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the application of such provisions or rule, or a Dual Member's activity, conduct, or output in relation to such rule; provided, however, Common Rules shall not include the application of SEC, CHX or FINRA rules as they pertain to violations of insider trading activities, which is covered by a separate 17d–2 Agreement by and among [the American Stock Exchange LLC, BATS Exchange, Inc., Chicago Board Options Exchange, Inc., Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange, LLC, NYSE Arca Inc., NYSE Regulation, Inc., NASDAQ OMX BX, Inc. and NASDAQ OMX PHLX, Inc. effective April 15, 2010] *the Cboe BZX Exchange, Inc., Bats Cboe BYX Exchange, Inc., Chicago Stock Exchange, Inc., Cboe EDGA Exchange, Inc., Bats Cboe EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., Nasdaq BX, Inc., Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, NYSE National, Inc., New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., and Investors Exchange LLC, approved by the SEC on October 10, 2018,* as may be amended from time to time. *Common Rules shall not include provisions regarding (i) notice, reporting or any other filings made directly to or from CHX, (ii) incorporation by reference of other CHX Rules that are not Common Rules, (iii) exercise of discretion in a manner that differs from FINRA's exercise of discretion, including, but not limited to exercise of exemptive authority, by CHX, (iv) prior written approval of CHX, and (v) payment of fees or fines to CHX.*

(c) ''*Dual Members*'' shall mean those CHX members that are also members of FINRA and the associated persons therewith.

(d) ''*Effective Date*'' shall be the date this Agreement is approved by the Commission.

(e) ''*Enforcement Responsibilities*'' shall mean the conduct of appropriate proceedings, in accordance with the FINRA Code of Procedure (the Rule 9000 Series) and other applicable FINRA procedural rules, to determine whether violations of Common Rules have occurred, and if such violations are deemed to have occurred, the imposition of appropriate sanctions as specified under the FINRA Code of Procedure and sanctions guidelines.

(f) ''*Regulatory Responsibilities*'' shall mean the examination responsibilities and Enforcement Responsibilities relating to compliance by the Dual Members with the Common Rules and the provisions of the Exchange Act and the rules and regulations thereunder, and other applicable laws, rules and regulations, each as set forth on *Exhibit 1* attached hereto.

2. *Regulatory and Enforcement Responsibilities.* FINRA shall assume Regulatory Responsibilities and Enforcement Responsibilities for Dual Members. Attached as Exhibit 1 to this Agreement and made part hereof, CHX furnished FINRA with a current list of Common Rules and certified to FINRA that such rules are substantially similar to the corresponding FINRA Rule (the ''Certification''). FINRA hereby agrees that the rules listed in the Certification are Common Rules as defined in this Agreement. Each year following the Effective Date of this Agreement, or more frequently if required by changes in either the rules of CHX or FINRA, CHX shall submit an updated list of Common Rules to FINRA for review which shall add CHX Rules not included in the current list of Common Rules that qualify as Common Rules as defined in this Agreement; delete CHX Rules included in the current list of Common Rules that no longer qualify as Common Rules as defined in this Agreement; and confirm that the remaining rules on the current list of Common Rules continue to be CHX Rules that qualify as Common Rules as defined in this Agreement. Within 30 days of receipt of such updated list, FINRA shall confirm in writing whether the rules listed in any updated list are Common Rules as defined in this Agreement. Notwithstanding anything herein to the contrary, it is explicitly understood that the term ''Regulatory Responsibilities'' does not include, and CHX shall retain full responsibility for (unless otherwise addressed by separate agreement or rule) the following (collectively, the ''Retained Responsibilities''):

(a) Surveillance, examination, investigation and enforcement with respect to trading activities or practices involving CHX's own marketplace;

(b) registration pursuant to its applicable rules of associated persons (*i.e.,* registration rules that are not Common Rules);

(c) discharge of its duties and obligations as a Designated Examining Authority pursuant to Rule 17d–1 under the Exchange Act, if applicable; and

(d) any CHX Rules that are not Common Rules *except for CHX Rules for any CHX affiliate that is a member that operates as a facility (as defined in Section 3(a)(2) of the Exchange Act), acts as a router for CHX and is a member of FINRA (''Router Member'') as provided in paragraph 6. As of the date of this Agreement, Archipelago Securities LLC is the only Router Member.*

3. *Dual Members.* Prior to the Effective Date, CHX shall furnish FINRA with a current list of Dual Members, which shall be updated no less frequently than once each quarter.

4. *No Charge.* There shall be no charge to CHX by FINRA for performing the Regulatory Responsibilities and Enforcement Responsibilities under this Agreement except as hereinafter provided. FINRA shall provide CHX with ninety (90) days advance written notice in the event FINRA decides to impose any charges to CHX for performing the Regulatory Responsibilities under this Agreement. If FINRA determines to impose a charge, CHX shall have the right at the time of the imposition of such charge to terminate this Agreement; provided, however, that FINRA's Regulatory Responsibilities under this Agreement shall continue until the Commission approves the termination of this Agreement.

5. *Applicability of Certain Laws, Rules, Regulations or Orders.* Notwithstanding any provision hereof, this Agreement shall be subject to any statute, or any rule or order of the Commission. To the extent such statute, rule or order is inconsistent with one or more provisions of this Agreement, the statute, rule or order shall supersede the provision(s) hereof to the extent necessary to be properly effectuated and the provision(s) hereof in that respect shall be null and void.

6. *Notification of Violations.*

(a) In the event that FINRA becomes aware of apparent violations of any CHX Rules, which are not listed as Common Rules, discovered pursuant to the performance of the Regulatory Responsibilities assumed hereunder, FINRA shall notify CHX of those apparent violations for such response as CHX deems appropriate. *With respect to apparent violations of any CHX Rules by any Router Member, FINRA shall not make referrals to CHX pursuant to this paragraph 6. Such apparent violations shall be processed by, and enforcement proceedings in respect thereto will be conducted by, FINRA as provided in this agreement.*

(b) In the event that CHX becomes aware of apparent violations of any Common Rules, discovered pursuant to the performance of the Retained Responsibilities, CHX shall notify FINRA of those apparent violations and such matters shall be handled by FINRA as provided in this Agreement.

(c) Apparent violations of Common Rules shall be processed by, and enforcement proceedings in respect thereto shall be conducted by FINRA as provided hereinbefore; provided, however, that in the event a Dual Member is the subject of an investigation relating to a transaction on the CHX, CHX may in its discretion assume concurrent jurisdiction and responsibility.

(d) Each party agrees to make available promptly all files, records and witnesses necessary to assist the other in its investigation or proceedings.

7. *Continued Assistance.*

(a) FINRA shall make available to CHX all information obtained by FINRA in the performance by it of the Regulatory Responsibilities hereunder with respect to the Dual Members subject to this Agreement. In particular, and not in limitation of the foregoing, FINRA shall furnish CHX any information it obtains about Dual Members which reflects adversely on their financial condition. CHX shall make available to FINRA any information coming to its attention that reflects adversely on the financial condition of Dual Members or indicates possible violations of applicable laws, rules or regulations by such firms.

(b) The parties agree that documents or information shared shall be held in confidence, and used only for the purposes of carrying out their respective regulatory obligations. Neither party shall assert regulatory or other privileges as against the other with respect to documents or information that is required to be shared pursuant to this Agreement.

(c) The sharing of documents or information between the parties pursuant to this Agreement shall not be deemed a waiver as against third parties of regulatory or other privileges relating to the discovery of documents or information.

8. *Statutory Disqualifications.* When FINRA becomes aware of a statutory disqualification as defined in the Exchange Act with respect to a Dual Member, FINRA shall determine pursuant to Sections 15A(g) and/or Section 6(c) of the Exchange Act the acceptability or continued applicability of the person to whom such disqualification applies and keep CHX advised of its actions in this regard for such subsequent proceedings as CHX may initiate.

9. *Customer Complaints.* CHX shall forward to FINRA copies of all customer complaints involving Dual Members received by CHX relating to FINRA's Regulatory Responsibilities under this Agreement. It shall be FINRA's responsibility to review and take appropriate action in respect to such complaints.

10. *Advertising.* FINRA shall assume responsibility to review the advertising of Dual Members subject to the Agreement, provided that such material is filed with FINRA in accordance with FINRA's filing procedures and is accompanied with any applicable filing fees set forth in FINRA Rules.

11. *No Restrictions on Regulatory Action.* Nothing contained in this Agreement shall restrict or in any way encumber the right of either party to conduct its own independent or concurrent investigation, examination or enforcement proceeding of or against Dual Members, as either party, in its sole discretion, shall deem appropriate or necessary.

12. *Termination.* This Agreement may be terminated by CHX or FINRA at any time upon the approval of the Commission after one (1) year's written notice to the other party, except as provided in paragraph 4.

13. *Arbitration.* In the event of a dispute between the parties as to the operation of this Agreement, CHX and FINRA hereby agree that any such dispute shall be settled by arbitration in Washington, DC in accordance with the rules of the American Arbitration Association then in effect, or such other procedures as the parties may mutually agree upon. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction. Each party acknowledges that the timely and complete performance of its obligations pursuant to this Agreement is critical to the business and operations of the other party. In the event of a dispute between the parties, the parties shall continue to perform their respective obligations under this Agreement in good faith during the resolution of such dispute unless and until this Agreement is terminated in accordance with its provisions. Nothing in this Section 13 shall interfere with a party's right to terminate this Agreement as set forth herein.

14. *Notification of Members.* CHX and FINRA shall notify Dual Members of this Agreement after the Effective Date by means of a uniform joint notice.

15. *Amendment.* This Agreement may be amended in writing duly approved by each party. All such amendments must be filed with and approved by the Commission before they become effective.

16. *Limitation of Liability.* Neither FINRA nor CHX nor any of their respective directors, governors, officers or employees shall be liable to the other party to this Agreement for any liability, loss or damage resulting from or claimed to have resulted from any delays, inaccuracies, errors or omissions with respect to the provision of Regulatory Responsibilities as provided

hereby or for the failure to provide any such responsibility, except with respect to such liability, loss or damages as shall have been suffered by one or the other of FINRA or CHX and caused by the willful misconduct of the other party or their respective directors, governors, officers or employees. No warranties, express or implied, are made by FINRA or CHX with respect to any of the responsibilities to be performed by each of them hereunder.

17. *Relief from Responsibility.* Pursuant to Sections 17(d)(1)(A) and 19(g) of the Exchange Act and Rule 17d–2 thereunder, FINRA and CHX join in requesting the Commission, upon its approval of this Agreement or any part thereof, to relieve CHX of any and all responsibilities with respect to matters allocated to FINRA pursuant to this Agreement; provided, however, that this Agreement shall not be effective until the Effective Date.

18. *Severability.* Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

19. *Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

20. *Separate Agreement. This Agreement is wholly separate from the following agreements: (1) The multiparty agreement for insider trading activities, which is covered by a separate 17d–2 Agreement by and among Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Chicago Stock Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., Nasdaq BX, Inc., Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, NYSE National Inc., New York Stock Exchange LLC, NYSE American LLC, and NYSE Arca Inc., and Investors Exchange LLC effective October 10, 2018, as may be amended from time to time and (2) the multiparty 17d–2 agreement relating to Regulation NMS rules by and among Bats BZX Exchange, Inc., Bats BYX Exchange, Inc., BOX Options Exchange LLC, Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, Investors Exchange LLC, ISE Gemini, LLC, ISE Mercury, LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, The NASDAQ Stock Market LLC, NASDAQ BX, Inc., NASDAQ PHLX, Inc., National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc. effective February 2, 2017 as may be amended from time to time.*

*In witness whereof*, each party has executed or caused this Agreement to be executed on its behalf by a duly authorized officer as of the date first written above.

**Exhibit 1**

**Chx Certification of Common Rules**

CHX hereby certifies that the requirements contained in the rules listed below for CHX are identical to, or substantially similar to, the comparable FINRA (NASD) Rules, Exchange Act provision or SEC rule identified (''Common Rules'').

#*Common Rules shall not include provisions regarding (i) notice, reporting or any other filings made directly to or from CHX, (ii) incorporation by reference to other CHX Rules that are not Common Rules, (iii) exercise of discretion in a manner that differs from FINRA's exercise of discretion, including but not limited to exercise of exemptive authority, by CHX, (iv) prior written approval of CHX, and (v) payment of fees or fines to CHX.*

| CHX rule | FINRA (NASD) rule, exchange act provision, SEC rule |
|---|---|
| *Article 6, Rule 5(a) Supervision of Registered Persons and Branch and Resident Offices#.* | *FINRA Rule 3110(a) Supervision*; FINRA Rule 2010 Standards of Commercial Honor and Principles of Trade* |
| *Article 6, Rule 5(c) Supervision of Registered Persons and Branch and Resident Offices#.* | *FINRA Rule 3110(b)(1) ,(b)(2) (b)(4), (b)(6)(A), (b)(7), (c), and (d) Supervision** |
| *Article 6, Rule 10 Fingerprinting* | *Exchange Act Rule 17f–2* |
| *Article 6, Rule 11 Continuing Education for Registered Persons#* | *FINRA Rule 1240(a)(1)–(6), and(b) Continuing Education Requirements* |
| *Article 6, Rule 12 Anti-Money Laundering Compliance Program#* | *FINRA Rule 3310 Anti-Money Laundering Compliance Program* |
| *Article 8, Rule 3 Fraudulent Acts* | *FINRA Rules 2020 Use of Manipulative, Deceptive or Other Fraudulent Devices* |
| *Article 8, Rule 10 Customer Dealings—Account Transfers* | *FINRA Rule 11870(a)(1) Customer Account Transfer Contracts* |
| *Article 8, Rule 11 Customer Dealings—Suitability* | *FINRA Rule 2111(a) and (b) Suitability* |
| *Article 8, Rule 13(a) Advertising, Promotion and Telemarketing* | *FINRA Rule 2210(d)(1)(B) Communications with the Public, FINRA Rule 2010 Standards of Commercial Honor and Principles of Trade* |
| *Article 8, Rule 13(d) Advertising, Promotion and Telemarketing* | *FINRA Rule 3230 Telemarketing* |
| *Article 9, Rule 2 Just and Equitable Trade Principles#* | *FINRA Rule 2010 Standards of Commercial Honor and Principles of Trade* |
| *Article 9, Rule 10 Prearranged Trades* | *Exchange Act Sections 9(a); 10(b) and Rule 10b–5 thereunder** |
| *Article 9, Rule 11 Price Manipulation* | *Exchange Act Sections 9(a); 10(b) and Rule 10b–5 thereunder*; FINRA Rule 6140(a) Other Trading Practices* |
| *Article 9, Rule 12 Manipulative Operations* | *Exchange Act Sections 9(a); 10(b) and Rule 10b–5 thereunder*; FINRA Rule 6140(d) Other Trading Practices* |
| *Article 9, Rule 17 Prohibition Against Trading Ahead of Customer Orders#.* | *FINRA Rule 5320 Prohibition Against Trading Ahead of Customer Orders* |
| *Article 11, Rule 2 Maintenance of Books and Records#* | *FINRA Rule 4511 General Requirements** |
| *Article 21, Rule 2 Book-Entry Settlement Requirements* | *FINRA Rule 11310 Book-Entry Settlement* |

* FINRA shall not have any Regulatory Responsibilities for these rules as they pertain to violations of insider trading activities, which is covered by a separate 17d–2 Agreement by and among the Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Chicago Stock Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., Nasdaq BX, Inc., Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, NYSE National, Inc., New York Stock Exchange, LLC, NYSE American LLC, and NYSE Arca, Inc. and Investors' Exchange LLC effective October 10, 2018, as may be amended from time to time.

## IV. Date of Effectiveness of the Proposed Plan and Timing for Commission Action

Pursuant to Section 17(d)(1) of the Act[14] and Rule 17d–2 thereunder,[15] after June 20, 2019, the Commission may, by written notice, declare the plan submitted by FINRA and CHX, File No. 4–274, to be effective if the Commission finds that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among self-regulatory organizations, or to remove impediments to and foster the development of the national market system and a national system for the clearance and settlement of securities transactions and in conformity with the factors set forth in Section 17(d) of the Act.

## V. Solicitation of Comments

In order to assist the Commission in determining whether to approve the proposed 17d–2 Plan and to relieve CHX of the responsibilities which would be assigned to FINRA, interested persons are invited to submit written data, views, and arguments concerning the foregoing. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/other.shtml);* or
- Send an email to *rule-comments@sec.gov. Please include File Number* 4–274 *on the subject line.*

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number 4–274. 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/other.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 plan also will be available for inspection and copying at the principal offices of CHX and FINRA. 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 4–274 and should be submitted on or before June 20, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11223 Filed 5–29–19; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78q(d)(1).

[15] 17 CFR 240.17d–2.

[16] 17 CFR 200.30–3(a)(34).

# DEPARTMENT OF STATE

**[Public Notice: 10777]**

## Department of State Commission on Unalienable Rights

**AGENCY:** Department of State.

**ACTION:** Notice of intent to establish an advisory committee.

The Secretary of State announces an intent to establish the Department of State Commission on Unalienable Rights (the Commission), in accordance with the Federal Advisory Committee Act.

*Nature and Purpose:* The Commission will provide the Secretary of State advice and recommendations concerning international human rights matters. The Commission will provide fresh thinking about human rights discourse where such discourse has departed from our nation's founding principles of natural law and natural rights.

*Other information:* It is anticipated that the Commission will meet at least once per month and at such other times and places as are required to fulfill the objectives of the Commission. The Department of State affirms that the advisory committee is necessary and in the public interest.

**FOR FURTHER INFORMATION CONTACT:** Emily Sissell, 202–647–3599.

Dated: May 22, 2019.

**Kiron K. Skinner,**

*Director, Policy Planning, U.S. Department of State.*

[FR Doc. 2019–11300 Filed 5–29–19; 8:45 am]

BILLING CODE 4710–10–P

# DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

**[Docket No. 2019–0103]**

## Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Airport Grants Program

**AGENCY:** Federal Aviation Administration (FAA), DOT

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for a renewal information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 11, 2019. The collection involves data from airport sponsors and planning agencies to determine eligibility, and to ensure proper use of Federal funds and project accomplishments for the Airport Improvement Program. This is the 30-day notice.

**DATES:** Written comments should be submitted by July 1, 2019.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Patricia Dickerson by email at: *patricia.a.dickerson@faa.gov;* phone: 202–267–9297.

**SUPPLEMENTARY INFORMATION:**

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's

performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

*OMB Control Number:* 2120–0569.

*Title:* Same title as above.

*Form Numbers:* FAA Forms 5100–100, 5100–101, 5100–108, 5100–110, 5100–126, 5100–127, 5100–128, 5100–129, 5100–130, 5100–131, 5100–132, 5100–133, 5100–134, 5100–135, 5100–136, 5100–137, 5100–138, 5100–139, 5100–140, 5100–141, 5100–142, 5370–1.

*Type of Review:* Renewal of an information collection.

*Background:* The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 11, 2019 (84 FR 8779) and this is the 30-day notice. Codification of certain U.S. Transportation laws at 49 U.S.C., repealed the Airport and Airway Improvement Act of 1982, as amended, and the Aviation Safety and Noise Abatement Act of 1979, as amended, and re-codified them without substantive change at Title 49 U.S.C., which is referred to as the ''Act.'' The Act provides funding for airport planning and development projects at airports included in the National Plan of Integrated Airport Systems (NPIAS). The Act also authorizes funds for noise compatibility planning and to carry out noise compatibility programs. The information required by this program is necessary to protect the Federal interest in safety, efficiency, and utility of the airport. Data is collected to meet report requirements of 2 CFR part 200 for certifications and representations, financial management and performance measurement.

*Respondents:* Approximately 13,000 applications.

*Frequency:* Information is collected on occasion.

*Estimated Average Burden per Response:* Approximately 9 Hours.

*Estimated Total Annual Burden:* Approximately 118,000 hours.

Issued in Washington, DC, on May 24, 2019.

**Murrell Stinnette,**

*Acting Deputy Director, Federal Aviation Administration/Office of Airport Planning & Programming/APP–2.*

[FR Doc. 2019–11263 Filed 5–29–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket No. FRA–2019–0004–N–5]**

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, FRA seeks approval of the Information Collection Requests (ICRs) abstracted below. Before submitting these ICRs to the Office of Management and Budget (OMB) for approval, FRA is soliciting public comment on specific aspects of the activities identified below.

**DATES:** Interested persons are invited to submit comments on or before July 29, 2019.

**ADDRESSES:** Submit written comments on the ICRs activities by mail to either: Mr. Robert Brogan, Information Collection Clearance Officer, Office of Railroad Safety, Regulatory Analysis Division, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; or Ms. Kim Toone, Information Collection Clearance Officer, Office of Information Technology, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB Control Number 2130–XXXX,'' (the relevant OMB control number for each ICR is listed below) and should also include the title of the ICR. Alternatively, comments may be faxed to (202) 493–6216 or (202) 493–6497, or emailed to Mr. Brogan at *robert.brogan@dot.gov,* or Ms. Toone at *kim.toone@dot.gov*. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Brogan, Information Collection Clearance Officer, Office of Railroad Safety, Regulatory Analysis Division, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: (202) 493–6292) or Ms. Kim Toone, Information Collection Clearance Officer, Office of Information Technology, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: (202) 493–6132).

**SUPPLEMENTARY INFORMATION:** The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days' notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. Specifically, FRA invites interested parties to comment on the following ICRs regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information that Federal regulations mandate. In summary, FRA reasons that comments received will advance three objectives: (1) Reduce reporting burdens; (2) ensure that it organizes information collection requirements in a ''user-friendly'' format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

The summaries below describe the ICRs that FRA will submit for OMB clearance as the PRA requires:

*Title:* Designation of Qualified Persons.

*OMB Control Number:* 2130–0511.

*Abstract:* The collection of information is used to prevent the unsafe movement of defective freight cars. Railroads are required to inspect freight cars for compliance and to determine restrictions on the movements of defective cars; qualified inspectors are necessary to perform this task.

*Type of Request:* Extension without change of a currently approved collection.

*Affected Public:* Businesses.

*Form(s):* N/A.

*Respondent Universe:* 692 Railroads.

*Frequency of Submission:* On occasion.

*Reporting Burden:*

| CFR section | Respondent universe | Total annual responses | Average time per response (minutes) | Total annual burden hours | Total annual dollar cost equivalent [1] |
|---|---|---|---|---|---|
| 215.11—Designation of Inspectors—Written Records. | 692 railroads | 1,200 records | 2 | 40 | $3,080 |

*Total Estimated Annual Responses:* 1,200.

*Total Estimated Annual Burden:* 40 hours.

*Total Estimated Annual Dollar Cost Equivalent:* $3,080.

*Title:* Qualification and Certification of Locomotive Engineers.

*OMB Control Number:* 2130–0533.

*Abstract:* Section 4 of the Rail Safety Improvement Act of 1988 (RSIA), Public Law 100–342, 102 Stat. 624 (June 22, 1988), later amended and re-codified by Public Law 103–272, 108 Stat. 874 (July 5, 1994), required FRA to issue regulations to establish any necessary program for certifying or licensing locomotive engineers. The collection of information is used by FRA to ensure that railroads employ and properly train qualified individuals as locomotive engineers and designated supervisors of locomotive engineers. The collection of information is also used by FRA to verify that railroads have established required certification programs for locomotive engineers and that these programs fully conform to the standards specified in the regulation.

*Type of Request:* Extension with change (revised estimates) of a currently approved collection.

*Affected Public:* Businesses.

*Form(s):* N/A.

*Respondent Universe:* 741 Railroads.

*Frequency of Submission:* On occasion; annually; triennially.

*Reporting Burden:*

| CFR section | Respondent universe | Total annual responses | Average time per response | Total annual burden hours | Total annual dollar cost equivalent |
|---|---|---|---|---|---|
| 240.9—Waivers | 741 railroads | 3 waiver petitions | 90 minutes | 5 | $385 |
| 240.101/103—Cert. Prog: Amendments | 741 railroads | 50 amendments | 1 hour | 50 | $3,850 |
| — Cert. Prog.—New | 5 railroads | 5 programs | 40 hours | 200 | 15,400 |
| — Final Review | 5 railroads | 5 reviews | 1 hour | 5 | 385 |
| — Material Modification to Program | 741 railroads | 30 modified programs | 45 minutes | 23 | 1,771 |
| 240.105(b)—(c) Written Reports/Determinations of DSLE Performance Skills. | 10 railroads | 10 reports | 1 hour | 10 | 1,160 |
| 240.109/App. C—Prior Safety Conduct Data | 17,667 candidates | 25 responses | 60 minutes | 25 | 1,900 |
| 240.111/App C—Driver's License Data | 17,667 candidates | 17,667 requests | 15 minutes | 4,417 | 335,692 |
| —NDR Match—notifications and requests for data | 741 railroads | 177 notices + 177 requests. | 15 min. + 15 min. | 89 | 7,254 |
| —Written response from candidate on driver's license data. | 741 railroads | 20 cases/comments | 30 minutes | 10 | 760 |
| 240.111(g)—Notice to RR of Absence of License | 53,000 candidates | 4 letters | 15 minutes | 1 | 76 |
| 240.111(h)—Duty to furnish data on prior safety conduct as motor vehicle op.. | 741 railroads | 200 phone calls | 10 minutes | 33 | 2,508 |
| 240.113—Notice to RR Furnishing Data on Prior Safety Conduct—Diff. RR. | 17,667 candidates | 353 requests + 353 responses. | 15 min./30 min. | 265 | 20,298 |
| 240.119—Self-referral to EAP re: active substance abuse disorder. | 53,000 locomotive engineers. | 150 self-referrals | 5 minutes | 13 | 988 |
| 240.121—Criteria—Vision/Hearing Acuity Data—New Railroads. | 5 railroads | 5 copies | 15 minutes | 1 | 77 |
| 240.121—Criteria—Vision/Hearing Acuity Data—Cond. Certification. | 741 railroads | 5 reports | 1 hour | 5 | 385 |
| 240.121—Criteria—Vision/Hearing Acuity Data—Not Meeting Standards—Notice by Employee. | 741 railroads | 10 notifications | 15 minutes | 3 | 228 |
| 240.127—Criteria for Examining Skill Performance—Modification to Certification Program to Include Scoring System. | 741 railroads | 11 amended programs + 180 amended programs. | 48 hours + 8 hours | 1,968 | 151,536 |
| 240.201/221—List of Qualified DSLEs | 741 railroads | 741 updates | 30 minutes | 371 | 28,567 |
| 240.201/221—List of Qualified Loco. Engineers | 741 railroads | 741 updated lists | 60 minutes | 741 | 57,057 |
| 240.201/223/301—Loco. Engineers Certificate | 53,000 candidates | 17,667 certificates | 5 minutes | 1,472 | 113,344 |
| —False entry on certificates | N/A | N/A | N/A | N/A | N/A |
| 240.205—Data to EAP Counselor | 741 railroads | 177 records | 5 minutes | 15 | 1,155 |
| 240.207—Medical certificate showing hearing/vision standards are met:. | 53,000 candidates | 17,667 certificates | 70 minutes | 20,612 | 1,587,124 |
| written determinations waiving use of corrective device. | 741 railroads | 30 determinations | 2 hours | 60 | 4,620 |

[1] Throughout the tables in this document, the dollar equivalent cost is derived from the 2018 Association of American Railroads publication titled *Railroad Facts (Employment and Annual Wages by Class)* (p. 57) using the appropriate employee group to calculate the average hourly wage rate that includes 75 percent overhead charges.

| CFR section | Respondent universe | Total annual responses | Average time per response | Total annual burden hours | Total annual dollar cost equivalent |
|---|---|---|---|---|---|
| 240.219—Denial of Certification; | 17,667 candidates | 30 letters + 30 responses. | 1 hour | 60 | 4,590 |
| Notification to employee of adverse decision | 741 railroads | 30 notifications | 1 hour | 30 | 2,310 |
| 240.227—Canadian Certification Data | N/A | N/A | N/A | N/A | N/A |
| 240.229—Joint Operations—Notice—not qualified | 321 railroads | 184 employee calls | 5 minutes | 15 | 1,140 |
| 240.309—RR Oversight Resp.: Detected poor safety conduct—annotation. | 15 railroads | 6 annotations | 15 minutes | 2 | 152 |
| Testing Requirements: | | | | | |
| 240.209/213—Written Tests Records | 53,000 candidates | 17,667 test records | 5 minutes | 1,472 | 111,872 |
| 240.211/213—Performance Test Records | 53,000 candidates | 17,667 test records | 5 minutes | 1,472 | 111,872 |
| 240.303—Annual operational monitor observation records. | 53,000 candidates | 53,000 test records | 5 minutes | 4,417 | 335,692 |
| 240.303—Annual operating rules compliance test records. | 53,000 candidates | 53,000 test records | 5 minutes | 4,417 | 335,692 |
| Recordkeeping: | | | | | |
| 240.215—Retaining info. supporting determination | 741 railroads | 17,667 records | 30 minutes | 8,834 | 671,384 |
| 240.305—Engineer's notice of non-qualification to RR. | 53,000 engineers or candidates. | 100 notifications | 5 minutes | 8 | 608 |
| —Relaying certification denial or revocation Status to other certifying railroad. | 1,060 engineers | 2 letters | 30 minutes | 1 | 76 |
| 240.307—Notice to engineer of disqualification | 741 railroads | 1,100 letters | 1 hour | 1,100 | 84,700 |
| 240.309—Railroad annual review | 51 railroads | 51 reviews | 40 hours | 2,040 | 157,080 |
| —Report of findings | 51 railroads | 12 reports | 1 hour | 12 | 924 |
| Total | 741 railroads | 217,059 responses | N/A | 54,684 | 4,158,412 |

*Total Estimated Annual Responses:* 217,059.

*Total Estimated Annual Burden:* 54,684 hours.

*Total Estimated Annual Dollar Cost Equivalent:* $4,158,412.

*Title:* Roadway Worker Protection.

*OMB Control Number:* 2130–0539.

*Abstract:* On June 10, 2016, FRA amended its Roadway Worker Protection (RWP) regulation (*see* 81 FR 37840) to resolve interpretative issues that had arisen since the original 1996 promulgation of that rule. In particular, this final rule adopted certain terms, resolved miscellaneous interpretive issues, codified certain FRA Technical Bulletins, adopted new requirements governing redundant signal protections and the movement of roadway maintenance machinery over signalized non-controlled track, and amended certain qualification requirements for roadway workers. This final rule also deleted three outdated incorporations by reference of industry standards in FRA's Bridge Worker Safety Standards, and cross referenced the Occupational Safety and Health Administration's regulations on the same point.

Under the information collection associated with the RWP rule (49 CFR part 214), FRA collects a variety of information. To ensure compliance with the rule's requirements, FRA collects data on affected railroads' on-track safety programs to determine that railroads have policies, procedures, and practices in place that protect roadway workers as they go about doing their daily jobs in a dangerous environment. Railroads are required to provide on-track safety manuals to all roadway workers that they can readily consult as a guide when an issue arises as to how to complete a work assignment while maintaining complete safety. Under the regulation, railroads are required to provide initial and recurrent training to roadway workers on their on-track safety program and the procedures to be followed to perform their daily work assignments. This includes training for roadway workers who work on adjacent track and the appropriate practices and procedures they must follow. FRA collects data from railroads on training through the records that they are required to keep. Additionally, FRA collects information on violations of workplace safety on Form FRA F 6180.119. FRA uses violation information to make changes that endanger railroad workers. Overall, FRA uses the information that it collects under this regulation to monitor and enforce requirements relating to the safety of roadway workers and ensure that railroads fulfill their responsibilities to make roadway workers environment secure and free from unnecessary and avoidable hazards.

*Type of Request:* Extension with change (revised estimates) of a currently approved collection.

*Affected Public:* Businesses/50,000 Roadway Workers/State Safety Inspectors.

*Form(s):* FRA F 6180.1119.

*Respondent Universe:* 741 Railroads.

*Frequency of Submission:* On occasion.

*Reporting Burden:*

| CFR section | Respondent universe | Total annual responses | Average time per response | Total annual burden hours | Total annual dollar cost equivalent |
|---|---|---|---|---|---|
| Form FRA F 6180.119—Part 214 Railroad Workplace Safety Violation Report. | 350 Safety Inspectors | 129 forms | 4 hours | 516 | $31,579 |
| 214.307—Railroad On-Track Safety Programs—RR Programs that comply with this Part + copies at System/Division Headquarters. | 741 Railroads | 276 programs + 325 copies. | 2 hours + 2 minutes | 563 | 43,351 |
| —RR Notification to FRA not less than one month before on-track safety program takes effect. | 741 Railroads | 276 notices | 20 minutes | 92 | 7,084 |
| —RR Amended on-track safety programs after FRA disapproval. | 741 Railroads | 1 program | 4 | 4 hours | 308 |

| CFR section | Respondent universe | Total annual responses | Average time per response | Total annual burden hours | Total annual dollar cost equivalent |
|---|---|---|---|---|---|
| —RR Written response in support of disapproved program. | 741 Railroads | 1 written response | 40 hours | 40 | 3,080 |
| 214.309—On-Track Safety Manual: | | | | | |
| —RR Provisions for alternative access to information in on-track safety manual. | 741 Railroads | 741 provisions | 60 minutes | 741 | 57,057 |
| —RR Publication of bulletins/notices reflecting changes in on-track safety manual. | 60 Railroads | 100 bulletins/notices | 60 minutes | 100 | 7,700 |
| 214.311—RR Written procedure to achieve prompt and equitable resolution of good faith employee challenges. | 5 new railroads | 5 developed procedures | 30 minutes | 3 | 231 |
| 214.313—Good faith challenges to on-track safety rules. | 20 railroads | 80 challenges | 8 hours per challenge | 640 | 42,880 |
| 214.317—On-Track Procedures for Snow Removal. | 5 Railroads | 5 operating procedures | 60 minutes | 5 | 385 |
| —On-track procedures for weed spray equipment | 741 Railroads | 741 operating procedures. | 60 minutes | 741 | 57,057 |
| —Roadway Worker in Charge (RWIC) Designation of alternative place of safety other than tunnel niche or clearing bay. | 741 Railroads | 25 place of safety designations. | 5 minutes | 2 | 134 |
| 214.318—Procedures established by railroads for workers to perform duties incidental to those of inspecting, testing, servicing, or repairing rolling equipment. | 741 Railroads | 741 rules/procedures | 3 hours | 2,223 | 171,171 |
| 214.320—Roadway Maintenance Machines Movement over signalized non-controlled track—RR request to FRA for equivalent level of protection to that provided by limiting all train and locomotive movements to restricted speed. | 741 Railroads | 5 requests | 4 hours | 20 | 1,540 |
| 214.322—Exclusive Track Occupancy, Electronic Display—Written Authorities/Printed Authority Copy If Electronic Display Fails or Malfunctions. | 3 Class I Railroads | 1,000 written authorities | 10 minutes | 167 | 11,189 |
| —Data File Records Relating to Electronic Display Device Involved in Part 225 Reportable Accident/Incident. | 3 Class I Railroads | 25 data file records | 2 hours | 50 | 3,850 |
| —Request to FRA for NIST Publication 800–63–2, ''Electronic Authentication Guideline''. | 741 Railroads | 3 requests + 3 copies | 30 minutes + 2 minutes | 2 | 154 |
| 214.329—Train Approach Warning—Written Designation of Watchmen/Lookouts. | 741 Railroads | 26,250 designations | 30 Seconds | 219 | 16,863 |
| 214.336—Procedures for adjacent track movements over 25 mph: notifications/watchmen/lookout warnings. | 100 Railroads | 10,000 notices | 5 seconds | 14 | 938 |
| —Procedures for adjacent track movements 25 mph or less: Notifications/watchmen/lookout warnings. | 100 Railroads | 3,000 notices | 15 seconds | 13 | 804 |
| 214.337—On-track safety procedures for lone workers: statements by lone workers. | 741 Railroads | 2,080,000 statements | 30 seconds | 17,333 | 1,161,311 |
| Statement of on-track safety using individual train detection on track outside manual interlocking, a controlled point, or a remotely controlled hump yard facility. | 741 Railroads | 200 on-track safety statements. | 30 seconds | 2 | 134 |
| 214.339—Audible warning from trains: written procedures that prescribe effective requirements for audible warning by horn and/or bell for trains. | 44 Railroads | 44 written procedures | 13 | 572 hours | 44,044 |
| 214.343/345/347/349/351/353/355—Annual training for all roadway workers (RWs)—Records of training. | 50,000 roadway workers | 50,000 records | 2 minutes | 1,667 | 128,359 |
| 214.503—Notifications for Non-Compliant Roadway Maintenance Machines or Unsafe Condition. | 50,000 roadway workers | 125 notices | 10 minutes | 21 | 1,407 |
| —Resolution Procedures | 692 Railroads/200 contractors. | 5 procedures | 2 hours | 10 | 770 |
| 214.505—Required environmental control and protection systems for new on-track roadway maintenance machines with enclosed cabs. | 741 Railroads/200 contractors. | 500 lists | 1 hour | 500 | 38,500 |
| —Designations/additions to list | 692 Railroads/200 contractors. | 150 additions/designations. | 5 minutes | 13 | 1,001 |
| 214.507—A-Built Light Weight on New Roadway Maintenance Machines. | 692 Railroads/200 contractors. | 1,000 stickers/stencils | 5 minutes | 83 | 5,063 |
| 214.511—Required Audible Warning Devices for New On-Track Roadway Maintenance Machines. | 692 Railroads/200 contractors. | 3,700 identified mechanisms. | 5 minutes | 308 | 18,788 |
| 214.515—Overhead covers for existing on-track roadway maintenance machines. | 692 railroads/200 contractors. | 500 requests + 500 responses. | 10 minutes; 20 minutes | 250 | 18,420 |
| 214.517—Retrofitting of Existing On-Track Roadway Maintenance Machines Manufactured On or After Jan. 1, 1991. | 692 Railroads/200 contractors. | 500 stencils/displays | 5 minutes | 42 | 2,562 |
| 214.523—Hi-Rail Vehicles | 692 railroads/200 contractors. | 5,000 records | 60 minutes | 5,000 | 305,000 |

| CFR section | Respondent universe | Total annual responses | Average time per response | Total annual burden hours | Total annual dollar cost equivalent |
|---|---|---|---|---|---|
| —Non-complying conditions | 692 railroads/200 contractors. | 500 tags + 500 reports | 10 minutes + 15 minutes. | 208 | 13,936 |
| 214.527—Inspection for compliance; Repair schedules. | 692 railroads/200 contractors. | 550 tags + 550 reports | 5 minutes + 15 minutes | 183 | 12,261 |
| 214.533—Schedule of repairs; Subject to availability of parts. | 692 railroads/200 contractors. | 250 records | 15 minutes | 63 | 4,851 |
| Total | 741 railroads | 2,188,306 responses | N/A | 32,410 | 1,207,732 |

*Total Estimated Annual Responses:* 2,188,306.

*Total Estimated Annual Burden:* 32,410 hours.

*Total Estimated Annual Dollar Cost Equivalent:* $1,207,732.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**Authority:** 44 U.S.C. 3501–3520.

**Brett A. Jortland,**

*Acting Chief Counsel.*

[FR Doc. 2019–11224 Filed 5–29–19; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket No. FRA–2019–0004–N–7]**

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** Under the Paperwork Reduction Act of 1995 (PRA), this notice announces that FRA is forwarding the Information Collection Requests (ICRs) abstracted below to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the information collections and their expected burden. On February 22, 2019, FRA published a notice providing a 60-day period for public comment on the ICRs.

**DATES:** Interested persons are invited to submit comments on or before July 1, 2019.

**ADDRESSES:** Submit written comments on the ICRs to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: FRA Desk Officer. Comments may also be sent via email to OMB at the following address: *oira_submissions@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Brogan, Information Collection Clearance Officer, Office of Railroad Safety, Regulatory Analysis Division, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W33–497, Washington, DC 20590 (telephone: (202) 493–6292); or Ms. Kim Toone, Information Collection Clearance Officer, Office of Administration, Office of Information Technology, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W34–212, Washington, DC 20590 (telephone: (202) 493–6132).

**SUPPLEMENTARY INFORMATION:** The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. On February 22, 2019, FRA published a 60-day notice in the **Federal Register** soliciting comment on the ICRs for which it is now seeking OMB approval. *See* 84 FR 5807. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

*Comments are invited on the following ICRs regarding:* (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

The summaries below describe the ICRs that FRA will submit for OMB clearance as the PRA requires:

*Title:* Safety Appliance Standards Guidance Checklist Forms.

*OMB Control Number:* 2130–0565.

*Abstract:* Sample car/locomotive inspections are performed upon request as a courtesy to the car manufacturers to ensure that the equipment is built in accordance with the Code of Federal Regulations (CFR). Car manufacturers that desire to have FRA review their equipment for compliance with the CFR may submit their request to FRA for review at least 60 days prior to initial construction. Although a sample car inspection is not required, most car manufacturers today request the inspection. By helping ensure that rolling stock equipment is built compliant with the CFR, the sample car inspection program reduces the safety risk to railroad employees, passengers, and the general public.

In an ongoing effort to conduct more thorough and effective inspections of freight railroad equipment and to further enhance safe rail operations, FRA has developed a group of guidance checklist forms that facilitate railroad, rail car owner, and rail equipment manufacturer compliance with 49 CFR part 231, Railroad Safety Appliance Standards. Because 49 CFR part 231 was supplemented and expanded several

years ago, FRA developed Forms FRA F 6180.161(a)–(k) to cover new types of cars. For these new types of cars, FRA follows the standard established by the Association of American Railroads (AAR), Standard 2044 or S–2044.

A car manufacturer's request to FRA for a sample car inspection generally includes a logo, company name, signature block, specific drawings, reflectorization application, and engineering information, such as test or modeling of components. In addition, the request may include car reporting marks and the number of cars that would be constructed in the car series. The request would also provide the inspection location, contact person, title, and contact information. The request typically contains several paragraphs explaining the cited regulations that the car manufacturer believes are related to the car construction. For the many cars built today considered cars of special construction, detailed information explaining the similarities between the car being built and the nearest car type identified in the regulation is provided to help determine which regulatory requirements are applicable. Based on the information submitted, a formal on-site inspection may be required. FRA reviews the information and responds to the car manufacturer.

*Type of Request:* Extension without change of a currently approved information collection.

*Affected Public:* Businesses (Car manufacturers).

*Form(s):* FRA F 6180.161(a)–(k).

*Respondent Universe:* Car manufacturers/state inspectors.

*Frequency of Submission:* Annually.

*Total Estimated Annual Responses:* 121.

*Total Estimated Annual Burden:* 121 hours.

*Total Estimated Annual Burden Hour Dollar Cost Equivalent:* $7,406.

*Title:* System for Telephonic Notification of Unsafe Conditions at Highway-Rail and Pathway Grade Crossings.

*OMB Control Number:* 2130–0591.

*Abstract:* The collection of information is set forth under 49 CFR part 234, Grade Crossing Safety, implementing Section 205 of the Rail Safety Improvement Act of 2008 (RSIA), Public Law 110–432, Div. A (Oct. 16, 2008). Generally, the rule is intended to increase safety at highway-rail and pathway grade crossings. Section 205 of the RSIA mandates that the Secretary of Transportation require certain railroad carriers to take a series of specified actions related to setting up and using systems by which the public can notify the railroads by toll-free telephone number of safety problems at their highway-rail and pathway grade crossings. Such systems are commonly known as Emergency Notification Systems or ENS. The information collected is used by FRA to ensure that railroad carriers establish and maintain a toll-free telephone service to report unsafe conditions at public and private highway-rail and pathway grade crossings for rights-of-way over which they dispatch trains.

*Type of Request:* Extension with change (revised estimates) of a currently approved information collection.

*Affected Public:* Businesses.

*Form(s):* N/A.

*Respondent Universe:* 625 Railroads.

*Frequency of Submission:* On occasion.

*Total Estimated Annual Responses:* 298,292.

*Total Estimated Annual Burden:* 15,305 hours.

*Total Estimated Annual Burden Hour Dollar Cost Equivalent:* $1,091,934.

*Title:* Control of Alcohol and Drug Use in Railroad Operations: Post-Accident Toxicological Testing for Controlled Substances.

*OMB Control Number:* 2130–0598.

*Abstract:* Since 1985, as part of its accident investigation program, FRA has conducted post-accident alcohol and drug tests on railroad employees who have been involved in serious train accidents (50 FR 31508, Aug. 2, 1985). If an accident meets FRA's criteria for post-accident testing (*see* 49 CFR 219.201), FRA conducts tests for alcohol and for certain drugs classified as controlled substances under the Controlled Substances Act (CSA), Title II of the Comprehensive Drug Abuse Prevention Substances Act of 1970 (CSA, 21 U.S.C. 801 *et seq.*). The Drug Enforcement Agency, which is primarily responsible for enforcing the CSA, oversees the classification of controlled substances into five schedules. Schedule I contains illicit drugs, such as heroin, which has no legitimate medical use under Federal law. Currently, FRA routinely conducts post-accident tests for the following controlled substances: marijuana, cocaine, phencyclidine, and certain opioids, amphetamines, barbiturates, and benzodiazepines. Controlled substances are drugs or chemicals that are prohibited or strictly regulated because of their potential for abuse or addiction. FRA reports results of testing for controlled substances to the railroad's Medical Review Officer (MRO) and the employee, and the MRO must review positive results and report results of the review to FRA. (See 49 CFR 219.211(b) and (c)).

*Type of Request:* Extension with change (revised estimates) of a currently approved information collection.

*Affected Public:* Businesses.

*Form(s):* N/A.

*Respondent Universe:* 692 Railroads.

*Frequency of Submission:* On occasion.

*Total Estimated Annual Responses:* 18.

*Total Estimated Annual Burden:* 3 hours.

*Total Estimated Annual Burden Hour Dollar Cost Equivalent:* $330.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**Authority:** 44 U.S.C. 3501–3520.

**Brett A. Jortland,**

*Acting Chief Counsel.*

[FR Doc. 2019–11222 Filed 5–29–19; 8:45 am]

BILLING CODE 4910–06–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2018–0003; Notice 1]**

### BMW of North America, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Receipt of petition.

**SUMMARY:** BMW of North America, LLC, a subsidiary of BMW AG (BMW), has determined that certain model year (MY) 2016–2018 BMW X1 motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 205, Glazing Materials. BMW filed a noncompliance report dated September 10, 2018. BMW subsequently petitioned NHTSA on September 28, 2018, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of BMW's petition.

**DATES:** The closing date for comments on the petition is July 1, 2019.

**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket number cited in the title of this notice and may be submitted by any of the following methods:

• *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

• *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.

• *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/*. Follow the online instructions for submitting comments.

• Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000, (65 FR 19477–78).

**SUPPLEMENTARY INFORMATION:**

*I. Overview:* BMW has determined that certain MY 2016–2018 BMW X1 motor vehicles do not fully comply with paragraph S6.2 of FMVSS No. 205, *Glazing Materials* (49 CFR 571.205). BMW filed a noncompliance report dated September 10, 2018, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. BMW subsequently petitioned NHTSA on September 28, 2018, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt, of BMW's petition, is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercises of judgment concerning the merits of the petition.

*II. Vehicles Involved:* Approximately 86,572 MY 2016–2018 BMW X1 xDrive28i and BMW X1 sDrive28i multipurpose passenger vehicles, manufactured between March 10, 2015, and August 16, 2018, are potentially involved.

*III. Noncompliance:* BMW explains that the noncompliance is that the rear window glazing markings, in the subject vehicles do not fully comply with paragraph S6.2 of FMVSS No. 205. Specifically, the rear window glazing does not contain the DOT certification and the glazing manufacturing code markings.

*IV. Rule Requirements:* Paragraph S6.2 of FMVSS No. 205 includes the requirements relevant to this petition. Prime glazing material manufacturers must certify their glazing material by adding the symbol ''DOT'' and a manufacturer's code mark that NHTSA assigns to the manufacturer, in letters and numerals of the same size, as required by section 7 of ANSI/SAE Z26.1–1996.

*V. Summary of BMW's Petition:*

BMW described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, BMW submitted the following reasoning:

1. FMVSS No. 205 Section 2 (Purpose) states, ''The purpose of this standard is to reduce injuries resulting from impact to glazing surfaces, to ensure a necessary degree of transparency in motor vehicle windows for driver visibility, and to minimize the possibility of occupants being thrown through the vehicle windows in collisions.''

2. Potentially affected vehicles conform to all the FMVSS No. 205 performance requirements. Therefore, they satisfy the stated purpose of FMVSS 205 regarding (a) injury reduction, (b) driver visibility, and (c) minimizing occupant ejection.

3. There are no safety performance implications associated with this potential noncompliance.

4. BMW has not received any contacts from vehicle owners regarding this issue.

5. BMW is unaware of any accidents or injuries that may have occurred as a result of this issue.

6. NHTSA has previously granted petitions for inconsequential noncompliance regarding FMVSS No. 205 involving marking of window glazing. BMW believes that its petition is similar to other manufacturer's petitions in which NHTSA has granted approval. Examples of similar petitions, in which NHTSA has granted approval, include the following:

• Ford Motor Company, NHTSA–2014–0054 N2, March 2, 2015.

• General Motors, LLC, NHTSA–2013–0039 N2, September 25, 2015.

• Mitsubishi Motors North America, Inc., NHTSA–2015–0066 N2, August 22, 2015.

• Custom Glass Solutions Upper Sandusky Corp., NHTSA–2013–0124 N2, January 23, 2015.

• Supreme Corporation, NHTSA–2015–0126 N2 October 21, 2016.

7. Vehicle production has been corrected to conform to FMVSS No. 205 S6.3.

8. BMW also provided a copy of the FMVSS No. 205 Certification Report from AIB-Vincotte International N.V.

BMW concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

After review of BMW's petition, the agency contact BMW to clarify whether or not the subject vehicles were in fact noncompliant with paragraph S6.3 as stated in their petition or paragraph S6.2 of FMVSS No. 205. BMW respond that the subject vehicles were in fact noncompliant with paragraph S6.2 of FMVSS No. 205.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to

exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that BMW no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after BMW notified them that the subject noncompliance existed.

**Authority:** 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

**Otto G. Matheke III,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2019–11209 Filed 5–29–19; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2018–0054; Notice 2]**

### General Motors, LLC, Grant of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Grant of petition.

**SUMMARY:** General Motors, LLC (GM), has determined that certain model year (MY) 2018 Buick Regal motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less.* GM filed a noncompliance report dated April 4, 2018, and subsequently petitioned NHTSA on April 27, 2018, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces the grant of GM's petition.

**FOR FURTHER INFORMATION CONTACT:** Kerrin Bressant, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–1110, facsimile (202) 366–5930.

**SUPPLEMENTARY INFORMATION:**

**I. Overview**

GM has determined that certain MY 2018 Buick Regal motor vehicles do not fully comply with paragraph S4.3 of Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less* (49 CFR 571.110). GM filed a noncompliance report dated April 4, 2018, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* GM also petitioned NHTSA on April 27, 2018, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of GM's petition was published, with a 30-day public comment period on May 24, 2018, in the **Federal Register** (83 FR 24162). No Comments were received.

**II. Vehicles Involved**

Approximately 1,029 MY 2018 Buick Regal motor vehicles manufactured between August 22, 2017, and February 15, 2018, are potentially involved.

**III. Noncompliance**

GM explains that the noncompliance is that the subject vehicles were equipped with tire placards that incorrectly state the spare tire size and cold tire pressure. Specifically, the tire placards state that the spare tire size is ''None'' when in fact it should have been ''T125/70R17'' and omitted the cold tire pressure for the spare tire when it should have read ''420 kPa, 60 psi,'' as required by paragraph S4.3 of FMVSS No. 110.

**IV. Rule Requirements**

Paragraph S4.3 of FMVSS No. 110 includes the requirements relevant to this petition. Each vehicle, except for a trailer or incomplete vehicle, shall show the original spare tire size designation and recommended cold tire inflation pressure on a placard permanently affixed to the vehicle on the driver's side B-pillar.

**V. Summary of GM's Petition**

GM described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, GM submitted the following reasoning:

1. There is no issue with the spare tire itself, it's safe and nondefective. The only issue here is that certain information about the spare tire is not listed on the vehicle placard. But that is inconsequential because that information is provided in other locations.

2. Specifically, the spare tire information is located in at least three places: (1) On the sidewall of the spare tire; (2) in the owner's manual, which the vehicle placard specifically directs the customer to for additional information; and (3) on the Monroney label.

3. There is no issue with the road tires and the information on the vehicle placard for the road tires is correct.

4. In the event of a flat tire, the customer will have a spare tire that is labeled with the proper inflation pressure and has a sufficient load rating for the vehicle. It will be immediately apparent to any customer potentially confused by the ''none'' language that the vehicle has a spare tire when they lift the liftgate as explained in the owner's manual. In addition, the fact that the vehicle has a spare tire is explained on the Monroney label.

5. The spare-tire size and pressure information is readily available from additional sources (*e.g.,* any automotive dealer or tire replacement facility), and on GM's or the tire retailer's website.

6. Most, if not all, temporary spare tires have the same cold tire pressure, which is 60 psi. The 60 psi pressure is an industry standard and it is set by at least two governing bodies, the U.S. Tire and Rim Association and the European Tire Rim Technical Organization.

7. All other information on the vehicle placard is correct.

8. NHTSA has previously granted similar inconsequential petitions with respect to FMVSS No. 110 noncompliances.

9. GM is not aware of any field or owner complaints associated with this issue. GM is also not aware of any crashes or injuries associated with this condition.

GM's complete petition and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov* and by following the online search instructions to locate the docket number as listed in the title of this notice.

**VI. NHTSA's Analysis**

The intent of FMVSS No. 110 is to ensure that vehicles are equipped with tires appropriate to handle maximum vehicle loads and to prevent overloading.

GM explained that the subject vehicles are equipped with tire and

loading information labels that do not provide the cold tire pressure or original size information for the spare tire, and instead, incorrectly indicated that there is no spare tire.

The agency agrees with GM that the subject noncompliance is inconsequential to motor vehicle safety. Even though the subject vehicles have erroneously marked tire placard labels, the subject vehicles are equipped with the appropriate matched spare tire and rim combination, and that when properly mounted on the subject vehicles, would allow the vehicles to be operated safely within the manufacturer's specified performance and loading limits. The agency agrees with GM, that should a customer question whether the vehicle comes equipped with a spare tire or what the cold tire pressure is for the spare tire, most customers would consult the Owner's Manual, which would direct the customer to the spare tire location as well as provide the recommended tire pressure. Should the Owner's Manual be unavailable, the customer would be able to lift the liftgate and see that there is a spare tire or contact any authorized dealer or tire replacement facility for assistance.

**VII. NHTSA's Decision**

In consideration of the foregoing, NHTSA finds that GM has met its burden of persuasion that the FMVSS No. 110 noncompliance is inconsequential as it relates to motor vehicle safety. Accordingly, GM's petition is hereby granted and GM is exempted from the obligation of providing notification of, and a remedy for, the noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject vehicles that GM no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after GM notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

**Otto G. Matheke III,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2019–11208 Filed 5–29–19; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2016–0143; Notice 2]**

### Mercedes-Benz USA, LLC, Grant of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Grant of petition.

**SUMMARY:** Mercedes-Benz USA, LLC (MBUSA) on behalf of itself and its parent company Daimler AG (DAG), has determined that certain model year (MY) 2016–2017 Mercedes-Benz GLE and GLS-Class motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less.* MBUSA filed a noncompliance information report dated December 12, 2016, and subsequently petitioned NHTSA on December 22, 2016, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces the grant of MBUSA's petition.

**FOR FURTHER INFORMATION CONTACT:** Kerrin Bressant, Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366–1110, facsimile (202) 366–5930.

**SUPPLEMENTARY INFORMATION:**

*I. Overview:* MBUSA has determined that certain MY 2016–2017 Mercedes-Benz GLE and GLS-Class motor vehicles do not fully comply with paragraph S4.3 of FMVSS No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less* (49 CFR 571.110). MBUSA filed a noncompliance information report dated December 12, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* MBUSA subsequently petitioned NHTSA on December 22, 2016, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance,* for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of MBUSA's petition was published, with a 30-day public comment period on April 11, 2017, in the **Federal Register** (82 FR 17515). No comments were received. To view the petition and all supporting documents, log onto the Federal Docket Management System (FDMS) web page at: *http://www.regulations.gov/* and follow the online search instruction to locate docket number ''NHTSA–2016–0143.''

*II. Vehicles Involved:* Approximately 142 of the following Mercedes-Benz GLE and GLS-Class motor vehicles manufactured on June 14 and June 15, 2016, are potentially involved:

- 2016 Mercedes-Benz GLE300d 4Matic
- 2016 Mercedes-Benz GLE350
- 2016 Mercedes-Benz GLE350 4Matic
- 2016 Mercedes-Benz GLE400 4Matic
- 2016 Mercedes-Benz GLE550e 4Matic
- 2016 Mercedes-Benz GLE63S AMG 4Matic
- 2017 Mercedes-Benz GL450 4Matic
- 2017 Mercedes-Benz GL550 4Matic

*III. Noncompliance:* MBUSA explains that the noncompliance is that the tire information placard affixed to the driver's side B-pillar on the subject vehicles was improperly printed and therefore does not meet the requirements of paragraph S4.3 of FMVSS No. 110. Specifically, the column identifying whether the tire is front, rear, or spare might not be completely legible.

*IV. Rule Text:* Paragraph S4.3 of FMVSS No. 110 includes the requirements relevant to this petition:

- Each vehicle, except for a trailer or incomplete vehicle shall show the information specified in paragraph S4.3 (a) through (g), and may show, at the manufacturer's option, the information specified in paragraph S4.3 (h) and (i), on a placard permanently affixed to the driver's side B-pillar.
- This information shall be in the English language and conform in color and format, not including the border surrounding the entire placard, as shown in the example set forth in Figure 1 of FMVSS No. 110:

(c) Vehicle manufacturer's recommended cold tire inflation pressure for front, rear and spare tires.

(d) Tire size designation, indicated by the headings ''size'' or ''original tire

size'' or ''original size'' and ''spare tire'' or ''spare,'' for the tires installed at the time of first purchase for purposes other than resale.

*V. Summary of MBUSA's Petition:* MBUSA described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, MBUSA submitted the following reasoning:

1. The row names ''front/rear/spare'' might not be completely legible, but the tire dimensions and pressure values are legible and correct.

2. The data, including the ''front/rear/spare'' designations, is also available on the tank flap to the gas tank (also referred to as the ''filler flap'').

3. After identifying the potentially noncompliant B-pillar tire information placards, DAG analyzed potential technical implications, specifically with respect to the requirements of FMVSS No. 110, and did not identify any technical implications since the label remains substantially legible and the same information is provided elsewhere on the vehicle.

4. MBUSA has received neither customer complaints nor information about any accidents or injuries alleged to have occurred as a result of this noncompliance.

5. DAG has correct labels in production as of June 15, 2016.

MBUSA concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

*VI. NHTSA's Analysis:* MBUSA explained that the noncompliance is that the subject vehicles are equipped with an FMVSS No. 110 tire and information vehicle placard which isn't properly printed. FMVSS No. 110 requires that the vehicle placard identify the installed tire sizes and recommended inflation pressures for each vehicle axle (*i.e.* front and rear) and the size of the spare tire, if equipped. The axle and spare tire identification labeling on the affected vehicles is not completely legible, however, the given tire dimensions and inflation pressure values on the label are correct.

Assuming a worst-case scenario where the axle and spare tire identification information (*i.e.,* front, rear and spare) were totally missing, the vehicle operator could inadvertently be misguided to the incorrect inflation pressure for the tires installed on each axle and the spare tire. The operator could easily identify the tire size by visually looking at the tires fitted to each axle and the spare tire. By comparing the actual tire sizes to the information on the vehicle placard, the spare tire could be easily differentiated from the tires mounted on the axles because of its much smaller size. The same tire size is used on both the front and rear axles. The vehicle placards on the subject vehicles recommend 41–45 psi for the front axle and 44–51 psi for the rear axle, depending on the model type. The concern is that the vehicle placards list two different inflation pressures for the tires mounted on the vehicles, but does not properly identify what pressure is for the front axle and which is for the rear axle.

FMVSS No. 110 requires the tires, at the recommended inflation pressures, be appropriate for the vehicle's gross axle weight ratings (GAWRs). The agency evaluated the affected vehicles against this FMVSS No. 110 requirement and in the unlikely event that the operator ''guessed'' incorrectly or simply opted to inflate all four tires to the lowest stated pressure, the tires would be appropriate for the vehicle's GAWRs. Information provided by the ETRTO (European Tire and Rim Technical Organization) validates that at the lower pressures, the tires on the subject vehicles, are adequate to handle maximum vehicle loads.

In further communications regarding this petition, MBUSA mentioned that the subject vehicles are also equipped with gas tank flap labels that provide the recommended inflation pressures for the tires and corresponding axles. The gas tank flap label clearly states what inflation pressures should be used for each axle. Upon evaluation of the information provided on the gas tank flap labels, the agency noted that some of the pressures are exactly the same as those specified on the vehicle placard label discussed above, however, on many of the vehicles the pressures on both axles are 4 psi less than those listed on the vehicle placard. The agency conducted a second evaluation to see if the tires on the subject vehicles, at the lower gas tank flap labeled inflation pressures, would still be appropriate for the respective vehicle GAWRs in accordance with the requirements of FMVSS No. 110. The agency determined that the tires on the subject vehicles, at the inflation pressures stated on the alternative gas tank flap labels, would still be appropriate for the respective vehicle's GAWRs.

The agency also considered the safety implications of providing a partially legible FMVSS No. 110 vehicle placard on the subject vehicles. Vehicle placards are typically referenced by vehicle operators and relay important information pertaining to tire and loading information. As MBUSA mentioned, the labels on the subject vehicles are substantially legible and clearly provide the vehicle capacity weight, seating capacity and position, as well as the tire sizes with corresponding recommended tire inflation pressures. These labels also recommend that the owner's manual can be referenced for further information. The tire related information that may not be legible can be readily found in other locations (*i.e.* gas tank filler flap, tire sidewall, and owner's manual).

*VII. NHTSA's Decision:* In consideration of the foregoing, NHTSA has decided that MBUSA has met its burden of persuasion that the subject noncompliance with FMVSS No. 110 is inconsequential to motor vehicle safety. Accordingly, NHTSA hereby grants MBUSA's petition. MBUSA is therefore exempted from the obligation of providing notification of and free remedy for, that noncompliance under 49 U.S.C. 30118 AND 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject vehicles that MBUSA no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after MBUSA notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8).

**Otto G. Matheke III,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2019–11212 Filed 5–29–19; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF TRANSPORTATION

### Department of Transportation Advisory Committee on Human Trafficking; Notice of Public Meeting

**AGENCY:** Office of the Secretary of Transportation, Department of Transportation.

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice announces a meeting of the Department of Transportation Advisory Committee on Human Trafficking.

**DATES:** The meeting will be held on June 17, 2019, from 2:00 p.m. to 5:00 p.m. EDT.

**ADDRESSES:** The meeting will be held via teleconference. Any person requesting accessibility accommodations should contact the Official listed in the next section.

**FOR FURTHER INFORMATION CONTACT:** Nicole L. Bambas, Senior Advisor, Office of International Transportation and Trade, U.S. Department of Transportation, at *trafficking@dot.gov* or (202) 366–5058. Also visit the ACHT internet website at *https://www.transportation.gov/stophumantrafficking/acht*.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

The Advisory Committee on Human Trafficking (ACHT) was created in accordance with Section 5 of the *Combating Human Trafficking in Commercial Vehicles Act* (Pub. L. 115–99) to make recommendations to the Secretary of Transportation on actions the Department can take to help combat human trafficking, and to develop recommended best practices for States and State and local transportation stakeholders in combatting human trafficking.

#### II. Agenda

At the June 17, 2019, meeting, the agenda will cover the following topics:

- Welcome
- Review of the ACHT Process
- Overview of the ACHT Final Report
- Public Comment
- Motion to Approve Final ACHT Report
- Closing

A final agenda will be posted on the ACHT internet website at *https://www.transportation.gov/stophumantrafficking/acht* at least one week in advance of the meeting.

#### III. Public Participation

The meeting will be open to the public. Members of the public who wish to participate in the teleconference are asked to register via email by submitting their name and affiliation to *trafficking@dot.gov* by June 3, 2019. The US Department of Transportation is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, please contact Nicole Bambas at 202–366–5058 or via email at (*trafficking@dot.gov*) with your request by close of business on June 3, 2019.

There will be 30 minutes allotted for oral comments from members of the public joining the meeting. To accommodate as many speakers as possible, the time for each commenter may be limited. Individuals wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name, address, and organizational affiliation of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the Office of the Secretary may conduct a lottery to determine the speakers. Speakers are requested to submit a written copy of their prepared remarks by 5:00 p.m. EDT on June 3, 2019, for inclusion in the meeting records and for circulation to ACHT members. All prepared remarks submitted on time will be accepted and considered as part of the record.

Persons who wish to submit written comments for consideration by ACHT during the meeting must submit them no later than 5:00 p.m. EDT on June 3, 2019, to ensure transmission to ACHT members prior to the meeting. Comments received after that date and time will be distributed to the members but may not be reviewed prior to the meeting.

Copies of the meeting minutes will be available on the ACHT internet website at *https://www.transportation.gov/stophumantrafficking/acht*.

Dated: May 20, 2019.

**Joel Szabat,**

*Assistant Secretary, Aviation and International Affairs.*

[FR Doc. 2019–11277 Filed 5–29–19; 8:45 am]

**BILLING CODE 4910–9X–P**

## DEPARTMENT OF THE TREASURY

### Financial Crimes Enforcement Network

### FinCEN's Innovation Initiative: Implementation of FinCEN Innovation Hours; Invitation To Request Innovation Hours Meeting

**AGENCY:** Financial Crimes Enforcement Network (''FinCEN''), U.S. Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** FinCEN, a bureau of the Department of the Treasury, is notifying the public of its Innovation Hours Program. Through the Program, FinCEN will provide dedicated time on a monthly basis to meet with financial institutions, regulatory and financial technology firms, and other stakeholders to enable them to share information with FinCEN about innovative approaches to evaluating, maintaining and reporting information under the Bank Secrecy Act in order to further strengthen the financial system against illicit financial activity. The FinCEN Innovation Hours Program is a cornerstone of a broader FinCEN Innovation Initiative highlighted within the Joint FinCEN-Federal Banking Agency Statement on Innovation (December 3, 2018).[1] The FinCEN Innovation Initiative seeks to promote innovation by supporting, where appropriate and feasible, innovation pilot programs, and enhanced feedback and information sharing programs. In addition, FinCEN will consider for future implementation the feasibility of incorporating demonstration and application testing capabilities to facilitate the development of innovative solutions to Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) challenges.

This notice will be in the Federal E-rulemaking Portal: *http://www.regulations.gov*. Refer to Docket Number FinCEN–2019–0001.

**DATES:** *Effective Date:* FinCEN Innovation Hours Program will begin effective May 30, 2019.

**ADDRESSES:** Stakeholders must submit meeting requests using the request form and questionnaire available on the Innovation Initiative web page [*https://www.fincen.gov/resources/fincens-innovation-hours-program*].

**FOR FURTHER INFORMATION CONTACT:** The FinCEN Resource Center at 800–767–2825 or electronically at *FRC@fincen.gov*.

[1] *See https://www.fincen.gov/news/news-releases/treasurys-fincen-and-federal-banking-agencies-issue-joint-statement-encouraging.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

FinCEN launched an Innovation Initiative to foster a better understanding of the opportunities and challenges of Bank Secrecy Act (BSA) and AML-related innovation in the financial services sector. FinCEN recognizes that private sector innovation, either by new ways of using existing tools or by adopting new technologies, has the potential to enhance financial institutions' BSA/AML compliance programs. This includes aspects involving risk identification, transaction monitoring, and suspicious activity reporting as well as otherwise improving the BSA/AML framework by making valuable information available to law enforcement. When responsibly employed, these enhancements can be an important element in safeguarding the U.S. financial system against an evolving array of threats. FinCEN's Innovation Initiative, highlighted within the Joint FinCEN-Federal Banking Agency Statement on Innovation (December 3, 2018), includes the FinCEN Innovation Hours Program, consideration of exceptive relief, where necessary and appropriate to facilitate innovative solutions to AML/CFT compliance challenges, and ongoing efforts to identify ways to enhance existing feedback and information sharing programs. FinCEN is considering plans to further expand this initiative in the longer-term by establishing demonstration and application testing capabilities for innovative AML/CFT solutions. FinCEN will also consider the feasibility of sponsoring ''Tech Sprints'' to facilitate the development of innovative solutions to AML/CFT challenges in the longer-term.[2]

To continue to better understand regulatory and financial technology developments involving AML and CFT, FinCEN has met with financial institutions, technology companies, payments processors, regulators and other stakeholders focusing on innovation. A common theme emerging from these discussions is the desire by financial services stakeholders to have greater direct engagement with policymakers and regulators to discuss or demonstrate innovative financial products and services and compliance solutions. At the same time, industry engagement educates policymakers and regulators about new and emerging financial technology (''FinTech'') and regulatory technology (''RegTech'') business models and operating environments, as well as other innovative approaches to compliance. Such understanding helps to inform potential ways to improve the effectiveness and efficiency of the AML/CFT regulatory framework to make more valuable information to law enforcement and to better protect the U.S. financial system.

## II. Innovation Hours

To advance FinCEN's Innovation Initiative, FinCEN will host Innovation Hours for financial institutions, technology providers, and other firms involved in financial services to discuss and showcase their innovative products, services and approaches. FinCEN intends for this engagement to benefit both the private sector and government. Industry would share information about specific innovations and the potential opportunities and challenges. As part of the Innovation Hours, FinCEN will provide FinTech and RegTech companies, financial institutions and other stakeholders opportunities to demonstrate their new and emerging technologies and innovative products and services. Such demonstrations would be aimed primarily at educating FinCEN and other government participants about how the innovations operate and can enhance BSA/AML compliance to provide for more effective and efficient reporting and recordkeeping or otherwise improve the value of information collected and analyzed under the BSA framework.

Innovation Hours will be held primarily at FinCEN offices in Washington, DC or Vienna, VA on a monthly basis, but they may also be conducted in other locations, as well as virtually, as appropriate. Innovation Hours will generally be scheduled for one hour per eligible requester. Depending on the demand or other factors, FinCEN may not be able to grant all requests. Those participating in Innovation Hours will not be compensated or reimbursed for their time, services, or travel.

### *A. Eligibility*

Unless otherwise authorized by FinCEN, to participate in the Innovation Hours Program, FinCEN requires at a minimum that:

(i) The requester provide or use financial or regulatory products or services that comply with BSA regulations or are intended to enhance compliance with U.S. regulations.

(ii) The presentation or demonstration address how such products or services, or innovative uses of existing tools, can enhance financial institutions' BSA/AML compliance programs, including, for example, aspects involving risk identification, transaction monitoring, and suspicious activity reporting or otherwise improve the effectiveness and efficiency of the AML/CFT framework to make more valuable information available to law enforcement to better protect the U.S. financial system.

(iii) Products are in production or ready for deployment.

(iv) The company is not the subject of an ongoing federal or other criminal or civil enforcement action for BSA/AML deficiencies.

FinCEN does not generally anticipate accepting requests from entities whose innovations are in the conceptual or nascent stages of development. FinCEN will meet with consultants or legal service providers to eligible companies through the Innovation Hours Program only to the extent that such consultants or legal service providers are representing an entity otherwise eligible to request a meeting under the criteria listed above.

### *B. Limitations*

Discussions occurring in the context of the FinCEN Innovation Hours Program do not constitute a formal agency position and are non-binding on participants. Participation in the Innovation Hours Program does not constitute a U.S. government recommendation, endorsement, or approval of any company innovation, product, service or approach. In addition, FinCEN does not, and will not, through FinCEN's Innovation Initiative, approve, provide advice, or opine on:

- Any specific business model;
- What products or services a firm can or should provide; or
- How a company should structure their operations or compliance program.

### *C. Process for Requesting Innovation Hours*

Companies interested in seeking engagement with FinCEN through the Innovation Hours Program should complete and submit a request form and questionnaire as instructed on the Innovation Initiative web page located at [*https://www.fincen.gov/resources/fincens-innovation-hours-program*]. The request form and questionnaire requires participants to provide background information on the firm's business and the requested discussion topics. FinCEN

[2] Tech Sprints are events hosted by government, private-sector, and/or non-profit organizations or academic institutions that bring together representatives from all those sectors to collaboratively identify potential technological or other solutions to a particular problem or issue. FinCEN is considering the feasibility of hosting such events in the future that would focus on specific AML/CFT challenges or issues.

may, however, seek additional information as appropriate to enable an informed review of the request. Please note that contacting FinCEN to request a meeting will be viewed as a representation that your firm understands and will comply with the parameters for such engagement outlined in the Frequently Asked Questions published on the Innovation Initiative web page [*https://www.fincen.gov/resources/fincens-innovation-hours-program/faq*].

*D. General Compliance Questions*

Although general compliance or other questions may come up during Innovation Hours, such questions should not be the purpose of the meeting. Companies with general questions regarding the BSA and its implementing regulations should contact the FinCEN Resource Center (FRC) at 1–800–767–2825 or *FRC@fincen.gov*.

**Jamal El-Hindi,**

*Deputy Director, Financial Crimes Enforcement Network.*

[FR Doc. 2019–11314 Filed 5–29–19; 8:45 am]

**BILLING CODE 4810–02–P**

## DEPARTMENT OF THE TREASURY

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Internal Revenue Service Information Collection Requests

**AGENCY:** Departmental Offices, U.S. Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

**DATES:** Comments should be received on or before July 1, 2019 to be assured of consideration.

**ADDRESSES:** Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8100, Washington, DC 20220, or email at *PRA@treasury.gov*.

**FOR FURTHER INFORMATION CONTACT:** Copies of the submissions may be obtained from Jennifer Quintana by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov*.

**SUPPLEMENTARY INFORMATION:**

**Internal Revenue Service (IRS)**

*1. Title:* Recapture of Investment Credit.

*OMB Control Number:* 1545–0166.

*Type of Review:* Revision of a currently approved collection.

*Description:* IRC section 50(a) and Regulation section 1.47 require that taxpayers attach a statement to their return showing the computation of the recapture tax when investment credit property is disposed of before the end of the recapture period used in the original computation of the investment credit.

*Form:* 4255.

*Affected Public:* Businesses or other for-profits.

*Estimated Number of Respondents:* 1,320.

*Frequency of Response:* On occasion.

*Estimated Total Number of Annual Responses:* 1,320.

*Estimated Time per Response:* 9.81 hours.

*Estimated Total Annual Burden Hours:* 12,949.

*2. Title:* Tax on Accumulation Distribution of Trusts.

*OMB Control Number:* 1545–0192.

*Type of Review:* Extension without change of a currently approved collection.

*Description:* Form 4970 is used by a beneficiary of a domestic or foreign trust to compute the tax adjustment attributable to an accumulation distribution. The form is used to verify whether the correct tax has been paid on the accumulation distribution.

*Form:* 4970.

*Affected Public:* Individuals and households.

*Estimated Number of Respondents:* 30,000.

*Frequency of Response:* Annually.

*Estimated Total Number of Annual Responses:* 30,000.

*Estimated Time per Response:* 1.43 hours.

*Estimated Total Annual Burden Hours:* 42,900.

*3. Title:* Election to Postpone Determination as to whether the Presumption Applies that an activity is engaged in for profit.

*OMB Control Number:* 1545–0195.

*Type of Review:* Extension without change of a currently approved collection.

*Description:* This form is used by individuals, partnerships, estates, trusts, and S corporations to make an election to postpone an IRS determination as to whether an activity is engaged in for profit for 5 years (7 years for breeding, training, showing, or racing horses). The data is used to verify eligibility to make the election.

*Form:* 5213.

*Affected Public:* Businesses or other for-profits.

*Estimated Number of Respondents:* 3,541.

*Frequency of Response:* On occasion.

*Estimated Total Number of Annual Responses:* 3,541.

*Estimated Time per Response:* 46 minutes.

*Estimated Total Annual Burden Hours:* 2,762.

*4. Title:* Installment Sale Income.

*OMB Control Number:* 1545–0228.

*Type of Review:* Extension without change of a currently approved collection.

*Description:* Information is needed to figure and report an installment sale for a casual or incidental sale of personal property, and a sale of real property by someone not in the business of selling real estate. Data is used to determine whether the installment sale has been properly reported and the correct amount of profit is included in income on the taxpayer's return.

*Form:* 6252.

*Affected Public:* Businesses or other for-profits.

*Estimated Number of Respondents:* 521,898.

*Frequency of Response:* Annually.

*Estimated Total Number of Annual Responses:* 521,898.

*Estimated Time per Response:* 3 hours.

*Estimated Total Annual Burden Hours:* 1,597,008.

*5. Title:* Certificate of Payment of Foreign Death Tax.

*OMB Control Number:* 1545–0260.

*Type of Review:* Extension without change of a currently approved collection.

*Description:* Form 706–CE is used by the executors of estates to certify that foreign death taxes have been paid so that the estate may claim the foreign death tax credit allowed by IRS section 2014. The information is used by IRS to verify that the proper tax credit has been claimed.

*Form:* 706–CE.

*Affected Public:* Individuals and households.

*Estimated Number of Respondents:* 2,250.

*Frequency of Response:* On occasion.
*Estimated Total Number of Annual Responses:* 2,250.
*Estimated Time per Response:* 1.72 hours.
*Estimated Total Annual Burden Hours:* 3,870.
*6. Title:* Excise Tax; Tractors, Trailers, Trucks, and Tires; Reporting & Recordkeeping Requirements.
*OMB Control Number:* 1545–0745.
*Type of Review:* Extension without change of a currently approved collection.
*Description:* This collection contains proposed amendments to the Highway Use Tax Regulations (26 CFR part 41), the Manufacturers and Retailers Excise Tax Regulations (26 CFR part 48), and the Temporary Excise Tax Regulations under the Highway Revenue Act of 1982 (Pub. L. 97–424) (26 CFR part 145). REG–103380–05 contains proposed regulations relating to the excise taxes imposed on the sale of highway tractors, trailers, trucks, and tires; the use of heavy vehicles on the highway; and the definition of highway vehicle related to these and other taxes. These proposed regulations reflect legislative changes and court decisions regarding these topics. These proposed regulations affect manufacturers, producers, importers, dealers, retailers, and users of certain highway tractors, trailers, trucks, and tires.
*Form:* None.
*Affected Public:* Businesses or other for-profits.
*Estimated Number of Respondents:* 7,100.
*Frequency of Response:* Annually, On Occasion.
*Estimated Total Number of Annual Responses:* 7,100.
*Estimated Time per Response:* 41 minutes.
*Estimated Total Annual Burden Hours:* 4,890.
*7. Title:* Disclosure of reportable transactions.
*OMB Control Number:* 1545–0865.
*Type of Review:* Extension without change of a currently approved collection.
*Description:* Internal Revenue Code (IRC) 6111 requires a sub-set of promoters called ''material advisors'' to disclose information about the promotion of certain types of transactions called ''reportable transactions.'' Material advisors to any reportable transaction must disclose certain information about the reportable transaction by filing a Form 8918 with the IRS. Material advisors who file a Form 8918 will receive a reportable transaction number from the IRS. Material advisors must provide the reportable transaction number to all taxpayers and material advisors for whom the material advisor acts as a material advisor.
*Form:* 8918.
*Affected Public:* Businesses or other for-profits.
*Estimated Number of Respondents:* 35.
*Frequency of Response:* On occasion.
*Estimated Total Number of Annual Responses:* 35.
*Estimated Time per Response:* 14.5 hours.
*Estimated Total Annual Burden Hours:* 510.
*8. Title:* Information Return for Publicly Offered Original Issue Discount Instruments.
*OMB Control Number:* 1545–0887.
*Type of Review:* Extension without change of a currently approved collection.
*Description:* Form 8281 is filed by the issuer of a publicly offered debt instrument having OID. The information is used to update Pub. 1212, Guide to Original Issue Discount (OID) Instruments, to enable brokers and other middlemen to identify publicly traded OID obligations, which they may hold as nominees for the true owners, so that they can meet the requirement to file Forms 1099–INT and 1099–OID as required by section 6049.
*Form:* 8281.
*Affected Public:* Businesses or other for-profits.
*Estimated Number of Respondents:* 500.
*Frequency of Response:* On occasion.
*Estimated Total Number of Annual Responses:* 500.
*Estimated Time per Response:* 6.1 hours.
*Estimated Total Annual Burden Hours:* 3,060.
*9. Title:* Registration Requirements with Respect to Debt Obligations.
*OMB Control Number:* 1545–0945.
*Type of Review:* Extension without change of a currently approved collection.
*Description:* The previously approved rule requires an issuer of a registration-required obligation and any person holding the obligation as a nominee or custodian on behalf of another to maintain ownership records in a manner which will permit examination by the IRS in connection with enforcement of the Internal Revenue laws.
*Form:* None.
*Affected Public:* Businesses or other for-profits.
*Estimated Number of Respondents:* 50,000.
*Frequency of Response:* Annually.
*Estimated Total Number of Annual Responses:* 50,000.
*Estimated Time per Response:* 1 hour.
*Estimated Total Annual Burden Hours:* 50,000.
*10. Title:* Return of Excise Tax on Undistributed Income of Regulated Investment Companies.
*OMB Control Number:* 1545–1016.
*Type of Review:* Extension without change of a currently approved collection.
*Description:* Form 8613 is used by regulated investment companies to compute and pay the excise tax on undistributed income imposed under section 4982. IRS uses the information to verify that the correct amount of tax has been reported.
*Form:* 8613.
*Affected Public:* Businesses or other for-profits.
*Estimated Number of Respondents:* 1,500.
*Frequency of Response:* Annually.
*Estimated Total Number of Annual Responses:* 1,500.
*Estimated Time per Response:* 11.8 hours.
*Estimated Total Annual Burden Hours:* 17,820.
*11. Title:* Allocation of Estimated Tax Payments to Beneficiaries.
*OMB Control Number:* 1545–1020.
*Type of Review:* Extension without change of a currently approved collection.
*Description:* This form was developed to allow a trustee of a trust or an executor of an estate to make an election under IRC section 643(g) to allocate any payment of estimated tax to a beneficiary(ies). This form serves as a transmittal so that Service Center personnel can determine the correct amounts that are to be transferred from the fiduciary's account to the individual's account.
*Form:* 1041–T.
*Affected Public:* Businesses or other for-profits.
*Estimated Number of Respondents:* 1,000.
*Frequency of Response:* Annually.
*Estimated Total Number of Annual Responses:* 1,000.
*Estimated Time per Response:* 59 minutes
*Estimated Total Annual Burden Hours:* 990.
*12. Title:* Recapture of Low-Income Housing Credit.
*OMB Control Number:* 1545–1035.
*Type of Review:* Revision of a currently approved collection.
*Description:* IRC section 42 permits owners of residential rental projects providing low-income housing to claim a credit against their income tax. If the

property is disposed of or it falls to meet certain requirements over a 15-year compliance period and a bond is not posted, the owner must recapture on Form 8611 part of the credit(s) taken in prior years.

*Form:* 8611.

*Affected Public:* Businesses or other for-profits.

*Estimated Number of Respondents:* 100.

*Frequency of Response:* Annually.

*Estimated Total Number of Annual Responses:* 100

*Estimated Time per Response:* 9.56 hours.

*Estimated Total Annual Burden Hours:* 956.

*13. Title:* Application for Withholding Certificate for Dispositions by Foreign Persons of U.S. Real Property Interests.

*OMB Control Number:* 1545–1060.

*Type of Review:* Revision of a currently approved collection.

*Description:* Form 8288–B is used to apply for a withholding certification from IRS to reduce or eliminate the withholding required by section 1445.

*Form:* 8288–B.

*Affected Public:* Businesses or other for-profits.

*Estimated Number of Respondents:* 508.

*Frequency of Response:* On occasion.

*Estimated Total Number of Annual Responses:* 508.

*Estimated Time per Response:* 5.75 hours.

*Estimated Total Annual Burden Hours:* 2,926.

*14. Title:* Certain Cash or Deferred Arrangements and Employee and Matching Contributions under Employee Plans and Retirement Plans; Cash or Deferred Arrangements.

*OMB Control Number:* 1545–1069.

*Type of Review:* Extension without change of a currently approved collection.

*Description:* The IRS needs this information to insure compliance with sections 401(k), 401(m), and 4979 of the Internal Revenue Code. Certain additional taxes may be imposed if sections 401(k) and 401(m) are not complied with.

*Form:* None.

*Affected Public:* Businesses or other for profits.

*Estimated Number of Respondents:* 355,500.

*Frequency of Response:* Annually.

*Estimated Total Number of Annual Responses:* 355,500.

*Estimated Time per Response:* 2.98 hours per response.

*Estimated Total Annual Burden Hours:* 1,060,000.

*15. Title:* TD 8400—(Final) Taxation of Gain or Loss from Certain Nonfunctional Currency Transactions (Section 988 Transactions).

*OMB Control Number:* 1545–1131.

*Type of Review:* Extension without change of a currently approved collection.

*Description:* This document, TD 8400, contains previously approved final regulations regarding the taxation of gain or loss from certain foreign currency transactions and applies to taxpayers engaging in such transactions. Section 988 of the Internal Revenue Code concerns the taxation of exchange gain or loss on certain foreign currency denominated transactions. Such gains and losses are characterized as ordinary income or loss. However, under section 988(a)(1)(B) taxpayers may elect to characterize exchange gain or loss on certain transactions as capital gain or loss. Section 1.988–3(b) of the regulations provides the procedure for making the election. Under section 988(c)(1)(D)(ii), taxpayers may elect to have regulated futures contracts and certain options (which generally are not subject to section 988) treated as section 988 transactions. Sections 1.988–1(a)(4)(iii) and (iv) provide the procedure for making that election. Under section 988(c)(1)(E)(iii), a commodity fund may elect special treatment under section 988. Section 1.988–1(a)(5)(iv) provides the procedure for making that election. Under section 988(d) taxpayers may receive special treatment if they identify certain transactions. The identification rules are in sections 1.988–5(a)(8), 1.988–5(b)(3), 1.988–5(c)(2) and 1.988–5(d)(2)(i)(A).

*Form:* None.

*Affected Public:* Businesses or other for profits.

*Estimated Number of Respondents:* 5,000.

*Frequency of Response:* Annually.

*Estimated Total Number of Annual Responses:* 5,000.

*Estimated Time per Response:* .67 hours per response.

*Estimated Total Annual Burden Hours:* 3,333.

*16. Title:* Change of Address (For Individual, Gift, Estate, or Generation-Skipping Transfer Tax Returns) and Change of Address—Business.

*OMB Control Number:* 1545–1163.

*Type of Review:* Revision of a currently approved collection.

*Description:* Form 8822 and 8822–B are used by taxpayers to furnish their change of address to the Internal Revenue Service. Form 8822 is used by individual taxpayers while Form 8822–B will be used by business taxpayers.

*Form:* 8822, 8822–B.

*Affected Public:* Individuals or Households, Businesses or other for profits.

*Estimated Number of Respondents:* 860,500.

*Frequency of Response:* On Occasion.

*Estimated Total Number of Annual Responses:* 860,500.

*Estimated Time per Response:* .3 hours per response.

*Estimated Total Annual Burden Hours:* 222,942.

*17. Title:* INTL–21–91 (TD 8656—Final) Section 6662—Imposition of the Accuracy-Related Penalty.

*OMB Control Number:* 1545–1426.

*Type of Review:* Extension without change of a currently approved collection.

*Description:* These previously approved regulations provide guidance about substantial and gross valuation misstatements as defined in sections 6662(e) and 6662(h). They also provide guidance about the reasonable cause and good faith exclusion. The regulations apply to taxpayers who have transactions between persons described in section 482 and not section 482 transfer price adjustments.

*Form:* None.

*Affected Public:* Businesses or other for profits.

*Estimated Number of Respondents:* 2,500.

*Frequency of Response:* Annually.

*Estimated Total Number of Annual Responses:* 2,500.

*Estimated Time per Response:* 8.05 hours per response.

*Estimated Total Annual Burden Hours:* 20,125.

*18. Title:* Voluntary Customer Surveys to Implement E.O. 12862 Coordinated by the Corporate Planning and Performance Division on Behalf of All IRS Operations Functions.

*OMB Control Number:* 1545–1432.

*Type of Review:* Revision of a currently approved collection.

*Description:* This is a generic clearance for an undefined number of customer satisfaction and opinion surveys and focus group interviews to be conducted over the next three years. Surveys and focus groups conducted under the generic clearance are used by the Internal Revenue Service to determine levels of customer satisfaction as well as determining issues that contribute to customer burden. This information will be used to make quality improvements to products and services.

*Form:* Generic Customer Feedback Surveys.

*Affected Public:* Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms and Federal, state, local or tribal governments.

*Estimated Number of Respondents:* 100,000.

*Frequency of Response:* On Occasion.
*Estimated Total Number of Annual Responses:* 100,000.
*Estimated Time per Response:* .25 hours per response.
*Estimated Total Annual Burden Hours:* 40,000.
*19. Title:* TD 8643 (Final) Distributions of Stock and Stock Rights.
*OMB Control Number:* 1545–1438.
*Type of Review:* Revision of a currently approved collection.
*Description:* The requested information is required to notify the Service that a holder of preferred stock callable at a premium by the issuer has made a determination regarding the likelihood of exercise of the right to call that is different from the issuer's determination.
*Form:* None.
*Affected Public:* Businesses or other for-profits.
*Estimated Number of Respondents:* 2,000.
*Frequency of Response:* Annually.
*Estimated Total Number of Annual Responses:* 2,000.
*Estimated Time per Response:* .17 hours per response.
*Estimated Total Annual Burden Hours:* 333.
*20. Title:* Empowerment Zone Employment Credit.
*OMB Control Number:* 1545–1444.
*Type of Review:* Revision of a currently approved collection.
*Description:* The empowerment zone employment (EZE) credit is part of the general business credit under section 38. However, unlike the other components of the general business credit, taxpayers are allowed to offset 25 percent of their alternative minimum tax with the EZE credit.
*Form:* 8844.
*Affected Public:* Business or other for-profit organizations.
*Estimated Number of Respondents:* 25.
*Frequency of Response:* Annually.
*Estimated Total Number of Annual Responses:* 25.
*Estimated Time per Response:* 6.33 hours per response.
*Estimated Total Annual Burden Hours:* 158.
*21. Title:* Form 5304–SIMPLE; Form 5305–SIMPLE; Notice 98–4.
*OMB Control Number:* 1545–1502.
*Type of Review:* Extension without change of a currently approved collection.
*Description:* Forms 5304–SIMPLE and 5035–SIMPLE are used by an employer to permit employees to make salary reduction contributions to a savings incentive match plan (SIMPLE IRA) described in Code section 408(p). These forms are not to be filed with IRS, but to be retained in the employers' records as proof of establishing such a plan, thereby justifying a deduction for contributions made to the SIMPLE IRA. The data is used to verify the deduction. Notice 98–4 provides guidance for employers and trustees regarding how they can comply with the requirements of Code section 408(p) in establishing and maintaining a SIMPLE Plan
*Form:* 5304 Simple, 5305 Simple.
*Affected Public:* Business or other for-profit organizations.
*Estimated Number of Respondents:* 600,000.
*Frequency of Response:* Annually.
*Estimated Total Number of Annual Responses:* 600,000.
*Estimated Time per Response:* 3.52 hours per response.
*Estimated Total Annual Burden Hours:* 2,113,000.
*22. Title:* Notice 97–34—Information Reporting on Transactions With Foreign Trusts and on Large Foreign Gifts.
*OMB Control Number:* 1545–1538.
*Type of Review:* Extension without change of a currently approved collection.
*Description:* This notice provides guidance on the foreign trust and foreign gift information reporting provisions contained in the Small Business Job Protection Act of 1996.
*Form:* None.
*Affected Public:* Businesses or other for profits.
*Estimated Number of Respondents:* 5,000.
*Frequency of Response:* Annually.
*Estimated Total Number of Annual Responses:* 5,000.
*Estimated Time per Response:* .75 hours per response.
*Estimated Total Annual Burden Hours:* 3,750.
*23. Title:* Changes in Corporate Control and Capital Structure.
*OMB Control Number:* 1545–1814.
*Type of Review:* Revision of a currently approved collection.
*Description:* Any corporation that undergoes reorganization under Regulation section 1.6043–4T with stock, cash, and other property over $100 million must file Form 1099–CAP with the IRS shareholders.
*Form:* 1099–CAP.
*Affected Public:* Businesses or other for profits.
*Estimated Number of Respondents:* 600.
*Frequency of Response:* Annually.
*Estimated Total Number of Annual Responses:* 600.
*Estimated Time per Response:* .18 hours per response.
*Estimated Total Annual Burden Hours:* 108.
*24. Title:* Disclosure of Returns and Return Information to Designee of Taxpayer.
*OMB Control Number:* 1545–1816.
*Type of Review:* Extension without change of a currently approved collection.
*Description:* Under section 6103(a), returns and return information are confidential unless disclosure is otherwise authorized by the Code. Section 6103(c), as amended in 1996 by section 1207 of the Taxpayer Bill of Rights II, Public Law 104–168 (110 Stat. 1452), authorizes the IRS to disclose returns and return information to such person or persons as the taxpayer may designate in a request for or consent to disclosure, or to any other person at the taxpayer's request to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. Disclosure is permitted subject to such requirements and conditions as may be prescribed by regulations. With the amendment in 1996, Congress eliminated the longstanding requirement that disclosures to designees of the taxpayer must be pursuant to the written request or consent of the taxpayer.
*Form:* None.
*Affected Public:* Businesses or other for profits.
*Estimated Number of Respondents:* 4,000.
*Frequency of Response:* On Occasion.
*Estimated Total Number of Annual Responses:* 4,000.
*Estimated Time per Response:* .2 hours per response.
*Estimated Total Annual Burden Hours:* 800.
*25. Title:* Excise Tax on Structured Settlement Factoring Transactions.
*OMB Control Number:* 1545–1826.
*Type of Review:* Extension without change of a currently approved collection.
*Description:* Form 8876 is used to report and pay the 40% excise tax imposed under section 5891 on the factoring discount of a structured settlement factoring transaction.
*Form:* 8876.
*Affected Public:* Businesses or other for profits.
*Estimated Number of Respondents:* 100.
*Frequency of Response:* On Occasion.
*Estimated Total Number of Annual Responses:* 100.
*Estimated Time per Response:* 5.6 hours per response.
*Estimated Total Annual Burden Hours:* 560.
*26. Title:* Systemic Advocacy Issue Submission Form.

*OMB Control Number:* 1545–1832.

*Type of Review:* Extension without change of a currently approved collection.

*Description:* Form 14411 is to be used by individuals, businesses, practitioners and other public groups to identify systemic problems that taxpayers are encountering with IRS. This form will be submitted electronically via the *IRS.gov* website. Mailed or faxed forms will be accepted and are necessary.

*Form:* 14411.

*Affected Public:* Businesses or other for profits.

*Estimated Number of Respondents:* 420.

*Frequency of Response:* On Occasion.

*Estimated Total Number of Annual Responses:* 420.

*Estimated Time per Response:* .8 hours per response.

*Estimated Total Annual Burden Hours:* 336.

*27. Title:* Form 8621–A—Return by a Shareholder Making Certain Late Elections To End Treatment as a Passive Foreign Investment Company.

*OMB Control Number:* 1545–1950.

*Type of Review:* Revision of a currently approved collection.

*Description:* Form 8621–A is used by certain taxpayer/investors to request ending of their treatment as investing in a Passive Foreign Investment Company. New regulations are being written in support of the new products. The underlying law is in IRC sections 1297 and 1298. This is a reinstatement of a previously approved OMB collection.

*Form:* 8621–A.

*Affected Public:* Individuals or Households.

*Estimated Number of Respondents:* 1.

*Frequency of Response:* Annually.

*Estimated Total Number of Annual Responses:* 1.

*Estimated Time per Response:* 78.5 hours per response.

*Estimated Total Annual Burden Hours:* 79.

*28. Title:* Form 13285–A—Reducing Tax Burden on America's Taxpayers.

*OMB Control Number:* 1545–2009.

*Type of Review:* Extension without change of a currently approved collection.

*Description:* Form 13285–A is used by taxpayers and external partners and stakeholders to identify meaningful taxpayer burden reduction opportunities. Employees will make the forms available at education and outreach events.

*Form:* 13285–A.

*Affected Public:* Businesses or other for profits.

*Estimated Number of Respondents:* 250.

*Frequency of Response:* On Occasion.

*Estimated Total Number of Annual Responses:* 250.

*Estimated Time per Response:* .25 hours per response.

*Estimated Total Annual Burden Hours:* 62.

*29. Title:* Revocation of Election filed under I.R.C. 83(b).

*OMB Control Number:* 1545–2018.

*Type of Review:* Extension without change of a currently approved collection.

*Description:* This revenue procedure sets forth the procedures to be followed by individuals who wish to request permission to revoke the election they made under section 83(b).

*Form:* None.

*Affected Public:* Individuals or Households.

*Estimated Number of Respondents:* 200.

*Frequency of Response:* On Occasion.

*Estimated Total Number of Annual Responses:* 200.

*Estimated Time per Response:* 2 hours per response.

*Estimated Total Annual Burden Hours:* 400.

*30. Title:* Obligations principally secured by an interest in real property.

*OMB Control Number:* 1545–2110.

*Type of Review:* Revision of a currently approved collection.

*Description:* This collection covers final regulations under section 1.860G–2 that expand the list of permitted loan modifications to include certain modifications that are often made to commercial mortgages. The collection of information in this regulation is in section 1.860G–2(b) (7). To establish that the 80-percent test is met at the time of modification, the servicer must obtain an appraisal or some other form of commercially reasonable valuation (the appraisal requirement). This information is required to show that modifications to mortgages permitted will not cause the modified mortgage to cease to be a qualified mortgage.

*Form:* None.

*Affected Public:* Businesses or other for profits.

*Estimated Number of Respondents:* 375.

*Frequency of Response:* Annually.

*Estimated Total Number of Annual Responses:* 375.

*Estimated Time per Response:* 8 hours per response.

*Estimated Total Annual Burden Hours:* 3,000.

*31. Title:* Benefit suspensions for multiemployer plans.

*OMB Control Number:* 1545–2260.

*Type of Review:* Extension without change of a currently approved collection.

*Description:* Respondents are sponsors of collectively bargained retirement trusts in significant financial distress. The MPRA allows a respondent to apply to Treasury for approval to suspend benefit payments. If an application is approved, Treasury must then administer a vote by participants on whether to accept or reject the suspension. The regulation provides detailed voting procedures. The information collection is necessary to establish the voting process.

*Form:* None.

*Affected Public:* Businesses or other for profits.

*Estimated Number of Respondents:* 28.

*Frequency of Response:* Once.

*Estimated Total Number of Annual Responses:* 28.

*Estimated Time per Response:* 500 hours per response.

*Estimated Total Annual Burden Hours:* 14,000.

**Authority:** 44 U.S.C. 3501 *et seq.*

Dated: May 23, 2019.

**Spencer W. Clark,**

*Treasury PRA Clearance Officer.*

[FR Doc. 2019–11232 Filed 5–29–19; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Tax and Trade Bureau Information Collection Requests

**AGENCY:** Departmental Offices, U.S. Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

**DATES:** Comments should be received on or before July 1, 2019 to be assured of consideration.

**ADDRESSES:** Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8100, Washington, DC 20220, or email at *PRA@treasury.gov*.

**FOR FURTHER INFORMATION CONTACT:** Copies of the submissions may be obtained from Jennifer Quintana by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov*.

**SUPPLEMENTARY INFORMATION:**

*Tax and Trade Bureau (TTB)*

*1. Title:* Letterhead Applications and Notices Relating to Wine (TTB REC 5120/2).

*OMB Control Number:* 1513–0057.

*Type of Review:* Extension without change of a currently approved collection.

*Description:* Various provisions of chapter 51 of the Internal Revenue Code (IRC; 26 U.S.C. chapter 51) govern or authorize the Secretary to issue regulations regarding certain aspects of wine production and treatment. The IRC also imposes standards for natural and agricultural wines, the cellar treatment of natural wine, and the labeling of all wines. Under those IRC authorities, the TTB regulations in 27 CFR part 24 require wine premises proprietors to submit letterhead applications or notices to TTB when they desire to use alternate regulatory compliance methods or procedures or when they desire to undertake certain specified wine premises operations, particularly those that affect the kind, tax rate, or volume of wine produced or removed. In general, operations posing a greater jeopardy to the revenue require submission of letterhead applications subject to TTB approval, while operations posing less jeopardy to the revenue require submission of letterhead notices that do not require TTB pre-approval. This information collection is necessary to ensure that proposed wine-related alternative methods or procedures or operations comply with relevant laws and regulations, and do not jeopardize the revenue or unduly burden TTB's administration of 27 CFR part 24.

*Form:* None.

*Affected Public:* Businesses or other for-profits.

*Estimated Number of Respondents:* 1,650.

*Frequency of Response:* On occasion.

*Estimated Total Number of Annual Responses:* 1,650.

*Estimated Time per Response:* 30 minutes.

*Estimated Total Annual Burden Hours:* 825.

*2. Title:* Airlines Withdrawing Stock from Customs Custody (TTB REC 5620/2).

*OMB Control Number:* 1513–0074.

*Type of Review:* Extension without change of a currently approved collection.

*Description:* Under provisions of the Internal Revenue Code (IRC) in 26 U.S.C. chapter 51, distilled spirits and wine produced in or imported into the United States are subject to Federal excise tax. However, under the IRC at 26 U.S.C. 5214 and 5362, and subject to such regulations as the Secretary may prescribe, distilled spirits and wine may be removed without payment of that tax for use on certain aircraft. In addition, under 19 U.S.C. 1309, and subject to such regulations as the Secretary may prescribe, distilled spirits and wine may be withdrawn from customs custody without payment of that tax for use as supplies on aircraft engaged in flights to locations outside the United States. Under those authorities, the TTB regulations require airlines to account for distilled spirits and wine withdrawn from their stocks held in customs custody at airports for use as supplies on aircraft engaged in foreign flights. Accounting for the withdrawals of such products is necessary to protect the revenue by detecting and preventing diversion of such non-taxpaid products into the domestic market, which is subject to tax.

*Form:* None.

*Affected Public:* Businesses or other for-profits.

*Estimated Number of Respondents:* 25.

*Frequency of Response:* On occasion.

*Estimated Total Number of Annual Responses:* 25.

*Estimated Time per Response:* 100 hours.

*Estimated Total Annual Burden Hours:* 2,500.

**Authority:** 44 U.S.C. 3501 *et seq.*

Dated: May 23, 2019.

**Spencer W. Clark,**

*Treasury PRA Clearance Officer.*

[FR Doc. 2019–11233 Filed 5–29–19; 8:45 am]

BILLING CODE 4810–31–P

# FEDERAL REGISTER

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Part II

## Department of Labor

Office of Labor-Management Standards

29 CFR Part 403

Labor Organization Annual Financial Reports for Trusts in Which a Labor Organization Is Interested, Form T–1; Proposed Rules

**DEPARTMENT OF LABOR**

**Office of Labor-Management Standards**

**29 CFR Parts 403**

**RIN 1245–AA09**

# Labor Organization Annual Financial Reports for Trusts in Which a Labor Organization Is Interested, Form T–1

**AGENCY:** Office of Labor-Management Standards, Department of Labor.

**ACTION:** Notice of proposed rulemaking; request for comments.

**SUMMARY:** The Department of Labor proposes to promulgate a rule that establishes a form to be used by labor organizations to file trust annual financial reports with the Department's Office of Labor-Management Standards (''OLMS''), provides appropriate instructions, and revises relevant sections relating to such reports. The Department makes the proposed changes pursuant to section 208 of the Labor-Management Reporting and Disclosure Act (''LMRDA''). The proposed rule would apply prospectively.

**DATES:** The Department will consider all written comments submitted on or before July 29, 2019. In addition to filing comments on any aspect of this proposed rule directly with the agency, interested parties may submit comments under the Paperwork Reduction Act (PRA) regarding the information collections in this proposed rule and an accompanying Information Collection Request (ICR) to the Office of Management and Budget. The opportunity to comment to OMB is limited to the information collections only and comments to OMB must be submitted on or before July 1, 2019 and reference OMB control number 1245–0003 in order to ensure proper consideration.

**ADDRESSES:** You may submit comments, identified by RIN 1245–AA09, only by the following method: Internet—Federal eRulemaking Portal. Electronic comments may be submitted through *http://www.regulations.gov*. To locate the proposed rule, use key words such as ''Labor-Management Standards'' or ''Labor Organization Annual Financial Reports'' to search documents accepting comments. Follow the instructions for submitting comments. Please be advised that comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Submit comments under the Paperwork Reduction Act by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OLMS, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov*. Commenters are encouraged, but not required, to send a courtesy copy of any such comments to OLMS.

**FOR FURTHER INFORMATION CONTACT:** Andrew Davis, Chief of the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–5609, Washington, DC 20210, (202) 693–0123 (this is not a toll-free number), (800) 877–8339 (TTY/TDD).

**SUPPLEMENTARY INFORMATION:**

## I. Statutory Authority

The Department's statutory authority is set forth in section 208 of the Labor-Management Reporting and Disclosure Act (''LMRDA''), 29 U.S.C. 438. Section 208 of the LMRDA provides that the Secretary of Labor ''shall have authority to issue, amend, and rescind rules and regulations prescribing the form and publication of reports required to be filed under [the Act] and such other reasonable rules and regulations . . . as he may find necessary to prevent the circumvention or evasion of such reporting requirements.''

The Secretary has delegated his authority under the LMRDA to the Director of the Office of Labor-Management Standards and permitted re-delegation of such authority. *See* Secretary's Order 03–2012 (Oct. 19, 2012), published at 77 FR 69375 (Nov. 16, 2012).

## II. Background

### *A. Introduction*

The Department proposes to establish a Form T–1 to capture financial information pertinent to ''trusts in which a labor organization is interested'' (''section 3(l) trusts''). Historically, this information has largely gone unreported despite the significant impact such trusts have on labor organization (hereinafter ''labor organization'' and ''union'' are used interchangeably) financial operations and their members' own interests. This proposal is part of the Department's continuing effort to better effectuate the reporting requirements of the LMRDA.

The LMRDA's various reporting provisions are designed to empower labor organization members by providing them the means to maintain democratic control over their labor organizations and ensure a proper accounting of labor organization funds. Labor organization members are better able to monitor their labor organization's financial affairs and to make informed choices about the leadership of their labor organization and its direction when labor organizations disclose financial information as required by the LMRDA. By reviewing a labor organization's financial reports, a member may ascertain the labor organization's priorities and whether they are in accord with the member's own priorities and those of fellow members. At the same time, this transparency promotes both the labor organization's own interests as a democratic institution and the interests of the public and the government. Furthermore, the LMRDA's reporting and disclosure provisions, together with the fiduciary duty provision, 29 U.S.C. 501, which directly regulates the primary conduct of labor organization officials, operate to safeguard a labor organization's funds from depletion by improper or illegal means. Timely and complete reporting also helps deter labor organization officers or employees from embezzling or otherwise making improper use of such funds.

The proposed rule helps bring the reporting requirements for labor organizations and section 3(l) trusts in line with contemporary expectations for the disclosure of financial information. Today, labor organizations are more complex in their structure and scope than labor organizations of the past. In response to an increasingly complicated and sophisticated global marketplace, unions are hiring professional staffs and leveraging their financial capital to hire external economic, financial, legal, political, and public relations expertise not traditionally and, even now, not readily available to them internally. For example, 2010 data from a long-term survey-based study of union administrative practices indicate that 34% of unions relied on outside economic analysis services, 37% on outside financial planning services, and 49% on outside public relations services.[1]

Labor organization members, no less than consumers, citizens, or creditors, expect access to relevant and useful information in order to make fundamental investment, career, and

[1] *See* a BLS summary of the study and its findings at *https://www.bls.gov/opub/mlr/2016/article/pdf/evolution-of-administrative-practices-in-american-unions.pdf.*

retirement decisions; evaluate options; and exercise legally guaranteed rights.

*B. The LMRDA's Reporting and Other Requirements*

In enacting the LMRDA in 1959, a bipartisan Congress made the legislative finding that in the labor and management fields ''there have been a number of instances of breach of trust, corruption, disregard of the rights of individual employees, and other failures to observe high standards of responsibility and ethical conduct which require further and supplementary legislation that will afford necessary protection of the rights and interests of employees and the public generally as they relate to the activities of labor organizations, employers, labor relations consultants, and their officers and representatives.'' 29 U.S.C. 401(b). The statute was designed to remedy these various ills through a set of integrated provisions aimed at labor organization governance and management. These include a ''bill of rights'' for labor organization members, which provides for equal voting rights, freedom of speech and assembly, and other basic safeguards for labor organization democracy, *see* 29 U.S.C. 411–415; financial reporting and disclosure requirements for labor organizations, their officers and employees, employers, labor relations consultants, and surety companies, *see* 29 U.S.C. 431–436, 441; detailed procedural, substantive, and reporting requirements relating to labor organization trusteeships, *see* 29 U.S.C. 461–466; detailed procedural requirements for the conduct of elections of labor organization officers, *see* 29 U.S.C. 481–483; safeguards for labor organizations, including bonding requirements, the establishment of fiduciary responsibilities for labor organization officials and other representatives, criminal penalties for embezzlement from a labor organization, a prohibition on certain loans by a labor organization to officers or employees, prohibitions on employment by a labor organization of certain convicted felons, and prohibitions on payments to employees, labor organizations, and labor organization officers and employees for prohibited purposes by an employer or labor relations consultant, *see* 29 U.S.C. 501–505; and prohibitions against extortionate picketing, retaliation for exercising protected rights, and deprivation of LMRDA rights by violence, *see* 29 U.S.C. 522, 529, 530.

The LMRDA was the direct outgrowth of a Congressional investigation conducted by the Select Committee on Improper Activities in the Labor or Management Field, commonly known as the McClellan Committee, chaired by Senator John McClellan of Arkansas. In 1957, the committee began a highly publicized investigation of labor organization racketeering and corruption; and its findings of financial abuse, mismanagement of labor organization funds, and unethical conduct provided much of the impetus for enactment of the LMRDA's remedial provisions. *See generally* Benjamin Aaron, *The Labor-Management Reporting and Disclosure Act of 1959,* 73 Harv. L. Rev. 851, 851–55 (1960). During the investigation, the committee uncovered a host of improper financial arrangements between officials of several international and local labor organizations and employers (and labor consultants aligned with the employers) whose employees were represented by the labor organizations in question or might be organized by them. Similar arrangements were also found to exist between labor organization officials and the companies that handled matters relating to the administration of labor organization benefit funds. *See generally Interim Report of the Select Committee on Improper Activities in the Labor or Management Field,* S. Report No. 85–1417 (1957); *see also* William J. Isaacson, *Employee Welfare and Benefit Plans: Regulation and Protection of Employee Rights,* 59 Colum. L. Rev. 96 (1959).

Financial reporting and disclosure were conceived as partial remedies for these improper practices. As noted in a key Senate Report on the legislation, disclosure would discourage questionable practices (''The searchlight of publicity is a strong deterrent.''), aid labor organization governance (labor organizations will be able ''to better regulate their own affairs'' because ''members may vote out of office any individual whose personal financial interests conflict with his duties to members''), facilitate legal action by members against ''officers who violate their duty of loyalty to the members'', and create a record (''the reports will furnish a sound factual basis for further action in the event that other legislation is required''). S. Rep. No. 187 (1959) 16 reprinted in 1 NLRB Legislative History of the Labor-Management Reporting and Disclosure Act of 1959 412.

The Department has developed several forms for implementing the LMRDA's financial reporting requirements. The annual reports required by section 201(b) of the Act, 29 U.S.C. 431(b) (Form LM–2, Form LM–3, and Form LM–4), contain information about a labor organization's assets; liabilities; receipts; disbursements; loans to officers, employees, and business enterprises; payments to each officer; and payments to each employee of the labor organization paid more than $10,000 during the fiscal year. The reporting detail required of labor organizations, as the Secretary has established by rule, varies depending on the amount of the labor organization's annual receipts. 29 CFR 403.4.

The labor organization's president and treasurer (or its corresponding officers) are personally responsible for filing the reports and for any statement in the reports known by them to be false. 29 CFR 403.6. These officers are also responsible for maintaining records in sufficient detail to verify, explain, or clarify the accuracy and completeness of the reports for not less than five years after the filing of the forms. 29 CFR 403.7. A labor organization ''shall make available to all its members the information required to be contained in such reports'' and ''shall . . . permit such member[s] for just cause to examine any books, records, and accounts necessary to verify such report[s].'' 29 CFR 403.8(a).

The reports are public information. 29 U.S.C. 435(a). The Secretary is charged with providing for the inspection and examination of the financial reports, 29 U.S.C. 435(b). For this purpose, OLMS maintains: (1) A public disclosure room where copies of such reports filed with OLMS may be reviewed and; (2) an online public disclosure site, where copies of such reports filed since the year 2000 are available for the public's review.

*C. History of the Form T–1*

The Department first proposed the Form T–1 report on December 27, 2002, as one part of a proposal to extensively change the Form LM–2. 67 FR 79280 (Dec. 27, 2002). The rule was proposed under the authority of section 208, which permits the Secretary to issue such rules ''prescribing reports concerning trusts in which a labor organization is interested'' as he may ''find necessary to prevent the circumvention or evasion of [the LMRDA's] reporting requirements.'' 29 U.S.C. 438. Following consideration of public comments, on October 9, 2003, the Department published a final rule enacting extensive changes to the Form LM–2 and establishing a Form T–1. 68 FR 58374 (Oct. 9, 2003) (2003 Form T–1 rule). The 2003 Form T–1 rule eliminated the requirement that unions report on subsidiary organizations on the Form LM–2, but it mandated that each labor organization filing a Form LM–2 report file a separate report to

''disclose assets, liabilities, receipts, and disbursements of a significant trust in which the labor organization is interested.'' 68 FR at 58477. The reporting labor organization would make this disclosure by filing a separate Form T–1 for each significant trust in which it was interested. *Id.* at 58524.

To conform to the statutory requirement that trust reporting is ''necessary to prevent the circumvention or evasion of [the LMRDA's] reporting requirements,'' the 2003 Form T–1 rule developed the ''significant trust in which the labor organization is interested'' test. It did so by utilizing the section 3(l) statutory definition of ''a trust in which a labor organization is interested'' and an administrative determination of when a trust is deemed ''significant.'' 68 FR at 58477–78. The LMRDA defines a ''trust in which a labor organization is interested as:

> A trust or other fund or organization (1) which was created or established by a labor organization, or one or more of the trustees or one or more members of the governing body of which is selected or appointed by a labor organization, and (2) a primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries. *Id.* (quoting 29 U.S.C. 402(l)).

The 2003 Form T–1 rule set forth an administrative determination that stated that a ''trust will be considered significant'' and therefore subject to the Form T–1 reporting requirement under the following conditions:

> (1) The labor organization had annual receipts of $250,000 or more during its most recent fiscal year, and (2) the labor organization's financial contribution to the trust or the contribution made on the labor organization's behalf, or as a result of a negotiated agreement to which the labor organization is a party, is $10,000 or more annually. *Id.* at 58478.

The portions of the 2003 rule relating to the Form T–1 were vacated by the D.C. Circuit in *AFL–CIO* v. *Chao,* 409 F.3d 377, 389–391 (D.C. Cir. 2005). The court held that the form ''reaches information unrelated to union reporting requirements and mandates reporting on trusts even where there is no appearance that the union's contribution of funds to an independent organization could circumvent or evade union reporting requirements by, for example, permitting the union to maintain control of the funds.'' *Id.* at 389. The court also held that the significant trust test failed to establish reporting based on domination or managerial control of assets subject to LMRDA Title II jurisdiction. The court reasoned that the Department failed to explain how the test—*i.e.,* selection of one member of a board and a $10,000 contribution to a trust with $250,000 in receipts—could result in union domination and control sufficient to give rise to circumvention or evasion of Title II reporting requirements. *Id.* at 390. In so holding, the court emphasized that section 208 authority is the only basis for LMRDA trust reporting, that this authority is limited to preventing circumvention or evasion of Title II reporting, and that ''the statute doesn't provide general authority to require trusts to demonstrate that they operate in a manner beneficial to union members.'' *Id.* at 390.

However, the court recognized that reports on trusts that reflect a labor organization's financial condition and operations are within the Department's rulemaking authority, including trusts ''established by one or more unions or through collective bargaining agreements calling for employer contributions, [where] the union has retained a controlling management role in the organization'' and also those ''established by one or more unions with union members' funds because such establishment is a reasonable indicium of union control of that trust.'' *Id.* The court acknowledged that the Department had made findings in support of its rule of particular situations where reporting about trusts would be necessary to prevent evasion of the related labor organizations' own reporting obligations. *Id.* at 387–88. One example included a situation where ''trusts [are] funded by union members' funds from one or more unions and employers, and although the unions retain a controlling management role, no individual union wholly owns or dominates the trust, and therefore the use of the funds is not reported by the related union.'' *Id.* at 389. In citing these examples, the court explained that ''absent circumstances involving dominant control over the trust's use of union members' funds or union members' funds constituting the trust's predominant revenues, a report on the trust's financial condition and operations would not reflect on the related union's financial condition and operations.'' *Id.* at 390. For this reason, while acknowledging that there are circumstances under which the Secretary may require a report, the court disapproved of a broader application of the rule to require reports by any labor organization simply because the labor organization satisfied a reporting threshold (a labor organization with annual receipts of at least $250,000 that contributes at least $10,000 to a section 3(l) trust with annual receipts of at least $250,000). *Id.*

In light of the decision by the D.C. Circuit and guided by its opinion, the Department issued a revised Form T–1 final rule on September 29, 2006. 71 FR 57716 (Sept. 29, 2006) (2006 Form T–1 rule). The U.S. District Court for the District of Columbia vacated this rule due to a failure to provide a new notice and comment period. *AFL–CIO* v. *Chao,* 496 F. Supp. 2d 76 (D.D.C. 2007). The district court did not engage in a substantive review of the 2006 rule, but the court noted that the AFL–CIO demonstrated that ''the absence of a fresh comment period . . . constituted prejudicial error'' and that the AFL–CIO objected with ''reasonable specificity'' to warrant relief vacating the rule. *Id.* at 90–92.

The Department issued a proposed rule for a revised Form T–1 on March 4, 2008. 73 FR 11754 (Mar. 4, 2008). After notice and comment, the 2008 Form T–1 final rule was issued on October 2, 2008. 73 FR 57412. This rule attempted to remedy the failings of the Department's 2003 and 2006 efforts in implementing a Form T–1. 73 FR at 57413. The 2008 Form T–1 rule took effect on January 1, 2009. Under this rule, Form T–1 reports would be filed no earlier than March 31, 2010, for fiscal years that began no earlier than January 1, 2009.

Pursuant to *AFL–CIO* v. *Chao,* the 2008 Form T–1 rule stated that labor organizations with total annual receipts of $250,000 or more must file a Form T–1 for those section 3(l) trusts in which the labor organization, either alone or in combination with other labor organizations, had management control or financial dominance. 73 FR at 57412. For purposes of the rule, a labor organization had management control if the labor organization alone, or in combination with other labor organizations, selected or appointed the majority of the members of the trust's governing board. Further, for purposes of the rule, a labor organization had financial dominance if the labor organization alone, or in combination with other labor organizations, contributed more than 50 percent of the trust's receipts during the annual reporting period. Significantly, the rule treated contributions made to a trust by an employer pursuant to a collective bargaining agreement as constituting contributions by the labor organization that was party to the agreement.

Additionally, the 2008 Form T–1 rule provided exemptions to the Form T–1 filing requirements. No Form T–1 was required for a trust: Established as a political action committee (PAC) fund if publicly available reports on the PAC fund are filed with Federal or state

agencies; established as a political organization for which reports are filed with the IRS under section 527 of the Internal Revenue Code; required to file a Form 5500 under ERISA; or constituting a federal employee health benefit plan subject to the provisions of the FEHBA. Similarly, the rule clarified that no Form T–1 was required for any trust that meets the statutory definition of a labor organization and files a Form LM–2, Form LM–3, or Form LM–4 or is from an entity that the LMRDA exempts from reporting, such as an organization composed entirely of state or local government employees or a state or local central body.

In the Spring 2009 and Fall 2009 Regulatory Agendas, the Department notified the public of its intent to initiate rulemaking proposing to rescind the Form T–1 and to require reporting of wholly owned, wholly controlled, and wholly financed (''subsidiary'') organizations on their Form LM–2 or LM–3 reports. *See http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=200904&RIN=1215-AB75 and http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=200904&RIN=1215-AB75.*

Due to the proposed rescission, on December 3, 2009, the Department issued a notice of proposed extension of filing due date to delay for one calendar year the filing due dates for Form T–1 reports required to be filed during calendar year 2010. 74 FR 63335. On December 30, 2009, following comment, the Department published a rule extending for one year the filing due date of all Form T–1 reports required to be filed during calendar year 2010. 74 FR 69023.

Subsequently, on February 2, 2010, the Department published the Notice of Proposed Rulemaking (NPRM) proposing to rescind the Form T–1. 75 FR 5456. After notice and comment, the Department published the final rule on December 1, 2010. In its rescission, the Department stated that it considered the reporting required under the rule to be overly broad and not necessary to prevent circumvention and evasion of Title II reporting requirements. The Department concluded that the scope of the 2008 Form T–1 rule was overbroad because it covered many trusts, such as those funded by employer contributions, without an adequate showing that reporting for such trusts is necessary to prevent the circumvention or evasion of the Title II reporting requirements. *See* 75 FR 74936.

## III. Proposal

### *A. Introduction*

Congress has determined that labor organization members should have access to information about the financial condition and operation of their labor organizations, and has established reporting obligations accordingly. 29 U.S.C. 431(b). Occasionally, however, such labor organizations establish and maintain trusts primarily to provide benefits to the members and/or their beneficiaries that are not themselves subject to reporting obligations. 29 U.S.C. 402(l). These trusts, commonly referred to as section 3(l) trusts or ''trusts in which a labor organization is interested,'' are created for myriad purposes; common examples include credit unions, strike funds, redevelopment or investment groups, training funds, apprenticeship programs, building funds, and educational funds. These trusts are funded in a number of different ways. Some may be funded with employer contributions and jointly administered by trustees appointed by labor organizations and employers. While these trusts can serve valid purposes, they can also be used to circumvent the reporting requirements for labor organizations. Thus, Congress authorized the Secretary to issue rules ''prescribing reports concerning trusts in which a labor organization is interested'' where the Secretary finds such reports are necessary to prevent the circumvention or evasion of the labor organization reporting requirements. 29 U.S.C. 438.

As explained in more detail below, this proposal is an exercise of that authority and will serve the overall purposes of the LMRDA. By requiring that labor organizations file the Form T–1, labor organization members and the public will receive the same benefit of transparency they now receive under the Form LM–2. Any labor organizations or trust officials who place their own personal financial interests above their duty to the labor organization and the trust—and third parties complicit with these officials—will find it more difficult to circumvent and evade their legal obligations.

The Department proposes to require a labor organization with total annual receipts of $250,000 or more to file a Form T–1, under certain circumstances, for each trust of the type defined by section 3(l) of the LMRDA, 29 U.S.C. 402(l) (defining ''trust in which a labor organization is interested''). Such labor organizations would trigger the Form T–1 reporting requirements where the labor organization during the reporting period, either alone or in combination with other labor organizations, (1) selects or appoints the majority of the members of the trust's governing board, or (2) contributes more than 50 percent of the trust's receipts. When applying this financial or managerial dominance test, contributions made pursuant to a collective bargaining agreement shall be considered the labor organization's contributions. As explained further below, this test is consistent with the court's holding in *AFL–CIO* v. *Chao,* 409 F.3d at 389–391, as well as the 2008 final Form T–1 rule.

The proposed Form T–1 uses the same basic template as prescribed for the Form LM–2. Both forms require the labor organization to provide specified aggregated and disaggregated information relating to the financial operations of the labor organization and the trust. Typically, a labor organization will be required to provide information on the Form T–1 explaining certain transactions by the trust (such as disposition of property by other than market sale, liquidation of debts, loans or credit extended on favorable terms to officers and employees of the trust, etc.) and identifying major receipts and disbursements by the trust during the reporting period.

The proposed Form T–1, however, is shorter and requires less information than the Form LM–2. As proposed, the Form T–1, unlike the Form LM–2, does not require that receipts and disbursements be identified by functional category. The proposed Form T–1 includes: 14 questions that identify the trust; six yes/no questions covering issues such as whether any loss or shortage of funds was discovered during the reporting year and whether the trust had made any loans to officers or employees of the labor organizations at terms below market rates; statements regarding the total amount of assets, liabilities, receipts, and disbursements of the trust; a schedule that separately identifies any individual or entity from which the trust receives $10,000 or more, individually or in the aggregate, during the reporting period; a schedule that separately identifies any entity or individual that received disbursements that aggregate to $10,000 or more, individually or in the aggregate, from the trust during the reporting period and the purpose of disbursement; and a schedule of disbursements to officers and employees of the trust who received more than $10,000.

Two threshold requirements contained in the 2003 and 2006 rules, but not the 2008 rule, relating to the amount of a labor organization's contributions to a trust ($10,000 per

annum) and the amount of the contributions received by a trust ($250,000 per annum) are not included in the proposal. The Department believes that, consistent with the D.C. Circuit's decision in *AFL–CIO* v. *Chao,* the labor organization's control over the trust either alone or with other labor organizations, measured by its selection of a majority of the trust's governing body or its majority share of receipts during the reporting period, provides the appropriate gauge for determining whether a Form T–1 must be filed by the participating labor organization.

The proposal includes a number of exemptions. These exemptions include trusts organized as political action committees (''PAC'') or political organizations (the latter within the meaning of 26 U.S.C. 527), that submit timely, complete, and publicly available reports required by federal or state law with government agencies; federal employee health benefit plans subject to the provision of the Federal Employees Health Benefits Act (FEHBA); and any for-profit commercial bank established or operating pursuant to the Bank Holding Act of 1956, 12 U.S.C. 1843. Similarly, no Form T–1 is required for any trust that meets the statutory definition of a labor organization and files a Form LM–2, Form LM–3, or Form LM–4 or is from an entity that the LMRDA exempts from reporting, such as an organization composed entirely of state or local government employees [2] or a state or local central body.[3] Consistent with the 2008 rule, but in contrast to the 2003 and 2006 rules, the Department's proposal also includes an exemption for section 3(l) trusts that are part of employee benefit plans that file a Form 5500 Annual Return/Report under the Employee Retirement Income Security Act of 1974 (''ERISA''). And a partial exemption is provided for a trust for which an audit was conducted in accordance with prescribed standards and the audit is made publicly available. A labor organization choosing to use this option must complete the first page of the Form T–1 and file it along with a copy of the audit.

The Department proposes two additional exemptions not included in the 2008 rule. First, the Department proposes to exempt unions from reporting on the Form T–1 concerning their subsidiary organizations, retaining the requirement that unions must report their subsidiaries on the union's Form LM–2 report. *See* Part X of the Form LM–2 instructions (that defines a ''subsidiary organization'' as ''any separate organization of which the ownership is wholly vested in the reporting labor organization or its officers or its membership, which is governed or controlled by the officers, employees, or members of the reporting labor organization, and which is wholly financed by the reporting labor organization.''). Second, the Department proposes that only the parent union (*i.e.,* the national/international or intermediate union) would need to file the Form T–1 report for covered trusts in which both the parent union and its affiliates meet the financial or managerial domination test.[4] The affiliates would continue to identify the trust in their Form LM–2 report, and, under the proposal, would also state in their Form LM–2 report that the parent union will file a Form T–1 report for the trust.

The Department invites comment on any aspect of its proposal.

### *C. Reasons for the T–1 Form*

The proposed Form T–1 closes a reporting gap whereby labor organizations are required to report only on the funds that they exclusively control, but not those funds over which they exercise domination. The proposed rule thus helps prevent the circumvention or evasion of the LMRDA's reporting requirements by making it more difficult for a labor organization to avoid, simply by transferring money from the labor organization's books to the trust's books, the basic reporting obligation that would apply if the funds had been retained by the labor organization. Further, Form T–1 disclosure of employer funds given to Taft-Hartley trusts may also prevent the circumventing or evading of LMRDA employer and union officer/employee reporting requirements.

In preventing this circumvention, the proposed rule ensures that labor organization members have access to a proper accounting of how funds are invested or otherwise expended by the trust. Labor organization members have an interest in obtaining information about funds provided to a trust for the members' particular or collective benefit whether solely administered by labor organizations or a separate, jointly administered governing board. Such disclosure helps deter fraud and corruption involving such trusts.

Although the proposal will not require a Form T–1 to be filed for all section 3(l) trusts in which a labor organization participates, it will be required where a labor organization, alone or in combination with other labor organizations, appoints or selects a majority of the members of the trust's governing board or where contributions by labor organizations, or pursuant to a collective bargaining agreement, represent greater than 50 percent of the revenue of the trust. The proposed rule thus follows the conclusion in *AFL–CIO* v. *Chao* that the Secretary had shown that trust reporting was necessary to prevent evasion or circumvention where ''trusts [are] established by one or more unions with union members' funds because such establishment is a reasonable indicium of union control of the trust,'' as well as where there are characteristics of ''dominant union control over the trust's use of union members' funds or union members' funds constituting the trust's predominant revenues.'' 409 F.3d at 389, 390.

Moreover, Form T–1 disclosure of employer funds given to Taft-Hartley trusts may also prevent the circumventing or evading of LMRDA employer and union officer/employee reporting requirements. While the LMRDA's primary reporting obligation (Forms LM–2, LM–3, and LM–4) applies to labor organizations as institutions, other important reporting obligations under the LMRDA apply to officers and employees of labor organizations (Form LM–30), requiring them to report any conflicts between their personal

[2] *Note:* The Department has stated, in its Fall 2018 Regulatory Agenda, its proposal to return to its 2003 interpretation that intermediate bodies that are subordinate to a national or international labor organization that includes a labor organization are covered by the LMRDA. *See: https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201810&RIN=1245-AA08.*

[3] A ''state or local central body'' is defined in 29 CFR 451.5 as:

(a) The definition of ''labor organization'' in section 3(i) and the examples of labor organizations deemed to be engaged in an industry affecting commerce in section 3(j)(5) both except from the term ''labor organization'' a ''State or local central body.'' As used in these two sections, the phrase *State or local central body* means an organization that:

(1) Is chartered by a federation of national or international unions; and

(2) Admits to membership local unions and subordinate bodies of national or international unions that are affiliated with the chartering federation within the State or local central body's territory and any local unions or subordinate bodies directly affiliated with the federation in such territory; and

(3) Exists primarily to carry on educational, legislative and coordinating activities.

(b) The term does not include organizations of local unions or subordinate bodies (1) of a single national or international union; or (2) of a particular department of a federation or similar association of national or international unions.

[4] If the purported trust actually constitutes a subsidiary of the parent union, then the parent union would need to include the subsidiary within its Form LM–2 report, pursuant to Part X of the Form LM–2 Instructions. *See* OLMS Interpretative Manual § 215.200 (Holding of Stock by District Council and Member Locals) and 215.300 (Holding of Stock by Member Locals).

financial interests and the duty they owe to the labor organization they serve, and to employers and labor relations consultants who must report payments to labor organizations and their representatives (Form LM–10). *See* 29 U.S.C. 432 and 433. Requiring labor organizations to report the information requested by the Form T–1 rule provides an essential check on these individual reporting requirements. The new form would allow both labor organization members and the Department to ensure that labor organizations, their officials, and employers accurately and completely fulfill their reporting duties under the Act, obligations that can more easily be ignored without fear of detection if reports related to trusts are not required.

As an illustration of how this check will work, consider an instance in which a Form T–1 identifies a $15,000 payment from the trust to a company for printing services. Under the proposal, the labor organization must identify the company and the purpose of the payment. With this information, coupled with information about a labor organization official's ''personal business'' interests in the company, a labor organization member or the Department will be able to identify any failure of the official to accurately report this payment on a Form LM–30. Additional information from the labor organization's Form LM–2 might allow a labor organization member or the government to ascertain whether the trust and the labor organization have used the same printing company and whether there was a pattern of payments by the trust and the labor organization from which an inference could be drawn that duplicate payments were being made for the same services. Upon further inquiry into the details of the transactions, a member or the government might be able to determine whether the payments masked a kickback or other conflict-of interest payment, and, as such, reveal an instance where the labor organization, a labor organization official, or an employer may have failed to comply with their reporting obligations under the Act. Furthermore, the proposal will provide a missing piece to one part of the Department's crosscheck system that correlates reported holdings and transactions by party, description, and reporting period and thereby help identify any deviations in the reported details, including instances where the reporting obligation appears reciprocal, but one or more parties have not reported the matter.

In reviewing submitted Form LM–2 reports, the Department located several instances in which labor organizations disbursed large sums of money to trusts. As an example, one local disbursed over $700,000 to one trust and over $1.2 million to another of its trusts, in fiscal year 2017. In 2017, a national labor organization disbursed almost $400,000 to one of its trusts. Several locals each reported on their FY 17 Form LM–2 reports varying ownership interests in a building corporation that owns the unions' hall. These disbursements are publicly known due to this reporting, but the trusts' ultimate uses of the funds are not. The Form T–1 would prevent the unions from circumventing or evading their reporting requirements, by establishing comparable reporting for their trusts, thus, ensuring financial transparency for all funds dominated by the unions.

The Form T–1 would also have the salutary benefit of deterring potential labor-management fraud and corruption. Labor organization officials and trustees both owe a fiduciary duty to their labor organization and the trust, respectively, but there are nonetheless examples of embezzlement of funds held by both labor organizations and their section 3(l) trusts.[5] The Form T–1, by disclosing information to labor organization members, the true beneficiaries of such trusts, will increase the likelihood that wrongdoing is detected and may deter individuals who might otherwise be tempted to divert funds from the trusts.

Many labor organizations now manage benefit plans for their members, maintain close business relationships with financial service providers such as insurance companies and investment firms, operate revenue-producing subsidiaries, and participate in foundations and charitable activities. 69 FR 79280, 79280 (December 27, 2002). As more labor organizations conduct their financial activities through sophisticated trusts, increased numbers of businesses have commercial relationships with such trusts, creating financial opportunities for labor organization officers and employees who may operate, receive income from, or hold an interest in, such businesses. The labor organizations' business relationships with outside firms and vendors that provide benefits and financial services to the labor organization and its members also increase the possibility that labor organization officers and employees may have financial interests in these businesses that might conflict with fiduciary obligations they owe to the labor organization and its members. In addition, employers also have fostered multi-faceted business interests, creating further opportunities for financial relationships between labor organizations, labor organization officials, employers, and other entities, including section 3(l) trusts.

Both historical and recent examples demonstrate the vulnerability of trust funds to misuse and misappropriation by labor organization officials and others. The McClellan Committee, as discussed above, provided several examples of labor organization officials using funds held in trust for their own purposes rather than for their labor organization and its members. Additional examples of the misuse of labor organization benefit funds and trust funds for personal gain may be found in the 1956 report of the Senate's investigation of welfare and pension plans, completed as the McClellan Committee was beginning its investigation. *See* Welfare and Pension Plans Investigation, *Final Report of the Comm. of Labor and Public Welfare,* S. Rep. No. 1734 (1956); see also Note: *Protection of Beneficiaries Under Employee Benefit Plans,* 58 Colum. L. Rev. 78, 85–89, 96, 107–08 (1958). Such problems continued, even after the passage of the LMRDA and ERISA. In the most comprehensive report concerning the influence of organized crime in some labor organizations, a presidential commission concluded that ''the plunder of labor organization resources remains an attractive end in itself.'' President's Commission on Organized Crime, Report to the President and Attorney General, *The Edge: Organized Crime, Business, and Labor Unions* 12 (1986). Specifically, the Commission found that the two most successful criminal ploys for plundering unions ''are the payment of excessive salaries and benefits to organized crime connected labor organization officials and *the plunder of workers' health and pension funds.*'' *Id.* (emphasis added).

The enactment of ERISA has ameliorated many of the historical problems, but many section 3(l) trusts are not covered by ERISA. The most disconcerting example of the corruption and evasion of reporting that the Form T–1 would combat is the ongoing

[5] The fiduciary duty of the trustees to refrain from taking a proscribed action has never been thought sufficient in and of itself to protect the interests of a trust's beneficiaries. Although a fiduciary's own duty to the trust's grantors and beneficiaries includes disclosure and accounting components, public disclosure requirements, government regulation, and the availability of civil and criminal process complement these obligations and help ensure a trustee's observance of his or her fiduciary duty. *See* Restatement (Third) of Agency § 8.01 (T.D. No. 6, 2005) *et seq.; see also* 1 American Law Institute, Principles of Corporate Governance § 1.14 (1994).

investigation of the company-funded United Auto Workers International Union (UAW)/Fiat Chrysler Detroit labor management cooperation committee, established under section 302(c)(9) of the Labor Management Relations Act of 1947 (LMRA), as amended, 29 U.S.C. 186(c)(9).[6] In 2018, an investigation of auto industry corruption involving the UAW in Detroit, Michigan, and the city's automakers produced seven criminal convictions in the United States District Court for the Eastern District of Michigan. The investigations focused on a conspiracy involving Fiat Chrysler executives bribing labor officials to influence labor negotiations.[7] These convictions involved Fiat Chrysler officials illegally channeling funds from the UAW/Chrysler National Training Center, which like many other company-funded training centers would be covered by the Form T–1 reporting obligation, to the personal use of certain union officials and employees. This example provides compelling justification for the Form T–1, as the disclosure created by the form would help protect the financial integrity of union training centers and other union funds set up to benefit rank-and-file members.

The following examples illustrate other recent situations in which funds held in section 3(l) trusts have been misused:[8]

- In 2011, a former secretary for a union was convicted for embezzling $412,000 from the union and its apprenticeship and training fund.[9]
- In 2015, an employee of a union pled guilty to embezzling over $160,000 from a joint apprenticeship trust fund account that was used to train future union members.[10]
- In 2017, a former business manager and financial secretary for a Rhode Island union local plead guilty to charges that he embezzled between $250,000 and $550,000 in union funds from an operational account and from an apprentice fund.[11]
- In 2018, a former trustee of a trust fund for apprentice and journeyman education and training was sentenced for submitting a false reimbursement request in connection with training events. In his plea, the former trustee admitted that the amount owed to the training fund totaled $12,000.[12]

Under the proposed rule, each labor organization in these examples would have been required to file a Form T–1 because each of these funds is a 3(l) trust that meets the significant contribution test, as outlined in the 2008 rule. In each instance, the labor organization's contribution to the trust, including contributions made pursuant to a collective bargaining agreements, made alone or in combination with other labor organizations, represented greater than 50 percent of the trust's revenue in the one-year reporting period. The labor organizations would have been required to annually disclose for each trust the total value of its assets, liabilities, receipts, and disbursements. For each receipt or disbursement of $10,000 or more (whether individually or in the aggregate), the labor organization would have been required to provide: The name and business address of the individual or entity involved in the transaction(s); the type of business or job classification of the individual or entity; the purpose of the receipt or disbursement; the date of the receipt or disbursement; and the amount of the receipt or disbursement. Further, the labor organization would have been required to provide additional information concerning any trust losses or shortages; the acquisition or disposition of any goods or property other than by purchase or sale; the liquidation, reduction, or write off of any liabilities without full payment of principal and interest; the extension of any loans or credit to any employee or officer of the labor organization at terms below market rates; and any disbursements to officers and employees of the trust.

These recent examples are not isolated incidents; the Department received additional examples in information submitted by the public during previous rulemakings in this area. In its comments on the 2006 proposal, for example, a labor policy group identified multiple instances where labor organization officials were charged, convicted, or both, for embezzling or otherwise improperly diverting labor organization trust funds for their own gain, including the following: (1) Five individuals were charged with conspiring to steal over $70,000 from a local's severance fund; (2) two local labor organization officials confessed to stealing about $120,000 from the local's job training funds; (3) an employee of an international labor organization embezzled over $350,000 from a job training fund; (4) a local labor organization president embezzled an undisclosed amount from the locals' disaster relief fund; and (5) a former international officer, who had also been a director and trustee of a labor organization benefit fund, was convicted of embezzling about $100,000 from the labor organization's apprenticeship and training fund. 71 FR 57716, 57722.

Although the comments received from labor organizations on previous proposals generally opposed any reporting obligation concerning trusts, many labor organization members recommended greater scrutiny of labor organization trust funds. For example, several members of an international labor organization expressed such concerns in comments on the Department's 2006 proposal. They explained that under the labor organization's collective bargaining agreements, the employer sets aside at least $.20 for each hour worked by a member and that this amount was paid into a benefit fund known as a ''joint committee.'' 71 FR 57716, 57722. The commenters asserted that some of the funds were ''lavished on junkets and parties'' and that the labor organization used the joint committees to reward political supporters of the labor organization's officials. They stated that the labor organization refused to provide information about the funds, including amounts paid to ''union staff.'' From the perspective of one member, the labor organization did not want ''this conflict of interest'' to be exposed. *Id.*

If the Department's proposed rule had been in place, the members of the affected labor organizations from these comments, aided by the information disclosed in the labor organizations' Form T–1s, would have been in a much better position to discover any potential improper use of the trust funds and thereby minimize the injury to their stake in the trust. Further, the fear of

[6] The Department's Employee Benefits Security Administration (EBSA), which administers ERISA, has determined that labor-management cooperation committees established under LMRA section 302(c)(9) that do not provide ERISA-covered benefits to participants or beneficiaries do not constitute an ERISA-covered employee benefit plans. Thus, they do not file the EBSA Form 5500. *See: https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/advisory-opinions/2012-06a.*

[7] *See https://www.dol.gov/olms/regs/compliance/enforce_2018.htm.*

[8] The trusts in these examples constitute apprenticeship and training funds established under LMRA section 302(C)(6), 29 U.S.C. 186(c)(6). EBSA does not require such funds to file the Form 5500. *See* 29 CFR 2520.104–22 (apprenticeship and training plans).

[9] *See https://www.wilx.com/home/headlines/Former_Union_Secretary_Sentenced_for_Embezzlement_126151908.html,* July 25, 2011.

[10] *See https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/newsroom/criminal-releases/11-24-2015.pdf,* November 24, 2015.

[11] *See https://www.justice.gov/usao-ri/pr/union-officer-plead-guilty-embezzlement-identity-theft,* November 27, 2017.

[12] *See https://www.dol.gov/newsroom/releases/ebsa/ebsa20180323,* March 23, 2018.

discovery may have deterred the alleged wrongdoers from engaging in the reported conduct in the first place.

For all of these reasons, the Department finds that the proposed Form T–1 rule will add necessary safeguards to deter circumvention and evasion of the LMRDA's reporting requirements. In particular, with the Form T–1 in place, it will be more difficult for labor organizations, employers, and union officers and employees to avoid the disclosure required by the LMRDA. Further, labor organization members will be able to review financial information they may not otherwise have had, empowering them to better monitor their labor organization's officials and finances.

*D. Specific Aspects of the Proposed T–1 Form*

1. Determining Management Control or Financial Domination

Under this proposal, management domination or financial control is determined by looking at the involvement of all labor organizations contributing to or managing the trust. As discussed above, the Department's experience, as noted by the D.C. Circuit in its 2005 opinion, demonstrates that participating labor organizations may ''retain a controlling management role, [even though] no individual union wholly owns or dominates the trust.'' *AFL–CIO* v. *Chao,* 409 F.3d at 389. This occurs, for example, where a trust is created from the participation of several labor organizations with common affiliation, industry, or location, but none alone holds predominant management control over or a majority financial stake in the trust. Absent the Form T–1, the contributing labor organizations, if so inclined, would be able to use the trust as a vehicle to expend pooled labor organization funds without the disclosure required by the Form LM–2, and the members of these labor organizations would continue to be denied information vital to their interests. If a single labor organization may circumvent its reporting obligations when it retains a controlling management role or financially dominates a trust, then a group of labor organizations may also be capable of doing so. A rule directed to preventing a single labor organization from circumventing the law must be similarly directed to preventing multiple labor organizations from also possibly evading their legal obligations.

Because labor organizations filing the Form LM–2 already are required to identify section 3(l) trusts on the Form LM–2, the proposed rule will not add any significant reporting burden with respect to identifying the section 3(l) trusts. The Form LM–2 requires labor organizations to provide the full name, address, and purpose of each section 3(l) trust in which it participates. The Form T–1 will be filed for only a subset of section 3(l) trusts. No Form T–1 will be required for any trust not required to be listed on the Form LM–2.

In most cases, labor organizations already possess information to determine whether a Form T–1 is required for a particular section 3(l) trust. If a labor organization selects or appoints a member of the trust's governing board, it could reasonably be expected to know how the other members are selected and whether the majority control prong of the reporting test is satisfied. In other situations, the section 3(l) trust in question will consist entirely of units of the same national or international labor organization. Here too, each labor organization participating in the trust will know whether the majority control prong of the test is satisfied and likely will possess information to determine whether the alternative financial domination prong of the test is met.

In some situations, the Department expects that labor organizations will have to contact the trusts to obtain information about whether the trust's ''pooled receipts'' from labor organizations constitute a majority of the trust's receipts during a reporting period. Such ''pooled receipts'' would include the total annual receipts of the trust, as the Department defines that term for purposes of the Form LM–2. The trust can determine whether labor organizations have financial dominance by examining their usual accounting records; a trust would add all income received from labor organizations within its most recent fiscal year, divide that sum by the figure representing Net Income from the Income Statement from its most recent fiscal year, and if the dividend is more than .50, then the trust has established that labor organizations have financial dominance.

Application of the financial or managerial dominance test does not require that the trust disclose individualized information related to voting or contributions. Therefore, the trust will not be required to release any confidential information pertaining to financial contributions or control. The Department expects that labor organizations that do not already possess the information to determine whether they need to file a Form T–1 will be able to obtain this information simply by contacting the trust.

2. Form T–1 Reporting Requirement Only Applies to the Largest Labor Organizations

The Department's proposal to require only labor organizations with annual receipts of at least $250,000 to file a Form T–1 tracks the mandatory filing threshold for the Form LM–2. This proposal is consistent with the 2003, 2006, and 2008 rules and reflects feedback that the Department received on its 2002 proposed rule. In 2002, the Department had proposed that all labor organizations that contributed $10,000 or more to a ''significant'' section 3(l) trust file a Form T–1 and had defined a ''significant trust'' as one having annual receipts of at least $200,000. Thus, under the 2002 proposal it was the size of the trust, not the size of the labor organization, which triggered the reporting obligation. In this regard, the 2002 proposal departed from the model proposed for the Form LM–2, where only labor organizations with annual receipts of at least $200,000 ($250,000 in the final rule) would be obliged to provide the kind of detailed reporting comparable to the Form T–1.

Many commenters on the 2002 proposal expressed the view that the Form T–1 would impose a substantial burden on small labor organizations because they are usually staffed with part-time volunteers, with little computer or accounting experience and limited resources to hire professional services. In the 2003 rule, the Department explained that it had been persuaded by the comments that the relative size of a labor organization, as measured by its overall finances, would affect its ability to comply with the proposed Form T–1 reporting requirements. For this reason, the Department excused from the Form T–1 reporting obligation any labor organization with annual receipts of less than $250,000 in the final rule. For the same reasons, the Department again proposes a Form T–1 filing threshold of $250,000 in annual receipts for the labor organization.

3. Itemization of Receipts and Disbursements

The Department proposes that itemization should be required for ''major disbursements'' and ''major receipts'' of the section 3(l) trust. The Department defines ''major disbursements'' and ''major receipts'' for Form T–1 purposes as $10,000 or more. Thus, under the proposal a labor organization would report payments of $10,000 or more from any individual or entity to the trust and payments of $10,000 or more to any individual or

entity from the trust. In completing the Form T–1, the labor organization would specify the amount of the receipt or disbursement, its purpose, and other information pertinent to the transaction, including the name and address of the entity or individual involved.

The Department's proposal also requires that a labor organization aggregate the trust's receipts from, or disbursements to, a particular entity or individual during the reporting period. Aggregation provides a more accurate picture of a labor organization's disbursements because it focuses on the total amount of money the labor organization pays a particular entity or individual, rather than only on ''major'' individual receipts or disbursements. It is the Department's opinion that insofar as such payments are of interest to a labor organization member, there is no difference between a single $10,000 (or more) receipt or disbursement from one source and several receipts or disbursements from one source totaling $10,000 or more. Furthermore, aggregation reduces the incentive to break up a ''major'' disbursement to a single entity or individual in order to avoid itemizing the payment and thereby circumvent the Form T–1 reporting requirements.

Itemization is an essential component of the Form LM–2 and also is integral to the Form T–1 as a means to prevent circumvention or evasion of the reporting obligations imposed on labor organizations and labor organization officials. Itemization not only provides members with information pertinent to the trusts, but allows them to better monitor the other reporting obligations of their labor organization and its officials under the LMRDA and to detect and thereby help prevent circumvention or evasion of the LMRDA's reporting requirements. Among other requirements under this proposal, Form T–1 requires a labor organization to identify:

- The names of all the trust's officers and all employees making more than $10,000 in salary and allowances and all direct and indirect disbursements to them;
- Any loans made at favorable terms by the trust to the labor organization's officers or employees, the amount of the loan, and the terms of repayment.

Where certain payments from a business that buys, sells, or otherwise deals with a trust in which a labor organization is interested are made to a labor organization officer or employee or his or her spouse or minor child, the LMRDA imposes on the labor organization officer or employee a separate obligation to report such payments (Form LM–30, as required by 29 U.S.C. 432). Thus, the Form T–1 operates to deter a labor organization official from evading this reporting obligation.

The proposed $10,000 figure is an outgrowth of earlier rulemaking efforts and is shaped by the concerns there expressed and the Department's accommodation to those concerns. This amount is a higher amount than the itemization threshold provided for in the Form LM–2 ($5,000). As the Department has stated in the past, ''The Department will continue to monitor this threshold, as well as all other thresholds established by this rule, and may make future adjustments if economic conditions warrant such a change.'' 68 FR 58374, 58421.

As to aggregation, the Department recognizes that tracking multiple payments from a specific source throughout the fiscal year imposes some additional burden on a reporting labor organization and a section 3(l) trust. Developments in electronic recordkeeping, however, should minimize this burden. Electronic recordkeeping is now relatively simple and used routinely even by very small organizations and by individuals. Moreover, given the nature of their day-to-day operations, section 3(l) trusts are likely to already possess the technology and expertise to provide relevant information without undue burden. The Form LM–2 filing experience demonstrates the ability of labor organizations, often without the same level of recordkeeping sophistication possessed by most trusts, to satisfy the requirements imposed by the Form LM–2, which are generally more demanding than those posed by the Form T–1.

4. Protection of Sensitive Information

This proposal protects the disclosure of personal information about members of labor organizations and the disclosure of sensitive information about a labor organization's negotiating or bargaining strategies by subjecting the Form T–1 to the same confidentiality provisions contained in the Form LM–2 regulations, 29 CFR 403.8. The only difference between the provisions relating to the Form LM–2 and this proposal for the Form T–1 is that each addresses the distinct itemization thresholds for the two reports ($5,000 for Form LM–2 and $10,000 for Form T–1).

The Department also proposes to provide labor organizations the same reporting options available under the Form LM–2 for reporting certain major transactions in situations where a labor organization, acting in good faith and on reasonable grounds, believes that reporting the details of the transaction would divulge information relating to the labor organization's prospective organizing strategy, the identification of individuals working as ''salts'' (persons having sought and attained employment at a company in order to organize its workers), or its prospective negotiation strategy. Consistent with the instructions provided, this information may be reported without itemization.

Under the proposal, a labor organization that elects to file only aggregated information about a particular receipt or disbursement, whether to protect an individual's privacy or to avoid the disclosure of sensitive negotiating or organizing activities, must so indicate on the Form T–1. A labor organization member has the statutory right ''to examine any books, records, and accounts necessary to verify'' the labor organization's financial report if the member can establish ''just cause'' for access to the information. 29 U.S.C. 431(c); 29 CFR 403.8. Information reported only in aggregated form remains subject to a labor organization's member's statutory right to access such financial information. Such aggregation will constitute a *per se* demonstration of ''just cause,'' and thus the information must be available to a member for inspection. By invoking the option to withhold such information, the labor organization is required to undertake reasonable, good faith actions to obtain the requested information from the trust and facilitate its review by the requesting member. Payments that are aggregated because of risk to an individual's health or safety or that are subject to federal or state laws forbidding the disclosure of the information are not subject to the *per se* disclosure rule.

5. Exemptions and Alternative Means of Compliance

The Department proposes to exempt from the labor organization's Form T–1 reporting requirement a PAC or an organization exempt under Internal Revenue Code section 527 (section 527 political organization), if the entity, assuming it meets the definition of an LMRDA section 3(l) trust, files timely, complete and publicly-available reports with federal or state agencies, as required by federal or state law.

Additionally, the Department proposes to exempt a labor organization from filing a Form T–1 for a section 3(l) trust if the trust was part of an employee benefit plan that under ERISA files a Form 5500. The purpose of limiting the filing requirements in this way is to

minimize any overlapping reporting obligations that exist under certain other laws where such reports are publicly available and provide information roughly comparable to that required by the Form T–1. The Department asks for comment on whether to retain such Form T–1 exemptions tied to ERISA.

Each of these alternative methods for meeting the labor organization's Form T–1 obligations provides significant, timely financial information about the trust that is updated on a regular basis (for PAC and section 527 reports, typically more frequently than the Form T–1) and requires the itemization of receipts and expenditures.[13] These reports provide a level of transparency similar to the proposed Form T–1.

The proposed rule also leaves in place the Form LM–2 requirement that labor organizations report their subsidiaries on the union's Form LM–2 report. *See* Form LM–2 Instructions, Part X (defining a ''subsidiary organization'' as ''any separate organization of which the ownership is wholly vested in the reporting labor organization or its officers or its membership, which is governed or controlled by the officers, employees, or members of the reporting labor organization, and which is wholly financed by the reporting labor organization.''). Such reporting framework reduces burden on labor organizations, while simultaneously providing greater disclosure for the public. There is greater disclosure in general because the Form LM–2 report requires greater detail than the proposed Form T–1 and greater disclosure concerning itemization in particular; the Form LM–2 has a lower threshold ($5,000 as opposed to $10,000) and subsidiaries will not be able to avoid aggregating expenditures they made separately with those of the labor organization because both are reported on the same form. Further, leaving subsidiary reporting with the Form LM–2 will alleviate confusion on the part of the public, as many would expect to see all funds of the union reported on its Form LM–2 report.

The Department proposes accepting an audit, in lieu of the Form T–1 filing, modeled after a similar provision in ERISA. The audit must meet the requirements (modeled on section 103 of ERISA, 29 U.S.C. 1023, and 29 CFR 2520.103–1 (relating to annual reports and financial statements required to be filed under ERISA)) described in the Form T–1 instructions. The Department recognizes that the audit option may not provide the same detail as required by the Form T–1, but it believes that this approach is an acceptable alternative for reducing the overall reporting burden on the labor organization and the section 3(l) trust. Under the audit option, a labor organization need only complete the first page of the Form T–1 (Items 1–15 and the signatures of the organizations' officers) and submit a copy of the audit of the trust that meets all the following standards:

- The audit is performed by an independent qualified public accountant, who after examining the financial statements and other books and records of the trust, as the accountant deems necessary, certifies that the trust's financial statements are presented fairly in conformity with Generally Accepted Accounting Principles or Other Comprehensive Basis of Accounting.
- The audit includes notes to the financial statements that disclose, for the preceding twelve-month period:
- Losses, shortages, or other discrepancies in the trust's finances;
- The acquisition or disposition of assets, other than by purchase or sale;
- Liabilities and loans liquidated, reduced, or written off without the disbursement of cash;
- Loans made to labor organization officers or employees that were granted at more favorable terms than were available to others; and
- Loans made to officers and employees that were liquidated, reduced, or written off.
- The audit is accompanied by schedules that disclose, for the preceding twelve-month period:
- A statement of the assets and liabilities of the trust, aggregated by categories and valued at current value, and the same data displayed in comparative form for the end of the previous fiscal year of the trust; and
- A statement of trust receipts and disbursements aggregated by general sources and applications, which must include the names of the parties with which the trust engaged in $10,000 or more of commerce and the total of the transactions with each party.

The Department requests comment on whether it should exempt financial institutions affiliated with labor organizations, such as credit unions, from the final rule. Federally insured credit unions are already subject to extensive reporting requirements pursuant to the Federal Credit Union Act, 12 U.S.C. 1751, as well as other laws and regulations. The 2008 Final T–1 Rule exempted labor organizations from submitting a Form T–1 for a union-owned bank's financial operations.[14] In that Final Rule, the Department wrote that the bank engaged in a much larger number of potentially reportable transactions and all but a few, if any, involved section 3(l) trusts. The Department also wrote that the bank was subject to strict state and federal regulations that temper the need for reporting obligations. However, the 2008 rule did not exempt credit unions from Form T–1 reporting. *See* 73 FR 57433.

6. Reporting When Multiple Labor Organizations With Annual Receipts of at Least $250,000 Participate in a Section 3(l) Trust

The Department proposes that only the parent union (*i.e.,* the national/international or intermediate union) would need to file the Form T–1 report for covered trusts in which both the parent union and its affiliates meet the financial or managerial domination test. The affiliates would continue to identify the trust in their Form LM–2 report, and, under the proposal, would also state in their Form LM–2 report that the parent union will file a Form T–1 report for the trust.[15]

But where multiple labor organizations are interested in the same covered trust, the Department proposes that each and every Form LM–2 labor organization that meets the financial or managerial domination test files a Form T–1 report, provided that such labor organization is not affiliated with another parent labor organization that shares this reporting requirement. In this respect, the proposal does not differentiate among the reporting obligations of labor organizations contributing to the same trust. Any labor organization that satisfies the reporting threshold will have to submit the Form T–1, even though the labor organization's share may only represent a relatively small portion of the total

[13] Significantly, these forms set the itemization threshold below the $10,000 amount proposed for the Form T–1. They require aggregation of receipts and disbursements; itemization is required for any receipts from or disbursements to an individual or entity that total $200 or more during prescribed reporting cycles. *See* Federal Election Commission, Instructions for FEC Form 3X and Related Schedules, available at *https://www.fec.gov/resources/cms-content/documents/fecfrm3xi.pdf* (last visited Dec. 4, 2018); IRS, Instructions for Form 8872, available at *https://www.irs.gov/pub/irs-pdf/i8872.pdf* (last visited Dec. 4, 2018).

[14] Labor organizations are no longer permitted to own banks and only one union-owned bank exists by virtue of a grandfather provision in the Bank Holding Act of 1956. *See* 12 U.S.C. 1843.

[15] See the Information Collection Request (ICR) associated with this notice, which contains corresponding changes to the Form LM–2 Instructions, Part XI (Completing Form LM–2), Item 10 (Trusts or Funds). Specifically, the instructions state that the Form LM–2 filing labor organization must identify whether a Form T–1 will be filed for the labor organization's trust, providing the Form T–1 file number.

contributions made to the trust by other labor organizations.

This proposal reflects information received in part during earlier rulemakings. In response to the Department's 2006 proposal, for example, an international labor organization explained that it was not uncommon for several locals to participate in an apprenticeship and training fund that would be funded by payments from employers pursuant to negotiated agreements providing for a ''cents per hour'' contribution for hours worked by each of their employees. 71 FR 57716, 57724. As an example, the labor organization discussed a fund with annual contributions over $300,000 in which seven locals participated. *Id.* The contributions from each local ranged from about $10,000 to about $100,000. *Id.* The fund had four management and four labor trustees; three from different locals contributing to the trust and a fourth from the labor organizations' parent organization. *Id.* The labor organization also explained that it is common for local labor organizations in different crafts (affiliated with different parent bodies) to participate in a fund. *Id.* It explained that in these instances, it would be unusual for a single craft or local to represent a majority of the labor organization trustees. It stated that in such circumstances it is unrealistic to suggest that any single labor organization or craft controls the trust. *Id.*

As suggested by the Department's proposal and the apprenticeship and training fund just discussed, it is not uncommon for multiple labor organizations to participate in a section 3(l) trust without any single labor organization contributing a majority of the trust's receipts. In some trusts, such as strike funds, labor organizations may be the sole contributors to the fund; in others, such as Taft-Hartley trusts, the trust will be funded by employers, but such funds are established through collective bargaining agreements and the employer contributions are made for the benefit of the members of the participating labor organizations or their beneficiaries.

Thus, in order to prevent evasion of a labor organization's reporting requirements, this proposal may require multiple labor organizations to report on a single trust. As discussed above, a single labor organization may circumvent its Form LM–2 reporting obligations when it retains a controlling management role or financially dominates a trust; there is no basis to conclude that a group of labor organizations is not equally capable of doing so. Disbursements from a trust of pooled labor organization money reflect the contributing labor organizations' financial conditions and operations as clearly as the disbursements from a trust funded by a single labor organization. A rule directed to preventing a single labor organization from circumventing or evading the law should not permit the same conduct when it is undertaken by more than one labor organization.

The Department is interested in streamlining this proposal's filing requirements in order to eliminate duplication and requests comments on how best to accomplish this. The Department requests comments on alternatives such as fixing the obligation on the labor organization with the greatest stake in the trust or allowing either one of the participating labor organizations or a parent union of one or more of the participating labor organizations to voluntarily take on this responsibility.

A consideration that led the Department to this proposal where multiple labor organizations may be required to report on a single trust is the recognition that the section 3(l) trust, not the reporting labor organizations, will compile most of the necessary information. This information, in large part, will be identical for each participating labor organization. This will also operate to allocate the reporting costs among the labor organizations, as determined by the trust, and will keep their total costs only marginally higher than if a Form T–1 was required to be filed by only one of the participating labor organizations. In requiring that multiple labor organizations file when they share a section 3(l) trust, the Department seeks to avoid penalizing the labor organization which contributes the most to the trust. The Department requests comments on these aspects of its proposal.

In response to the 2006 Proposed T–1 Rule, several commenters expressed concern that a section 3(l) trust could refuse to provide the information needed to complete the Form T–1. 71 FR 57716, 57726. Several commenters expressed concern about a labor organization's liability for failure to file a timely report, given that the trust might refuse to provide the information and the labor organization may be unable to compel production. The Department acknowledges that this may remain a possibility under this proposal. However, given that the reporting obligation under the proposal only arises where a labor organization, alone or in combination with other labor organizations, maintains management control or financial domination over a trust, the possibility of such intransigence appears remote.

The Department seeks comment on this aspect of the proposal.

7. Effective Date

The Department proposes to provide labor organizations significant lead time to prepare for submitting the initial Form T–1. Under the proposal, the final rule will take effect no less than 30 days after its publication in the **Federal Register**. Furthermore, at the earliest, no report will be due until 15 months after the rule's effective date. Thus, labor organizations whose fiscal years begin after the rule's effective date will have more than 15 months before their initial Form T–1 is due. As stated in the proposal:

Form T–1 must be filed within 90 days of the end of the labor organization's fiscal year. The Form T–1 shall cover the trust's most recent fiscal year, *i.e.,* the fiscal year ending on or before the closing date of the labor organization's own fiscal year.

Under the proposal, labor organizations will file a Form T–1 and Form LM–2 together. The filing will be due 90 days after the labor organization's fiscal year ends. The Form T–1 will be based on the latest available information for the trust's most recent fiscal year reported to the labor organization by the trust or from a qualifying audit. The Department's intention in permitting a labor organization to file Form T–1 within 90 days after the labor organization's fiscal year ending date, rather than requiring it to be filed within 90 days after the trust's fiscal year ending date, is to ease the burden for both the trust and the labor organization. The Department anticipates that a trust will be able to more readily provide necessary information to the reporting labor organization at the conclusion of the trust's fiscal year and that a labor organization will have correspondingly less difficulty in obtaining information at that time.

The Department intends to include in the instructions that are published as part of the final rule examples of the rule's application to trusts and labor organizations that have the same or different fiscal years.

**Paperwork Reduction Act**

This statement is prepared in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 (''PRA'').[16]

[16] *See* 5 CFR 1320.9. The rule implements an information collection that meets the requirements

*A. Summary*

The LMRDA entitles union members to important information about union funds that are directed to other entities, for the members' benefit, when the Secretary finds that such reporting would be necessary to prevent the circumvention or evasion of the reporting requirements. *See* 29 U.S.C. 438. Examples include joint funds administered by a union and an employer pursuant to a collective bargaining agreement, educational or training institutions, credit unions, and redevelopment or investment groups. The Form T–1 is necessary to close the information gap that exists for these trusts and thereby prevent certain trusts from being used to evade the LMRDA Title II reporting requirements, which are designed to provide union members with information about financial transactions involving a significant amount of money relative to the union's overall financial operations and other reportable transactions. Trust reporting is necessary to ensure, as intended by Congress, the full and comprehensive reporting of a union's financial condition and operations, including a full accounting to union members whose work obtained the payments to the trust. It is also necessary to prevent circumvention and evasion of the reporting requirements imposed on officers and employees of unions and on employers.

Union members thus will be able to obtain a more accurate and complete picture of their union's financial condition and operations without imposing an unwarranted burden on respondents. Supporting documentation need not be submitted with the forms, but labor organizations are required, pursuant to the LMRDA, to maintain, assemble, and produce such documentation in the event of an inquiry from a union member or a compliance audit by an OLMS investigator.

This NPRM is based upon improvements from previous efforts to institute the Form T–1, and this PRA has been adjusted according to the Department's more accurate understanding of the Form LM–2 filers that will actually be subject to this revised Form T–1.

The Department estimates that a maximum of 2070 Form T–1 reports will be submitted annually by 810 labor organizations as a result of the proposed rule. The Department derives this estimate from a review of 2018 LM–2 reports from labor organizations that identified having a trust. The Department recognizes that this number of Form T–1 filers is an over estimation due to the Department's current proposal that only the parent union (*i.e.,* the national/international or intermediate union) should file the Form T–1 report for covered trusts in which both the parent union and its affiliates meet the financial or managerial domination test.

Each of these 810 labor organizations will file at least one Form T–1 annually. Given that the Department estimates a maximum of 2070 Form T–1 reports will be submitted annually, the 810 labor organizations will file ~2.56 reports on average.

Based on the calculations of the 2008 Form T–1 Final Rule, 73 FR 57436–57445, the Department estimates that, on average, labor organizations will expend 86.21 hours on recordkeeping the first year and 69.70 hours on recordkeeping each subsequent year for each Form T–1 filed. Additionally, on average, labor organizations will expend 35.17 hours on reporting the first year and 14.42 hours on reporting each subsequent year for each Form T–1 filed. Therefore, Form T–1 filers will spend 121.38 hours (86.21 + 35.17 = 121.38) on each T–1 report in the first year, and 84.12 hours (69.70 + 14.42 = 84.12) on each Form T–1 report in subsequent years.

On any given report in the first year, the Form T–1 filers would spend approximately 121.38 hours per report (*see* Form T–1 Instructions), which results in a total of 251,256.6 additional burden hours (121.38 × 2,070 = 251,256.6 hours). In subsequent years, T–1 filers would spend approximately 84.12 hours per report (*see* Form T–1 Instructions), which would result in 174,128.4 additional burden hours (84.12 × 2,070 = 174,128.4), a 30.70% decrease from the first year.

The Department estimates that the total burden averaged over the first three years to comply with the Form T–1 to be 199,837.8 hours per year.

*B. Hours To Complete and File Form T–1*

The Department modeled its current analysis on the analysis in the 2008 Form T–1 final rule. The Department estimates burden hours for the nonrecurring (first year) recordkeeping and reporting requirements, the recurring recordkeeping and reporting burden hours, and a three-year annual average for the additional nonrecurring and recurring burden hours associated with the final rule. *See* 73 FR 57436–57445.

The Department estimates that, on average, labor organizations will expend 1.83 reporting hours each year completing page one of the Form T–1. To complete the first page of the Form T–1, the labor organization will have to train new staff on the reporting software; enter trust information; answer questions 9, 14, and 15; provide addition information (if necessary); and sign the report. The labor organization's information should be automatically filled by the reporting software when the Form T–1 is downloaded. The remaining information provided on the first page of the Form T–1 is very similar to the information provided on the first page of the Form LM–3 (10 items that identify the labor organization and one yes/no question addressing whether or not the organization's records are kept at its mailing address). Experience with the Form LM–3 has indicated that LM–3 filers expend approximately 15 minutes each year training new staff on how to fill out the first page of the Form LM–3. Additionally, LM–3 filers spend approximately 5 minutes on each item and question on the Form LM–3. Therefore, the Department has determined that Form T–1 filers will spend 50 minutes filling out the trust information and answering the 3 yes/no questions. If additional information is required, the Department has determined that the labor organization should be able to fill out the mailing address for the records of the trust and labor organization in 10 minutes. Finally, the labor organization president

of the PRA in that: (1) The information collection has practical utility to labor organizations, their members, other members of the public, and the Department; (2) the rule does not require the collection of information that is duplicative of other reasonably accessible information; (3) the provisions reduce to the extent practicable and appropriate the burden on labor organizations that must provide the information, including small labor organizations; (4) the form, instructions, and explanatory information are written in plain language that will be understandable by reporting labor organizations; (5) the disclosure requirements are implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of labor organizations that must comply with them; (6) this preamble informs labor organizations of the reasons that the information will be collected, the way in which it will be used, the Department's estimate of the average burden of compliance, which is mandatory, the fact that all information collected will be made public, and the fact that they need not respond unless the form displays a currently valid OMB control number; (7) the Department has explained its plans for the efficient and effective management and use of the information to be collected, to enhance its utility to the Department and the public; (8) the Department has explained why the method of collecting information is ''appropriate to the purpose for which the information is to be collected''; and (9) the changes implemented by this rule make extensive, appropriate use of information technology ''to reduce burden and improve data quality, agency efficiency and responsiveness to the public.'' *See* 5 CFR 1320.9; 44 U.S.C. 3506(c).

and treasurer will be able to sign the Form T–1 in 20 minutes once they have reviewed the report. The president and treasurer will already have the signature software setup for the LM–2. In most cases, it will be a matter of pressing a button to apply the signature.

There is no unique recordkeeping burden associated with the first page of the Form T–1. Under the LMRDA, and pursuant to the Form LM–2 Instructions, Part XI (Completing Form LM–2), Item 10 (Trusts or Funds, the labor organization should already keep records on itself and trusts in which it is interested to complete the Form LM–2, including the trust's name, address, purpose, and EIN. Further, neither the trust nor the labor organization will have to make any changes to its accounting systems to report the information required on page 1 of the Form T–1.

The Department estimates that, on average, labor organizations will expend 1.33 reporting hours each year completing page two of the Form T–1. The labor organization will have to train new staff, answer five questions, enter the total assets and liabilities, and enter additional information as necessary. Like the first page of the Form T–1, the second page of the Form T–1 is relatively straight forward. The Department has determined that labor organizations can train staff to complete the second page of the Form T–1 in 15 minutes. The majority of the reporting burden is attributable to questions 16 through 20. Although rare, the types of losses and transactions captured by questions 16 through 20 are of significant importance to both labor organizations and trusts. Each of these losses or transactions is tracked closely by the trust to ensure that the trust is properly managed and free from preferential insider transactions. Therefore, the trust should be able easily to identify and provide details on any loss or transaction that falls within questions 16 through 20. The Department estimates that the trust should be able to provide the labor organization with answers to questions 16 through 20 in 25 minutes, 5 minutes per question. Further, the Department estimates that the labor organization will spend approximately 30 minutes entering the details of the transaction or loss in item 25. Finally, the Department estimates that it will take 10 minutes to find and enter the total assets and liabilities in items 21 and 22.

There is no recordkeeping burden associated with the second page of the Form T–1. The answers to questions 16 through 20 are tracked by the trust along with receipts and disbursements. Therefore, the recordkeeping burden associated with questions 16 through 20 has been included in the recordkeeping burden for the receipts and disbursements schedules. There is no recordkeeping burden associated with items 21 through 24. Information provided in items 21, total assets, and 22, total liabilities, are kept in the normal course of the trust's recordkeeping. Items 23, total receipts, and 24, total disbursements, will be automatically calculated and entered by the reporting software.

Trusts are already tracking most receipts, disbursements, and payments to officers and employees in the regular course of business, but it is unlikely they are tracking the information in the detail or structure required by Form T–1 reporting. Therefore, covered 3(l) trusts will have to change their accounting systems to track the necessary information in a format that can be provided to the interested labor organization to complete the Form T–1. In 2003, Form LM–2 filers had to change their accounting systems to capture information very similar to the information reported on the Form T–1. Experience with the Form LM–2 indicates that, on average, T–1 respondents will expend 9.75 (of nonrecurring burden) hours developing, testing, and reviewing revisions to the account software; preparing the download methodology; and training personnel on each of the schedules.

The Form 5500 exemption significantly reduces the variability of 3(l) trusts covered by the Form T–1. A careful analysis of the remaining trusts, used in the analysis above, indicates that most of the Form T–1s will be filed for building trusts, strike funds, labor-management cooperation committees, and apprenticeship and training funds. Unlike pension and health plans, these trusts, on average, will have few disbursements, receipts, officers, and employees. For example, strike funds are likely to have no disbursements unless the labor organization is striking. Further, many of these trusts, including building trusts, are closely associated with the labor organization and function in a similar fashion. Therefore, similar to the 2008 rule, the Department uses the Form LM–2 experience to estimate the number of disbursements, receipts, officers, and employees listed on the Form T–1.

In terms of recordkeeping, the Department estimates that, on average, Form T–1 filers will expend 5.43 hours a year on recordkeeping to document the information necessary to complete the Form T–1 receipts schedule. Additionally, for the Form T–1 disbursement schedule, the Department estimates that, on average, filers will expend 54.13 hours a year on recordkeeping. Further, the Department estimates Form T–1 filers will expend 10.07 hours on recordkeeping to compile the information necessary to complete the officers and employees schedule.

Finally, the Department estimated that Form T–1 filers will spend 3.75 hours on each schedule inputting the data. Inputting the information into the Form T–1 is very similar to inputting data into the Form LM–2. Experience with the Form LM–2 in previous rulemakings indicates that a labor organization will spend 15 minutes a year training new staff; 60 minutes preparing the download; 90 minutes preparing and testing the data file; and 60 minutes editing, validating and importing the data.

Therefore, the Department estimates that, on average, labor organizations will expend 86.21 hours on recordkeeping the first year and 69.70 hours on recordkeeping each subsequent year on each Form T–1 filed. Additionally, on average, labor organizations will expend 35.17 hours on reporting the first year and 14.42 hours on reporting each subsequent year on each Form T–1 filed. Therefore, Form T–1 filers will spend 121.38 hours (86.21 + 35.17 = 121.38) on each T–1 report in the first year, and 84.12 hours (69.70 + 14.42 = 84.12) on each T–1 report in subsequent years.

*C. Estimated Number of Form T–1 Reports*

The following charts were used to calculate the various figures necessary to do the above calculations.

The first chart (Table 1) generated the total number of Form T–1s by averaging the known number of Form T–1s that would be generated in the top 10% and bottom 10% of Form LM–2 filers with at least one (1) trust.

The second chart (Table 2) generated the actual number of Form T–1 filers by averaging out the number of Form T–1 filers that exist in the top 10% and bottom 10% of Form LM–2 filers with at least one (1) trust.

The final chart (Table 3) generated the average number of Form T–1s that would be filed per Form T–1 filer in each decile and overall.

TABLE 1—TOTAL NUMBER OF FORM T–1S BY DECILE

| Decile of LM–2s with at least 1 3(l) trust | Formula * | Variable | Number of T–1s |
|---|---|---|---|
| 10 (Top 10%) | Y | Y | 330 |
| 9 | (W + Y) / 2 | | 299.25 |
| 8 | (Z + Y) / 2 | W | 268.5 |
| 7 | (W + Z) / 2 | | 237.75 |
| 6 | (X + Y) / 2 | Z | 207 |
| 5 | (X + Y) / 2 | Z | 207 |
| 4 | (T + Z) / 2 | | 176.25 |
| 3 | (Z + X) / 2 | T | 145.5 |
| 2 | (T + X) / 2 | | 114.75 |
| 1 (Bottom 10%) | X | X | 84 |
| Total | | | 2070 |

* These formulae represent the process by which the Department calculated the average number of T–1 reports likely to be produced in each decile. X and Y were not calculations; these variables were figures determined from extensive, time-consuming reviews of all LM–2 filers with trusts in the bottom and top deciles by annual revenue size, respectively. Decile 5 and 6, being the middle deciles, were represented by a simple arithmetic mean, averaging X and Y together to find Z, the average number of T–1 reports in those deciles.

Given the divide in the number of T–1 reports between the top decile consisting of the largest LM–2 filers and the bottom consisting of the smallest, namely that the top decile has over twice as many T–1 reports likely to be filed as the bottom decile, the Department assumes that using the simple arithmetic mean Z to represent the number of T–1 reports by decile would misrepresent the number of reports in those deciles. Z would be an overestimation of reports in the lower deciles and an underestimation in the top deciles. Instead, in order to represent the gradual decline in T–1 reports that is expected in each decile, and thus represent the number of T–1 reports generated in each decile more accurately, the Department calculated the average of Z & Y and then the average of Z & X in order to calculate W and T, respectively, where W is the number of T–1 reports expected for the middle decile in the top deciles (Decile 8) and T is the middle decile in the bottom deciles (Decile 3).

With W and T, the remaining deciles were determined. The number of T–1 reports for Decile 9 was calculated by averaging Y (the number of T–1 reports in Decile 10) and W (the number of T–1 reports in Decile 8). Decile 7 by averaging W (the number of T–1 reports in Decile 8) and Z (the number of T–1 reports in Decile 6). Decile 4 by averaging Z (the number of T–1 reports in Decile 5) and T (the number of T–1 reports in Decile 3). Decile 2 by averaging T (the number of T–1 reports in Decile 3) and X (the number of T–1 reports in Decile 1).

TABLE 2—NUMBER OF UNIONS FILING AT LEAST 1 FORM T–1

| Decile of LM–2s with at least 1 3(l) trust | Formula * | Variable | Number of unions filing at least 1 T–1 |
|---|---|---|---|
| 10 (Top 10%) | Y | Y | 100 |
| 9 | (W + Y) / 2 | | 95.25 |
| 8 | (Z + Y) / 2 | W | 90.5 |
| 7 | (W + Z) / 2 | | 85.75 |
| 6 | (X + Y) / 2 | Z | 81 |
| 5 | (X + Y) / 2 | Z | 81 |
| 4 | (T + Z) / 2 | | 76.25 |
| 3 | (Z + X) / 2 | T | 71.5 |
| 2 | (T + X) /2 | | 66.75 |
| 1 (Bottom 10%) | X | X | 62 |
| Total | | | 810 |

* These formulae represent the process by which the Department calculated the average number of labor organizations filing at least 1 (one) T–1 report in each decile. X and Y were not calculations; these variables were figures determined from extensive, time-consuming reviews of all LM–2 filers with trusts in the bottom and top deciles by annual revenue size, respectively. Decile 5 and 6, being the middle deciles, were represented by a simple arithmetic mean, averaging X and Y together to find Z, the average number of unions filing at least 1 (one) T–1 report in those deciles.

Given the divide in the number of labor organizations filing at least 1 (one) T–1 report between the top decile consisting of the largest LM–2 filers and the bottom consisting of the smallest, namely that the top decile has nearly twice as many labor organizations likely to file a T–1 report as the bottom decile, the Department assumes that using the simple arithmetic mean Z to represent the number of labor organizations likely to file a T–1 report in the remaining deciles would significantly misrepresent the number of such organizations likely in those deciles. Z would be an overestimation of labor organizations in the lower deciles and an underestimation in the top deciles. Instead, in order to represent the gradual decline in labor organizations filing at least 1 (one) T–1 report that is expected in each decile, and thus represent the number of labor organizations filing the T–1 report in each decile more accurately, the Department calculated the average of Z & Y and then the average of Z & X in

order to calculate W and T, respectively, where W is the number of labor organizations filing the T–1 report expected for the middle decile in the top deciles (Decile 8) and T is the number of such labor organizations for the middle decile in the bottom deciles (Decile 3).

With W and T, the remaining deciles were determined. The number of labor organizations filing at least 1 (one) T–1 report for Decile 9 was calculated by averaging Y (the number of such labor organizations in Decile 10) and W (the number of such labor organizations in Decile 8). Decile 7 by averaging W (the number of such labor organizations in Decile 8) and Z (the number of such labor organizations in Decile 6). Decile 4 by averaging Z (the number of such labor organizations in Decile 5) and T (the number of such labor organizations in Decile 3). Decile 2 by averaging T (the number of such labor organizations in Decile 3) and X (the number of such labor organizations in Decile 1).

TABLE 3—NUMBER OF FORM T–1 REPORTS PER UNION FILING AT LEAST 1 FORM T–1

| Decile of LM–2s with at least 1 3(l) Trust | Formula * | Number of T–1s | Number of unions filing at least 1 T–1 | Average number of T–1s per union ** |
|---|---|---|---|---|
| 10 (Top 10%) | X / Y = Z | 330 | 100 | 3.3 |
| 9 | X / Y = Z | 299.25 | 95.25 | 3.14 |
| 8 | X / Y = Z | 268.5 | 90.5 | 2.97 |
| 7 | X / Y = Z | 237.75 | 85.75 | 2.77 |
| 6 | X / Y = Z | 207 | 81 | 2.56 |
| 5 | X / Y = Z | 207 | 81 | 2.56 |
| 4 | X / Y = Z | 176.25 | 76.25 | 2.31 |
| 3 | X / Y = Z | 145.5 | 71.5 | 2.03 |
| 2 | X / Y = Z | 114.75 | 66.75 | 1.72 |
| 1 (Bottom 10%) | X / Y = Z | 84 | 62 | 1.35 |
| Total | | 2070 | 810 | *** 2.56 |

* = Where "X" represents the Number of Form T–1s, "Y" represents the Number of Unions Filing at Least 1 Form T–1, and Z represents the Average number of Form T–1s per Union.
** = Rounded to the Nearest 100th.
*** = This represents the overall average number of reports Form T–1 filers must file.

As the proposed rule requires an information collection, the Department is submitting, contemporaneous with the publication of this notice, an information collection request (ICR) to revise the Paperwork Reduction Act (PRA) clearance to address the clearance term. The ICR includes a new form, the Form T–1, which the Department has drafted that LM–2 filing labor organizations must complete and submit, consistent with this proposed rule. The ICR also contains corresponding changes to the Form LM–2 Instructions, Part XI (Completing Form LM–2), Item 10 (Trusts or Funds). A copy of this ICR, with applicable supporting documentation, including among other items a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201903-1245-001* (this link will only become active on the day following publication of this notice) or from the Department by contacting Andrew Davison 202-693-0123 (this is not a toll-free number) / email: *OLMS-Public@dol.gov*.

As mentioned in **DATES** and **ADDRESSES** sections of this preamble, the Department invites interested parties to comment on any aspect of this revised information collection, In addition, interested parties may also submit comments on the ICR directly with OMB for a period of 30 days after publication of this proposed rule. PRA comments should reference OMB control number 1245–0003. The Department and OMB are particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Type of Review:* Revision of an existing collection.

*Agency:* OLMS.

*Title:* Labor Organization and Auxiliary Reports.

*OMB Number:* 1245–0003.

*Affected Public:* Private Sector—not-for-profit institutions.

*Total Estimated Number of Annual Respondents:* 2,070.

*Total Estimated Number of Responses:* 33,571.

*Frequency of Response:* On occasion.

*Estimated Total Annual Burden Hours:* 4,754,243.

*Estimated Total Annual Other Burden Cost:* $0.

**Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Review)**

Under Executive Order (E.O.) 12866, the Office of Management and Budget (OMB)'s Office of Information and Regulatory Affairs determines whether a regulatory action is significant and, therefore, subject to the requirements of the E.O. and review by OMB. 58 FR 51735. Section 3(f) of E.O. 12866 defines a "significant regulatory action" as an action that is likely to result in a rule that (1) has an annual effect on the economy of $100 million or more, or adversely affects in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as economically significant); (2) creates serious inconsistency or otherwise interferes with an action

taken or planned by another agency; (3) materially alters the budgetary impacts of entitlement grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O. *Id.* OMB has determined that this proposed rule is not an economically significant regulatory action under section 3(f) of E.O. 12866.

E.O. 13563 directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; the regulation is tailored to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits. E.O. 13563 recognizes that some benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitatively values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

E.O. 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017. This proposed rule is expected to be an EO 13771 regulatory action. Details on the estimated costs of this proposed rule can be found in the rule's economic analysis.

*A. Costs of the Form T–1 for Labor Organizations*

The Form T–1 will be filed by Form LM–2 filing labor organizations with trusts that meet the dominance test if those labor organizations are not otherwise exempted from filing. Using data from LM–2 filings, the Department estimates that there are at least 810 total affected labor organizations (*i.e.,* LM–2 filers with trusts for which they must submit at least 1 Form T–1). The average form LM–2 filer will spend approximately 121.38 hours on average in the first year, and 84.12 hours each subsequent year to fill out the report. Based on current filings, the average hourly wage at LM–2 filers for an accountant is $35.42, $17.37 for a bookkeeper or clerk, $21.54 for a secretary or treasurer, and $26.10 for the president, respectively. The weighted average hourly wage for LM–2 filers is $33.87. To account for fringe benefits and overhead costs, as well as any other unknown costs or increases in the wage average, the average hourly wage has been doubled, so the fully loaded hourly wage is $67.74 ($33.87 × 2 = $67.74).

Therefore, the cost for each T–1 filer to complete a T–1 is estimated to be $8,222.28 ($67.74 × 121.38 hours = $8,222.28). This number, however, should be multiplied by the average number of reports that each T–1 filer will be responsible for (2.56), for a total of $21,049. This number should have a one-time regulation familiarization cost of $13.05 per filer (0.25 hours × $52.20 = $13.05) included as well. Doing so brings the first year costs per filer to $21,063 ([2.56 × 121.38 × $67.74] + $13.05 = $21,063). In subsequent years, the cost for each T–1 filer would be $14,588 (2.56 × 84.12 × $67.74 = $14,588).

Thus, the total annual cost in the first year for all 810 T–1 filers is estimated to be $17,061,030 (810 × $21,063 = $17,061,030), and the total annual cost in subsequent years is estimated to be $11,816,280 (810 × $14,588 = $11,816,280 $).

Regulatory familiarization costs represent direct costs to LM–2 labor organizations associated with reviewing the new regulation to see if it applies to them. The Department calculated this cost by multiplying the estimated time to review the rule by the hourly compensation of the president of the LM–2 filing labor organization. Using the same fringe benefit and overhead costs rationale as above, the fully loaded hourly wage for the president is $52.20 ($26.10 × 2 = $52.20). The Department estimates that the president of each labor organization will spend 15 minutes to review the rule.

Therefore, the one-time familiarization cost for all remaining 1,200 LM–2 filing labor organizations with trusts (2010 LM–2 filers with trusts minus the 810 T–1 filers that are already accounted for = 1,200) is estimated to be $38,237 ($52.20 × 1,200 LM–2 filers with trusts × .25 hours = $15,660) in the first year.

*B. Summary of Costs*

The total expected first-year costs would be $17,076,690 ($17,061,030 + 15,660 = $17, 076,690) In subsequent years, the total cost would be $11,816,280. The 10-year annualized cost is expected to be $12,414,999 at a 3 percent discount rate and $12,516,2464 at a 7 percent discount rate. The annualized perpetual cost at a 7 percent discount rate is expected to be $9,110,275.

*C. Benefits*

As explained more fully in the preamble to this proposed rule, the Department is considering this rule in order to prevent the circumvention or evasion of the LMRDA reporting requirements, which Congress created as part of its efforts to ''eliminate or prevent improper practices'' in labor organizations, protect the rights and interests of workers, and prevent union corruption. 29 U.S.C. 401(b), (c). Specifically, to curb embezzlement and other improper financial activities of labor organizations, Congress required labor organizations to file detailed annual financial reports with the Secretary of Labor, which must also be made available to labor organization members. 29 U.S.C. 431(b). The reporting provisions of the LMRDA were devised to safeguard democratic procedures within labor organizations and protect the basic democratic rights of union members. By mandating that labor organizations disclose their financial operations to employees they represent, Congress intended to promote labor organization self-government, which would be advanced by labor organization members receiving sufficient information to permit them to take effective action in regulating internal union affairs. This proposed rule would ensure that those reporting obligations are not evaded and thus expand the benefits of labor organization financial transparency to the members of all LM–2 filing labor organizations that utilize trusts to expend funds for the members' benefit.

Recent cases of corruption and the continued potential for corruption within those trusts only confirms the Secretary's determination that additional financial reporting is necessary to avoid the type of circumvention and evasion that Congress authorized him to prevent. As recognized in the LMRDA, private sector labor organization members and the public have an interest in how labor organizations spend their member dues or employer funds through a CBA for their benefit. This interest is no less great when the money is expended by a trust rather than the labor organization directly. Extending LMRDA reporting requirements to bring additional transparency to the activities of section 3(l) trusts serves the public interest in disclosure and financial integrity.

**Regulatory Flexibility Analysis**

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.,* 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 business, organizations, and governmental jurisdictions subject to regulation.'' Public Law 96–354. To achieve that objective, the RFA requires

agencies promulgating final rules to prepare a certification and a statement of the factual basis supporting the certification, when drafting regulations that will not have a significant economic impact on a substantial number of small entities. The RFA requires the consideration of the impact of a regulation on 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 proposed or final rule would have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 603. If the determination is that it would, the agency must prepare a regulatory flexibility analysis as described in the RFA. *Id.* However, if an agency determines that a proposed or final 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. *See* 5 U.S.C. 605. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

According to the Small Business Administration (SBA), organizations under NAICS 813930 are considered small entities if they have average annual receipts of less than $7.5 million.[17] For this analysis, based on previous standards utilized in other regulatory analyses, the threshold for significance is 3% of annual receipts, while a substantial number of small entities would be 20%.

The Department conducted this initial regulatory flexibility analysis to aid stakeholders in understanding the small entity impacts of the proposed rule and to obtain additional information on the small entity impacts. The Department invites interested persons to submit comments on the number of small entities affected by the proposed rule's requirements, the compliance cost estimates, and whether alternatives exist that will reduce the burden on small entities.

All numbers used in this analysis are based on 2018 data taken from the Office of Labor-Management Standards e.LORS data base, which contains records of all labor organizations that have filed LMRDA reports with the Department, and Bureau of Labor Statistics (BLS) wage data.

[17] *See https://www.sba.gov/document/support__table-size-standards.*

*A. Why the Department is Considering Action*

As explained more fully in the preamble to today's proposed rule, the Department is considering today's proposed rule to avoid circumvention and evasion of the reporting requirements established by Congress in the LMRDA to ''eliminate or prevent improper practices'' in labor organizations, protect the rights and interests of workers, and prevent labor organization corruption. 29 U.S.C. 401(b), (c), 431(b). These reporting provisions of the LMRDA were intended to safeguard democratic procedures within labor organizations and protect the basic democratic rights of union members. But recent cases of corruption have highlighted the potential for circumvention and evasion of these requirements through the use of section 3(l) trusts. The Form T–1 will prevent such evasion and thereby enable labor organization members to be responsible, informed, and effective participants in the governance of their labor organizations; discourage embezzlement and financial mismanagement; and strengthen the effective and efficient enforcement of the Act by the Department.

The Form T–1 is specifically designed to close a reporting gap where labor organization finances related to LMRDA section 3(l) trusts were not disclosed to members, the public, or the Department. The Form T–1 would follow labor organization funds that remain in closely connected trusts, but which would otherwise go unreported. As a result of non-disclosure of these funds, members have long been denied important information about labor organization funds that were being directed to other entities, ostensibly for the members' benefit, such as joint funds administered by a labor organization and an employer pursuant to a collective bargaining agreement, educational or training institutions, credit unions, and redevelopment or investment groups. *See* 67 FR 79285. The Form T–1 is necessary to close this gap and prevent certain trusts from being used to evade the Title II reporting requirements. It will provide labor organization members with information about financial transactions involving a significant amount of money relative to the labor organization's overall financial operations and other reportable transactions. 68 FR 58415. For example, the Form T–1 will also identify the trust's significant vendors and service providers. A labor organization member who is aware that a labor organization official has a financial relationship with one or more of these businesses will then be able to determine whether the business and the labor organization official have made required reports concerning that relationship. This proposal thus serves the fundamental purpose of the LMRDA disclosure requirements to prevent financial malfeasance on the part of those handling labor organization money. 67 FR 79282–83.

*B. Objectives of and Legal Basis for the Proposed Rule*

Congress enacted the LMRDA after an extensive investigation of ''the labor and management fields . . . [found] that there ha[d] been a number of instances of breach of trust, corruption, disregard of the rights of individual employees, and other failures to observe high standards of responsibility and ethical conduct . . . .'' 29 U.S.C. 401(b). Congress intended the Act to ''eliminate or prevent improper practices'' in labor organizations, to protect the rights and interests of employees, and to prevent union corruption. 29 U.S.C. 401(b), (c).

As part of the statutory scheme designed to accomplish these goals, the Act required labor organizations to file annual financial reports with the Secretary of Labor. 29 U.S.C. 431(b). Congress sought full and public disclosure of a labor organization's financial condition and operations in order to curb embezzlement and other improper financial activities by union officers and employees. *See* S. Rep. No. 86–187 (1959), reprinted in 1 NLRB, Legislative History of the Labor-Management Reporting and Disclosure Act of 1959, at 398–99.

The legal authority for this rule is section 208 of the LMRDA, 29 U.S.C. 438. Section 208 provides that the Secretary of Labor shall have authority to issue, amend, and rescind rules and regulations prescribing the form and publication of reports required to be filed under title II of the Act, including rules prescribing reports concerning trusts in which a labor organization is interested, and such other reasonable rules and regulations as he may find necessary to prevent the circumvention or evasion of the reporting requirements. Section 3(l) of the Act, 29 U.S.C. 402(l), defines a ''trust in which a labor organization is interested.''

*C. Compliance Requirements of the Proposed Rule, Including Reporting and Recordkeeping*

This proposed rule requires that labor organizations subject to the Labor-Management Reporting and Disclosure Act, as amended (LMRDA), the Civil Service Reform Act (CSRA), or the

Foreign Service Act (FSA), as well as labor organizations representing employees of the U.S. Postal Service, with total annual receipts of $250,000 or more, must file Form T–1 each year for each trust in which it is interested, as defined in the LMRDA at 29 U.S.C. 402(l), if the following conditions exist:

The labor organization alone, or in combination with other labor organizations, either:

- Appoints or selects a majority of the members of the trust's governing board; or
- contributes greater than 50% of the trust's receipts during the one-year reporting period.

*D. Estimating the Number of Small Businesses Affected by the Rulemaking*

As stated in the Paperwork Reduction Act analysis (PRA), this rule will apply to the 2,009 labor organizations with at least one trust [18] and that are at least $250,000 in size by annual receipts. This will result in the submission of approximately 2070 Form T–1 reports.

*E. Cost To Complete and File Form T–1*

Based on current filings, the average hourly wage at LM–2 filers for an accountant is $35.42, $17.37 for a bookkeeper or clerk, $21.54 for a secretary or treasurer, and $26.10 for the president, respectively. The weighted average hourly wage for LM–2 filers is $33.87. To account for fringe benefits and overhead costs, as well as any other unknown costs or increases in the wage average, the average hourly wage has been doubled, so the fully loaded hourly wage is $67.74 ($33.87 × 2 = $67.74).

As discussed in the regulatory impact analysis above, the average cost per respondent to complete the Form T–1 is $21,063 in the first year, and is $14,588 in each subsequent year.

*F. Calculating Impact of Proposed Rule on Small Business Firms*

For this analysis, a small union is defined as one in which annual receipts are less than $7.5 million dollars. This rule impacts 2009 labor organizations at least $250,000 in size by annual receipts, with at least one trust. Of these organizations, only 1648 have annual receipts less than $7.5 million. The data cited for the following calculations came from a query of the Department's database containing all submitted 2018 Form LM–2 union financial disclosure reports. The query asked for all Form LM–2 filers with at least one trust. It returned a list of each such filer along with various discrete informational fields, including each Form LM–2 filer's annual receipts information, which was used to identify all of the Form LM–2 filers with less than $7.5 million in annual receipts that inform this RFA analysis.

A threshold of 3% of revenues has been used in prior rulemakings for the definition of significant economic impact. *See, e.g.,* 79 FR 60634 (October 7, 2014, Establishing a Minimum Wage for Contractors) and 81 FR 39108 (June 15, 2016, Discrimination on the Basis of Sex). This threshold is also consistent with thresholds used by other agencies. *See, e.g.,* 79 FR 27106 (May 12, 2014, Department of Health and Human Services rule stating that, under its agency guidelines for conducting regulatory flexibility analyses, actions that do not negatively affect costs or revenues by more than three percent annually are not economically significant). The Department believes that its use of a 3% of revenues significance criterion is appropriate.

The Department believes that its use of a 20% of affected small business entities substantiality criterion is appropriate given prior rulemakings.

There are only 376 LM–2 filers with at least one trust whose annual receipts were small enough that the Form T–1 costs would amount to more than a 3% impact. The largest of the 376 had annual receipts of $700,249 for a 3.01% impact. The smallest of the filers had $253,475 in annual receipts for an 8.31%% impact.

Under this rule 376 unions would have costs representing more than 3% of their annual receipts (at most 8.31%). The proposed rule thus impacts 22.82% of small business entities, which exceeds the 20% standard set for this NPRM.

SIGNIFICANT IMPACT ON SMALL UNIONS—$7.5 MILLION SIZE STANDARD

| Size (by receipts) | Number of small unions affected | Average annual receipts ($) | Average T–1 rule burden per union ($) | Burdenas % of annual receipts | Percentage of small unions affected | Number of small unions subject to significant impact * | Percentage of small unions subject to significant impact ** |
|---|---|---|---|---|---|---|---|
| $5M—$7.5M | 145 | $6,072,570 | $21,063 | 0.34 | 8.80 | 0 | |
| $2.5M—$4.99M | 377 | 3,542,277 | 21,063 | 0.59 | 22.88 | 0 | |
| $1M—$2.49M | 543 | 1,642,770 | 21.063 | 1.28 | 32.95 | 0 | |
| $500K—$999,999 | 368 | 740,460 | 21,063 | 2.84 | 22.33 | 161 | |
| $250K—$499,999 | 215 | 380,192 | 21,063 | 5.54 | 13.05 | 215 | |
| Total | 1,648 | | | | 100 | 376 | 22.82 |

* The Revenue test for significant impact on small unions is set at 3% for this NPRM.
** The standard for substantial number is set at 20% of small unions overall for this NPRM.

The Department welcomes comments on the data, factors, and assumptions used in this analysis.

*G. Relevant Federal Rules Duplicating, Overlapping, or Conflicting With the Rule*

To the extent that there are federal rules that duplicate, overlap, or conflict with this rule, a specific exemption from the requirements of this rule has been provided. Specifically, no union with a 3(l) trust would need to file a Form T–1 if the trust has filed a complete and timely Form 5500 with EBSA.

[18] While 2,036 Form LM–2 filing unions reported having trusts, 27 of these LM–2 filers had receipts under $250,000 and were removed in calculating the deciles, bringing the number to 2009. These 27 presumably consist of unions under trusteeship for which a parent organization files an LM–2 (organizations that are likely not small entities), unions mistakenly filing an LM–2, and possibly unions filing terminal reports. They were removed because it is likely that they would not file a T–1; any that might be covered consist of a markedly small portion that is already covered by the extra T–1s captured in the Department's overestimation of 2,070 reports.

The Department is not aware of any other relevant federal rules that conflict with this NPRM.

*H. Alternative to the Proposed Rule.*

The Department has considered and here presents three regulatory alternatives: (1) no regulatory action, (2) a similar proposal, but with a modified test for when a Form T–1 is required for a given 3(l) trusts, and (3) a similar proposal, but modifying the Form T–1 in order to reduce its scope.

If the Department were not to take this regulatory action, it would avoid any new burden on labor organizations and thus ensure no new significant economic impact on small entities, but it would at the same time prevent realization of the many benefits of the Form T–1 detailed in this proposed rule. Regulatory inaction would leave open the current avenue for circumvention or evasion of reporting requirements through moving funds into union-controlled trusts and would eliminate the associated benefits to union financial transparency. The Department invites comments on this alternative, but has not pursued it because the prevention of circumvention or evasion of union financial reporting is a responsibility of the Department pursuant to the LMRDA.

Modifying the proposed financial or managerial domination test would serve to reduce the burden on small labor organizations because fewer trusts would be covered under that alternative to the proposed rule. However, it would be critical to somehow ensure that the trusts that are no longer covered do not serve as possible tools for circumventing or evading financial reporting. The test already limits coverage based on one or more labor organizations having control over the trust in question, so viable exemptions are those that retain coverage for trusts over which unions hold sufficient control or that carve out exemptions for certain trusts. As to exemptions, the Department has already incorporated some exemptions into the proposed rule as it currently stands where trusts already report sufficient financial information to another agency, e.g., exempting trusts that file the Form 5500 with the Department. Further, the Department has proposed to exempt subordinate labor organizations from having to file a Form T–1 when the parent labor organization files one covering the subordinate's trust. The Department invites comments on such alternatives, but has not pursued these alternatives because the control test has already been narrowed and tailored throughout the history of the Form T–1 to ensure it does not extend the Form T–1 reporting requirement to any more trusts than necessary while still fully serving the purpose of preventing circumvention or evasion of reporting obligations.

Simplifying and reducing the scope of the Form T–1 could alleviate the burden on small entities by reducing the burden hours of completing each Form T–1, but the Department would be doing so at the cost of losing important information on every single Form T–1 filed. Potential alternatives to the current Form T–1 with reduced scope could include fewer schedules or further limit the category of disbursements that must be itemized. The Department invites comments on such alternatives, but has not pursued them in this proposal because the schedules and itemization requirements are already greatly reduced compared to the Form LM–2 that the covered labor organizations complete and because further modification could impede the prevention of circumvention or evasion of LMRDA reporting requirements.[19]

*I. Differing Compliance and Reporting Requirements for Small Entities*

This NPRM provides for no differing compliance requirements or reporting requirements for small entities. Under the rule, the reporting, recordkeeping, and other compliance requirements apply equally to all labor organizations that are required to file a Form T–1 under the LMRDA.

*J. Clarification, Consolidation, and Simplification of Compliance and Reporting Requirements for Small Entities*

This NPRM was drafted to clearly state the compliance and reporting requirements for all small entities subject to this proposed rule.

OLMS will update the e.LORS system to allow labor organizations to file the Form T–1 as they file the Form LM–2.

OLMS will provide compliance assistance for any questions or difficulties that may arise from using the reporting software. A help desk is staffed during normal business hours and can be reached by telephone.

The use of electronic forms makes it possible to download information from previously filed reports directly into the form; enables officer and employee information to be imported onto the form; makes it easier to enter information; and automatically performs calculations and checks for typographical and mathematical errors and other discrepancies, which reduces the likelihood of any given filer having to file an amended report. The error summaries provided by the software, combined with the speed and ease of electronic filing, will also make it easier for both the reporting labor organization and OLMS to identify errors in both current and previously filed reports.

[19] Form T–1 includes only three (3) schedules compared to the twenty (20) schedules of the Form LM–2 and has a higher threshold of $10,000 for itemization compared to $5,000 for the Form LM–2.

**Small Business Regulatory Enforcement Fairness Act of 1996**

This proposed rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

**List of Subjects in 29 CFR Part 403**

Labor Organization, Trusts, Reporting and Recordkeeping Requirements.

Accordingly, for the reasons provided above, the Department proposes to amend part 403 of title 29, chapter IV of the Code of Federal Regulations as set forth below:

## PART 403—LABOR ORGANIZATION ANNUAL FINANCIAL REPORTS

■ 1. The authority citation for part 403 continues to read as follows:

**Authority:** Secs. 201, 207, 208, 301, 73 Stat. 524, 529, 530 (29 U.S.C. 431, 437, 438, 461); Secretary's Order No. 03–2012, 77 FR 69376, November 16, 2012.

■ 2. Amend § 403.2, by adding paragraph (d) to read as follows:

**§ 403.2 Annual financial report.**

* * * * *

(d)(1) Every labor organization with annual receipts of $250,000 or more shall file a report on Form T–1 for each trust that meets the following conditions:

(i) The trust is of the type defined by section 3(l) of the LMRDA, *i.e.,* the trust was created or established by the labor organization or the labor organization appoints or selects a member of the trust's governing board; and the trust has as a primary purpose to provide benefits to the members of the labor organization or their beneficiaries (29 U.S.C. 402(1)); and the labor organization, alone or with other labor organizations, either:

(A) Appoints or selects a majority of the members of the trust's governing board; or

(B) Makes contributions to the trust that exceed 50 percent of the trust's receipts during the trust's fiscal year; and

(ii) None of the exemptions discussed in paragraph (d)(3) of this section apply.

(iii) For purposes of paragraph (d)(1)(i)(B) of this section, contributions by an employer pursuant to a collective bargaining agreement with a labor organization shall be considered contributions by the labor organization.

(2) A separate report shall be filed on Form T–1 for each such trust within 90 days after the end of the labor organization's fiscal year in the detail required by the instructions accompanying the form and constituting a part thereof, and shall be signed by the president and treasurer, or corresponding principal officers, of the labor organization. Only the parent labor organization (*i.e.,* the national/international or intermediate labor organization) must file the Form T–1 report for covered trusts in which both the parent labor organization and its affiliates satisfy the financial or managerial domination test set forth in paragraph (d)(1)(i) of this section. The affiliates must continue to identify the trust in their Form LM–2 Labor Organization Annual Report, and include a statement that the parent labor organization will file a Form T–1 report for the trust.

(3) No Form T–1 should be filed for any trust (or a plan of which the trust is part):

(i) That meets the statutory definition of a labor organization and already files a Form LM–2, Form LM–3, Form LM–4, or simplified LM report,

(ii) That the LMRDA exempts from reporting, such as an organization composed entirely of state or local government employees or a state or local central body,

(iii) That meets the definition of a subsidiary organization pursuant to Part X of the instructions for the Form LM–2 Labor Organization Annual Report,

(iv) Established as a Political Action Committee (PAC) if timely, complete and publicly available reports on the PAC are filed with a Federal or state agency,

(v) Established as a political organization under 26 U.S.C. 527 if timely, complete, and publicly available reports are filed with the Internal Revenue Service (IRS),

(vi) Constitutes a federal employee health benefit plan subject to the provisions of the Federal Employees Health Benefits Act (FEHBA),

(vii) Constitutes any for-profit commercial bank established or operating pursuant to the Bank Holding Act of 1956, 12 U.S.C. 184, or

(viii) That files a Form 5500 under 29 U.S.C. section 1021 and/or 1024. Filing the Form 5500–SF is not included within this exemption, unless the plan is required to file an annual form with the Employee Benefits Security Administration (EBSA).

(4) A labor organization may complete only Items 1 through 15 and Items 26 through 27 (Signatures) of Form T–1 if an annual audit prepared according to standards set forth in the Form T–1 instructions was performed and a copy of that audit is filed with the Form T–1.

(5) If such labor organization is in trusteeship on the date for filing the annual financial report, the labor organization that has assumed trusteeship over such subordinate labor organization shall file such report as provided in § 408.5 of this chapter.

■ 3. Amend § 403.5 by adding paragraph (d) to read as follows:

**§ 403.5 Terminal financial report.**

* * * * *

(d) If a labor organization filed or was required to file a report on a trust pursuant to § 403.2(d) and that trust loses its identity during its subsequent fiscal year through merger, consolidation, or otherwise, the labor organization shall, within 30 days after such loss, file a terminal report on Form T–1, with the Office of Labor-Management Standards, signed by the president and treasurer or corresponding principal officers of the labor organization. For purposes of the report required by this paragraph, the period covered thereby shall be the portion of the trust's fiscal year ending on the effective date of the loss of its reporting identity.

■ 4. In § 403.8, revise paragraph (b)(3) to read as follows:

**§ 403.8 Dissemination and verification of reports.**

* * * * *

(b) * * *

(3) This provision does not apply to disclosure that is otherwise prohibited by law or that would endanger the health or safety of an individual, or that would consist of individually identifiable health information the trust is required to protect under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Regulation.

Signed in Washington, DC.

**Arthur F. Rosenfeld**

*Director, Office of Labor-Management Standards.*

## Appendix

**Note:** This appendix, which will not appear in the Code of Federal Regulations, contains Form T–1 and instructions.

BILLING CODE P

U.S. Department of Labor
Office of Labor-Management Standards
Washington, DC 20210

# FORM T-1 TRUST ANNUAL REPORT

Form Approved
Office of Management and Budget
No. 1245-0003
Expires: 08-31-2021

This report is mandatory under P.L. 86-257, as amended. Failure to comply may result in criminal prosecution, fines, or civil penalties as provided by 29 U.S.C. 439 or 440.
READ THE INSTRUCTIONS CAREFULLY BEFORE PREPARING THIS REPORT.

| For Official Use Only | 1. FILE NUMBERS<br>UNION a) TRUST b) | 2. PERIOD COVERED<br>MO DAY YEAR<br>From<br>Through | 3. (a) AMENDED - If this is an amended report, check here:<br>(b) HARDSHIP - If filing under the hardship procedures, check here:<br>(c) TERMINAL - If this is a terminal report, check here: |
|---|---|---|---|

| | | | |
|---|---|---|---|
| 4. NAME OF UNION | | 10. NAME OF TRUST | |
| 5. DESIGNATION (Local, Lodge, etc.) | 6. DESIGNATION NUMBER | 11. TAX STATUS OF TRUST | |
| 7. UNIT NAME OF UNION (if any) | | 12. PURPOSE OF TRUST | |
| 8. MAILING ADDRESS OF UNION (use capital letters) | | 13. MAILING ADDRESS OF TRUST (use capital letters) | |
| First Name | Last Name | First Name | Last Name |
| P.O. Box - Building and Room Number (if any) | | P.O. Box - Building and Room Number (if any) | |
| Number and Street | | Number and Street | |
| City | | City | |
| State | Zip Code + 4 | State | Zip Code + 4 |

9. Are the union's records kept at its mailing address? (If "No," provide address in Item 25.) Yes ☐ No ☐

14. Are the trust's records kept at its mailing address? (If "No," provide address in Item 25.) Yes ☐ No ☐

15. Will the labor organization be submitting an independent, certified audit in place of the remainder of Form T-1? Yes ☐ No ☐

Each of the undersigned, duly authorized officers of the above labor organization, declares, under penalty of perjury and other applicable penalties of law, that all of the information submitted in this report (including the information contained in any accompanying documents) has been examined by the signatory and is, to the best of the undersigned's knowledge and belief, true, correct, and complete. (See Section V on penalties in the instructions.)

26. SIGNED: _____ PRESIDENT

Date _____ Telephone Number _____

27. SIGNED: _____ TREASURER

Date _____ Telephone Number _____

UNION FILE NUMBER (a):

TRUST FILE NUMBER (b):

## *Complete Items 16 Through 25*

*16.* During the reporting period did the trust discover any loss or shortage of funds or other property? *(Answer "Yes" even if there has been repayment or recovery.)* ☐ YES ☐ NO

17. During the reporting period did the trust acquire or dispose of any goods or property in any manner other than by purchase or sale? ☐ YES ☐ NO

18. During the reporting period did the trust liquidate, reduce or write-off any liabilities without full payment of principal and interest? ☐ YES ☐ NO

19. Has the trust extended any loan or credit during the reporting period to any officer or employee of the reporting labor organization at terms below market rates? ☐ YES ☐ NO

20. During the reporting period did the trust liquidate, reduce or write-off any loans receivable due from officers or employees of the reporting labor organization without full receipt of principal and interest? ☐ YES ☐ NO

**If the answer to any of the above is "Yes," provide details in Item 25 (Additional Information) as explained in the instructions for each item.**

21. Enter the total assets of the trust at the end of the reporting period. ☐

22. Enter the total liabilities (debts) of the trust at the end of the reporting period. ☐

23. Enter the total receipts of the trust during the reporting period. ☐

24. Enter the total disbursements of the trust during the reporting period. ☐

***Please be sure to:***

* Enter your labor organization's 6-digit file number and the trust's 7-digit file number in Item 1.
* Have your labor organization's president and treasurer sign the Form T-1 in Items 26 and 27.
* Complete Schedules 1 through 3

*25. (Text entered will appear on last page of form. To enter comments, press the "General Additional Information" button.)*

## SCHEDULE 1 - INDIVIDUALLY IDENTIFIED RECEIPTS

UNION FILE NUMBER (a):

TRUST FILE NUMBER (b):

(List all entities from whom the trust received a total of $10,000 or more during the reporting period.)

### Initial Itemization Page

| Name and Address (A) | Purpose (C) | Date (D) | Amount (E) |
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| (B) Type or Classification | | | |
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| | | | |
| | (F) Total of Receipts Listed Above | | |
| | (G) Total of All Receipts from Continuation Pages with this Payer | | |
| | (H) Total of All Itemized Receipts with this Payer (Sum of (F) and (G)) | | |
| | (I) Total of All Non-Itemized Receipts with this Payer | | |
| | (J) **Total of All Receipts with this Payer** (Sum of (H) and (I)) | | |

## SCHEDULE 2 - INDIVIDUALLY IDENTIFIED DISBURSEMENTS

(List all entities that received $10,000 or more in total disbursements from the trust during the reporting period.)

UNION FILE NUMBER (a):

TRUST FILE NUMBER (b):

### Initial Itemization Page

| Name and Address (A) | Purpose (C) | Date (D) | Amount (E) |
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| (B) Type or Classification | | | |
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| | | | |
| | (F) Total of Disbursements Listed Above | | |
| | (G) Total of All Disbursements from Continuation Pages with this Payee | | |
| | (H) Total of All Itemized Disbursements to this Payee (Sum of (F) and (G)) | | |
| | (I) Total of All Non-Itemized Disbursements to this Payee | | |
| | (J) **Total of All Disbursements to this Payee** (Sum of (H) and (I)) | | |

## SCHEDULE 3 — DISBURSEMENTS TO OFFICERS AND EMPLOYEES OF THE TRUST

UNION FILE NUMBER (a):

TRUST FILE NUMBER (b):

| Full Name / Title | (A) LAST, FIRST, MIDDLE INITIAL / Treasurer, Trustee, Attorney, etc. | Gross Salary Disbursements (before any deductions) (B) | Allowances (C) | Disbursements for Official Business (D) | Other Disbursements (E) | (F) TOTAL |
|---|---|---|---|---|---|---|
| 1. Full Name | | | | | | |
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| 2. Full Name | | | | | | |
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| 8. Full Name | | | | | | |
| Title | | | | | | |
| 9. Full Name | | | | | | |
| Title | | | | | | |
| 10. Total from Continuation pages (if any) | | | | | | |
| 11. Total of Lines 1 through 10 | | | | | | |

## 25. ADDITIONAL INFORMATION

UNION FILE NUMBER (a):

TRUST FILE NUMBER (b):

**Paperwork Reduction Act Notice:** Public reporting burden for this collection of information is estimated to average [X] hours per response in 20XX, [X] hours per response in 20XX, and [X] hours per response in 20XX and subsequent years. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number. Reporting of this information is mandatory and is required by the Labor-Management Reporting and Disclosure Act of 1959, as amended, for the purpose of public disclosure. See 29 C.F.R. Part 403. As this is public information, there are no assurances of confidentiality. If you have any comments regarding this estimate or any other aspect of this information collection, including suggestions for reducing this burden, please send them to the U.S. Department of Labor, Office of Labor-Management Standards, Division of Interpretations and Standards, Room N-5609, 200 Constitution Avenue, NW, Washington, DC 20210.

# INSTRUCTIONS FOR FORM T-1 TRUST ANNUAL REPORT

## GENERAL INSTRUCTIONS

### I. WHO MUST FILE

Every labor organization subject to the Labor-Management Reporting and Disclosure Act, as amended (LMRDA), the Civil Service Reform Act (CSRA), or the Foreign Service Act (FSA), with total annual receipts of $250,000 or more (labor organization), must file Form T-1 each year for each trust in which it is interested, as defined in the LMRDA at 29 U.S.C. 402(l), if the following conditions exist:

The trust is a trust defined by section 3(l) of the LMRDA, that is, the trust is a trust or other fund or organization (1) that was created or established by a labor organization or a labor organization appoints or selects a member to the trust's governing board, and (2) the trust has as a primary purpose to provide benefits to the members of the labor organization or their beneficiaries (29 U.S.C. 402(l)); and the labor organization alone, or in combination with other labor organizations, either

appoints or selects a majority of the members of the trust's governing board; or

contributes greater than 50% of the trust's receipts during the one-year reporting period.

Any contributions made pursuant to a collective bargaining agreement shall be considered the labor organization's contributions.

Only the parent labor organization (i.e., the national/international or intermediate labor organization) must file the Form T-1 report for covered trusts in which both the parent labor organization and its affiliates meet the above financial or managerial domination test. The affiliates must continue to identify the trust in their Form LM-2 Labor Organization Annual Report, and, including a statement that the parent labor organization will file a Form T-1 report for the trust.

No Form T-1 should be filed for any trust that meets the statutory definition of a labor organization and already files a Form LM-2, LM-3, or LM-4, nor should a report be filed for any entity that is

expressly exempted from reporting in the LMRDA. No report need be filed for a subsidiary organization, as defined in Part X of the instructions for the Form LM-2 Labor Organization Annual Report. No report need be filed for a trust established as a Political Action Committee (PAC) if timely, complete, and publicly available reports on the PAC are filed with a Federal or state agency, or for a trust established as a political organization under 26 U.S.C. 527 if timely, complete, and publicly available reports are filed with the Internal Revenue Service. No Form T-1 need be filed for any trust that is an employee benefit plan that files a Form 5500, under the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. 1021 and/or 1024, for a plan year ending during the reporting period of the labor organization. Filing the Form 5500–SF is not included within this exemption, unless the plan is required to file an annual form with the Employee Benefits Security Administration (EBSA). No report need be filed for federal employee health benefit plans subject to the provisions of the Federal Employees Health Benefits Act (FEHBA), nor for any for-profit commercial bank established or operating pursuant to the Bank Holding Act of 1956, 12 U.S.C. 1843.

An abbreviated report may be filed for any covered trust or trust fund for which an independent audit has been conducted, in accordance with the standards (as adopted from 29 CFR 2520.103-1) as discussed in the next paragraph.

A labor organization may complete only Items 1 through 15 and Items 26-27 (Signatures) of Form T-1 if an annual audit is prepared according to the following standards and a copy of the audit is filed with the Form T-1. The audit must be performed by an independent qualified public accountant, who after examining the financial statements and other books and records of the trust, as the accountant deems necessary, certifies that the trust's financial statements are presented fairly in conformity with Generally Accepted Accounting Principles (GAAP) or Other Comprehensive Basis of Accounting (OCBOA). The audit must include notes to the financial statements that disclose: losses, shortages, or other discrepancies in the trust's finances; the acquisition or disposition of assets, other than by purchase or sale; liabilities and loans liquidated, reduced, or written off without the disbursement of cash; loans made to labor organization officers or employees that were granted at more favorable terms than were available to others; and loans made to officers and employees that were liquidated, reduced, or written off. The audit must be accompanied by schedules that disclose: a statement of the assets and liabilities of the trust, aggregated by categories and valued at current value, and the same data displayed in comparative form for the end of the previous fiscal year of the trust; a statement of trust receipts and disbursements aggregated by general sources and applications, which must include the names of the parties with which the trust engaged in $10,000 or more of commerce and the total of the transactions with each party.

Form T-1 must be filed with the Office of Labor-Management Standards (OLMS) of the U.S. Department of Labor (Department). The labor organization must file a separate Form T-1 for each trust that meets the above requirements.

The LMRDA, CSRA, and FSA cover labor organizations that represent employees who work in private industry, employees of the U.S. Postal Service, and most Federal government employees. Questions about whether a labor organization is required to file should be referred to the nearest OLMS field office listed at the end of these instructions.

## II. When to File

The Form T-1 requirements take effect on [YEAR]; they apply to a labor organization whose fiscal year *and* the fiscal year of its section 3(l) trust begin on or after January 1, [YEAR]. Form T-1 must be filed within 90 days of the end of the labor organization's fiscal year. The Form T-1 shall cover the trust's most recently completed fiscal year, *i.e.*, the fiscal year ending on or before the

closing date of the labor organization's own fiscal year. The penalties for delinquency are described in Section V (Officer Responsibilities and Penalties) of these instructions. Examples of filing dates for the Form T-1 follow:

Where the trust and labor organization have the same fiscal years

- The trust and labor organization have fiscal years ending on December 31. The Form T-1 for the fiscal year ending December 31, [YEAR] must be filed not later than March 31, [YEAR].

- The trust and the labor organization each has a fiscal year that ends on September 30. The labor organization's first Form T-1 will be for the trust's fiscal year ending September 30, [YEAR] and must be filed not later than December 29, [YEAR].

Where the trust and labor organization have different fiscal years

- The trust's fiscal year ends on June 30. The labor organization's fiscal year ends on September 30. Its first Form T-1 for this trust will be for the trust's fiscal year ending June 30, [YEAR ] and must be filed not later than December 29, [YEAR].

- The trust's fiscal year ends on September 30. The labor organization's fiscal year ends on December 31. Its first Form T-1 for this trust will be for the trust's fiscal year ending September 30, 2010 and must be filed not later than March 31, [YEAR].

If a trust for which a labor organization was required to file a Form T-1 goes out of existence, a terminal financial report must be filed within 30 days after the date it ceased to exist. Similarly, if a trust for which a labor organization was required to file a Form T-1 continues to exist, but the labor organization's interest in that trust ceases, a terminal financial report must be filed within 30 days after the date that the labor organization's interest in the trust ceased. *See* Section IX (Trusts That Have Ceased to Exist) of these instructions for information on filing a terminal financial report.

## III. How to File

Form T-1 must be submitted electronically to the Department via the OLMS Electronic Forms System (EFS) available on the OLMS website at: www.dol.gov/olms. Form T-1 filers will be able to file reports in paper format only if they assert a temporary hardship exemption.

If you have difficulty navigating EFS, or have questions about its functions and features, call the OLMS Help Desk at: (866) 401-1109. For questions concerning the reporting requirements, please send an e-mail to OLMSPublic@dol.gov or call (202) 693-0123.

### HARDSHIP EXEMPTIONS

A labor organization that must file Form T-1 may assert a temporary hardship exemption. If a labor organization files both Form LM-2 and Form T-1, the exemption must be separately asserted for each report, although in appropriate circumstances the same reasons may be used to support both exemptions. If it is possible to file Form LM-2, or one or more Form T-1s, electronically, no exemption should be claimed for those reports, even though an exemption is warranted for a related report.

TEMPORARY HARDSHIP EXEMPTION:

If a labor organization experiences unanticipated technical difficulties that prevent the timely preparation and submission of an electronic filing of Form T-1, it may be filed in paper format by the required due date. An electronic format copy of the filed paper format document shall be submitted to the Department within ten business days after the required due date. Indicate in

Item 3 (Amended, Hardship Exempted, or Terminal Report) that the labor organization is filing this form under the hardship exemption procedures. Unanticipated technical difficulties that may result in additional delays should be brought to the attention of OLMS by email at OLMS-Public@dol.gov or by phone at 202-693-0123.

***Note:*** *If either the paper filing or the electronic filing is not received in the timeframe specified above, the report will be considered delinquent.*

## IV. Public Disclosure

The LMRDA requires that the Department make reports filed by labor organizations available for inspection by the public. Reports may be viewed and downloaded from the OLMS Web site at http://www.unionreports.gov. Reports may also be examined and copies purchased through the OLMS Public Disclosure Room (telephone: 202-693-0125) at the following address:

U.S. Department of Labor
Office of Labor-Management Standards
200 Constitution Avenue, NW
Room N-1519
Washington, DC 20210-0001

## V. Officer Responsibilities and Penalties

The president and treasurer or the corresponding principal officers of the labor organization required to sign Form T-1 are personally responsible for its filing and accuracy. Under the LMRDA, officers are subject to criminal penalties for willful failure to file a required report and for false reporting. False reporting includes making any false statement or misrepresentation of a material fact while knowing it to be false, or for knowingly failing to disclose a material fact in a required report or in the information required to be contained in the report or in any information required to be submitted with it. Under the CSRA and FSA and implementing regulations, false reporting and failure to report may result in administrative enforcement action and litigation. The officers responsible for signing Form T-1 are also subject to criminal penalties for false reporting and perjury under Sections 1001 of Title 18 and 1746 of Title 28 of the United States Code.

The reporting labor organization and the officers required to sign Form T-1 are also subject to civil prosecution for violations of the filing requirements. Section 210 of the LMRDA (29 U.S.C. 440), provides that "whenever it shall appear that any person has violated or is about to violate any of the provisions of this title, the Secretary may bring a civil action for such relief (including injunctions) as may be appropriate."

## VI. Recordkeeping

The officers required to file Form T-1 are responsible for maintaining records that will provide in sufficient detail the information and data necessary to verify the accuracy and completeness of the report. The records must be kept for at least five years after the date the report is filed. Any record necessary to verify, explain, or clarify the report must be retained, including, but not limited to, vouchers, worksheets, receipts, applicable resolutions, and any electronic documents used to complete and file the report.

# SPECIAL INSTRUCTIONS FOR CERTAIN ORGANIZATIONS

## VII. Labor Organizations in Trusteeship

Any labor organization that has placed a subordinate labor organization in trusteeship is responsible for filing the

subordinate's annual financial reports. This obligation includes the requirement to file Form T-1 for any trusts in which the subordinate labor organization is interested. A trusteeship is defined in section 3(h) of the LMRDA (29 U.S.C. 402) as "any receivership, trusteeship, or other method of supervision or control whereby a labor organization suspends the autonomy otherwise available to a subordinate body under its constitution or bylaws."

The report must be signed by the president and treasurer or corresponding principal officers of the labor organization that imposed the trusteeship and by the trustees of the subordinate labor organization. In order for the trustees to sign, click on the "Add Signature Block" button on page 1 to open a signature page near the end of the form.

## VIII. Completing Form T-1

### INTRODUCTION

Most pages have a "Save & Calculate" button to total and transfer data to fields in various parts of the form. You may click on one or more of these buttons as you fill out the form at any time.

You may click on the "Validate Form" button at any time to check for errors. This action will generate an "Errors Page" listing any errors that will need to be corrected before you will be able to sign the form. Clicking on the signature lines will also perform the validation function.

Items 1, 2, and 4 - 7 are "pre-filled" items. These fields were filled in by EFS based on information you entered when you initially accessed the system. You cannot edit these fields.

Be sure to click on the "Validate Form" button after you have completed the form but before you sign it. This action will generate an "Errors Page" listing any errors that must be corrected before you sign the form.

### ITEMS 1 THROUGH 20

Answer Items 1 through 20 as instructed. Select the appropriate box for those questions requiring a "Yes" or "No" answer; do not leave both boxes blank. Enter a single "0" in the boxes for items requiring a number or dollar amount if there is nothing to report.

**1. FILE NUMBER —** EFS will enter the labor organization's 6-digit file number here and at the top of each page of Form LM-2. This is the number you entered when you downloaded Form LM-2. If the number is incorrect, you must download another copy of the form using the correct number. If the labor organization does not have the number on file and cannot obtain the number from prior reports filed with the Department, the number can be obtained from the OLMS Web site at www.unionreports.gov, or by contacting the nearest OLMS field office.

The software will enter the trust's 7-digit (T### ###) file number in Item 1(b) and at the top of each page of Form T-1. This is the number you entered when you downloaded Form T-1. If the number is incorrect, you must download another copy of the form using the correct number.
For an initial filing of a Form T-1, this number may be obtained by calling the OLMS Division of Reports, Disclosure & Audits at (202) 693-0123.

For future filings, if the labor organization does not have the number on file and cannot obtain the number from the trust or from prior reports filed with the Department, information on obtaining the number can be found on the OLMS website at http://www.olms.dol.gov.

**2. PERIOD COVERED —** EFS will enter the beginning and ending dates of the period covered by this report. These are the dates you entered when you accessed Form T-1 via EFS. If the dates are incorrect, you must access another form using the

correct dates.

If the labor organization changed its fiscal year, the ending date in Item 2 should be the labor organization's new fiscal year ending date and the labor organization should indicate in Item 69 (Additional Information) that the report is for a period of less than 12 months because its fiscal year has changed. For example, if the labor organization's fiscal year ending date changes from June 30 to December 31, a report must be filed for the partial year from July 1 to December 31. Thereafter, the labor organization's annual report should cover a full 12-month period from January 1 to December 31.

**3. AMENDED, HARDSHIP EXEMPTED, OR TERMINAL REPORT —** Do not complete this item unless this report is an amended, hardship exempted, or terminal report. Select Item 3(a) if the labor organization is filing an amended Form T-1 correcting a previously filed Form T-1. Select Item 3(b) if the labor organization is filing under the hardship exemption procedures defined in Section III. Select Item 3(c) if the trust has gone out of business by disbanding, merging into another organization, or being merged and consolidated with one or more trusts to form a new trust, or if the labor organization's interest in the trust has ceased and this is the terminal report for the trust. Be sure the date the trust ceased to exist is entered in Item 2 (Period Covered) after the word "Through." See Section IX (Trusts That Have Ceased to Exist) of these instructions for more information on filing a terminal report.

**4. NAME OF UNION —**
EFS accesses this information from the OLMS database and will enter the name of the national or international labor organization that granted the labor organization a charter. "Affiliates," within the meaning of these instructions, are labor organizations chartered by the same parent body, governed by the same constitution and bylaws, or having the relationship of parent and subordinate. For example, a parent body is an affiliate of all of its subordinate bodies, and all subordinate bodies of the same parent body are affiliates of each other.

If the labor organization has not reported such an affiliation, EFS will enter the name of the labor organization as currently identified in the labor organization's constitution and bylaws or other organizational documents.

This item cannot be edited by the filer. If the labor organization needs to change this information, contact OLMS at (202) 693-0123.

**5. DESIGNATION —** EFS will enter the specific designation that is used to identify the labor organization, such as Local, Lodge, Branch, Joint Board, Joint Council, District Council, etc. This field cannot be edited by the filer.

**6. DESIGNATION NUMBER —** EFS will enter the number or other identifier, if any, by which the labor organization is known. This field cannot be edited by the filer.

**7. UNIT NAME —** EFS will enter any additional or alternate name by which the labor organization is known, such as "Chicago Area Local." This field cannot be edited by the filer.

**8. MAILING ADDRESS OF UNION —** EFS accesses the union's mailing address on record in the OLMS database and enters it in Item 8. The first and last name of the person, if any, to whom such mail should be sent and any building and room number should be included. These fields can be edited.

**9. PLACE WHERE UNION RECORDS ARE KEPT —** If the records required to be kept by the labor organization to verify this report are kept at the address reported in Item 8 (Mailing Address of Union), answer "Yes." If not, answer "No" and provide in Item 25 (Additional Information) the address where the labor organization's records are kept.

**10. NAME OF TRUST —** The software will enter the name of the

trust. This is the trust name you entered when you downloaded Form T-1. If the name is incorrect, you must download another form using the correct name.

This item cannot be edited. If the labor organization needs to change this information, contact the OLMS Division of Reports, Disclosure, and Audits by telephone at 202-693-0123 or by e-mail at OLMS-Public@dol.gov. Indicate that the subject of the inquiry is the Form T-1 pre-filled identifying information.

**11. TRUST EMPLOYER IDENTIFICATION NUMBER (EIN) —** Enter the Employer Identification Number assigned to the trust by the Internal Revenue Service.

**12. PURPOSE —** Enter the purpose of the trust. For example, if the trust is a credit union that provides loans to labor organization members, the purpose may be "credit union."

**13. MAILING ADDRESS OF TRUST —**
The software will enter the current address where mail is most likely to reach the trust as quickly as possible. The first and last name of the person, if any, to whom such mail should be sent, and any building and room number should be included. These fields are pre-filled from the OLMS database, but can be edited by the filer.

**14. PLACE WHERE TRUST RECORDS ARE KEPT —** If the records required to be kept to verify this report are kept at the address reported in Item 13 (Mailing Address of Trust), answer "Yes." If not, answer "No" and provide in Item 25 (Additional Information) the address where the trust's records are kept. The labor organization need not keep separate copies of these records at its own location, as long as members have the same access to such records from the trust as they would be entitled to have from the labor organization.

*Note: The president and treasurer of the labor organization are responsible for maintaining the records used to prepare the report.*

**15. AUDIT EXEMPTION —**
Answer "Yes" to Item 15 if the labor organization will be submitting an independent, certified audit in place of the remainder of Form T-1. If an audit report meeting the standards described in Section I (Who Must File) is submitted with a Form T-1 that has been completed for Items 1 through 15 then it is not necessary to complete Items 16 through 25, and Schedules 1 through 3. However, Items 26-27 (Signatures) must be completed.

**16. LOSSES OR SHORTAGES —** Answer "Yes" to Item 16 if the trust experienced a loss, shortage, or other discrepancy in its finances during the period covered. A "loss or shortage of funds or other property" within the meaning of Item 16 does not include delinquent contributions from employers, delinquent accounts receivable, losses from investment decisions, or overpayments of benefits. Describe the loss or shortage in detail in Item 25 (Additional Information), including such information as the amount of the loss or shortage of funds or a description of the property that was lost, how it was lost, and to what extent, if any, there has been an agreement to make restitution or any recovery by means of repayment, fidelity bond, insurance, or other means.

**17. ACQUISITION OR DISPOSITION OF ASSETS —** If Item 17 is answered "Yes," describe in Item 25 (Additional Information) the manner in which the trust acquired or disposed of the asset(s), such as donating office furniture or equipment to charitable organizations, trading in assets, writing off a receivable, or giving away other tangible or intangible property of the trust. Include the type of asset, its value, and the identity of the recipient or donor, if any. Also report in Item 25 the cost or other basis at which any acquired assets were entered on the trust's books or the cost or other basis at which any assets disposed of were carried on the trust's books.

A filer may group similar acquired or disposed assets together, in

a larger category, as well as grouping multiple assets acquired from or disposed of to the same source. For example, if a trust acquired various types of office equipment as a donation, these assets may be grouped together for purposes of the description in Item 25.

For assets that were traded in, enter in Item 25 the cost, book value, and trade-in allowance.

**18. LIQUIDATION OF LIABILITIES —** If Item 18 is answered "Yes," provide in Item 25 (Additional Information) all details in connection with the liquidation, reduction, or writing off of the trust's liabilities without the disbursement of cash.

**19. LOANS AT FAVORABLE TERMS —** If Item 19 is answered "Yes," provide in Item 25 (Additional Information) all details in connection with each such loan, including the name of the labor organization officer or employee, the amount of the loan, the amount that was still owed at the end of the reporting period, the purpose of the loan, terms for repayment, any security for the loan, and a description of how the terms of the loan were more favorable than those available to others.

**20. WRITING OFF OF LOANS —** If Item 20 is answered "Yes," describe in Item 25 (Additional Information) all details in connection with each such loan, including the amount of the loan and the reasons for the writing off, liquidation, or reduction.

## FINANCIAL DETAILS

### REPORT ONLY DOLLAR AMOUNTS

Report all amounts in dollars only. Round cents to the nearest dollar. Amounts ending in $.01 through $.49 should be rounded down. Amounts ending in $.50 through $.99 should be rounded up.

Enter a single "0" if there is nothing to report.

### REPORTING CLASSIFICATIONS

Complete all items and lines on the form as given. Do not use different accounting classifications or change the wording of any item or line.

## ASSETS AND LIABILITIES

**21. ASSETS —** Enter the total value of all the trust's assets at the end of the reporting period including, for example, cash on hand and in banks, property, loans owed to the trust, investments, office furniture, automobiles, and anything else owned by the trust. Enter "0" if the trust had no assets at the end of the reporting period.

**22. LIABILITIES —** Enter the total amount of all the trust's liabilities at the end of the reporting period including, for example, unpaid bills, loans owed, the total amount of mortgages owed, payroll withholdings not transmitted by the end of the reporting period, and other debts of the trust. Enter "0" if the trust had no liabilities at the end of the reporting period.

## RECEIPTS AND DISBURSEMENTS

Receipts are money actually received by the trust and disbursements are money actually paid by the trust. The purpose of Items 23 and 24 is to report the flow of cash in and out of the trust during the reporting period. Transfers between separate bank accounts or between special funds of the trust do not represent the flow of cash in and out of the trust and should not be reported as receipts and disbursements.

Since Items 23 and 24 report cash flowing in and out of the trust, "netting" is not permitted. "Netting" is the offsetting of receipts against disbursements and reporting only the balance (net) as either a receipt or a disbursement.

Do not include in Item 23 or 24 the total amount from the sale or redemption of U.S. Treasury securities, marketable securities, or other investments that was promptly reinvested (i.e., "rolled over") in U.S. Treasury securities, marketable securities, or other investments during the reporting period. "Promptly reinvested" means reinvesting (or "rolling over") the funds in a week or less without using the funds for any other purpose during the period between the sale of the investment and the reinvestment.

Receipts and disbursements by an agent on behalf of the trust are considered receipts and disbursements of the trust and must be reported in the same detail as other receipts and disbursements.

**23. RECEIPTS —** Enter the total amount of all receipts of the trust during the reporting period including cash, interest, dividends, realized short and long term capital gains, rent, royalties, and other receipts of any kind. Enter "0" if the trust had no receipts during the reporting period.

**24. DISBURSEMENTS —** Enter the total amount of all disbursements made by the trust during the reporting period including, for example, net payments to officers and employees of the trust, payments for administrative expenses, loans made by the trust, taxes paid, and disbursements for the transmittal of withheld taxes and other payroll deductions. Enter "0" if the trust made no disbursements during the reporting period.

## SCHEDULES 1 THROUGH 3

### SCHEDULES 1 AND 2 — RECEIPTS AND DISBURSEMENTS

Schedules 1 and 2 provide detailed information on the financial operations of the trust.

All "major" receipts during the reporting period must be separately identified in Schedule 1. A "major" receipt includes: 1) any individual receipt of $10,000 or more; or 2) total receipts from any single entity or individual that aggregate to $10,000 or more during the reporting period. This process is discussed further below.

All "major" disbursements during the reporting period must be separately identified in Schedule 2. A "major" disbursement includes: 1) any individual disbursement of $10,000 or more; or 2) total disbursements to any single entity or individual that aggregate to $10,000 or more during the reporting period. This process is discussed further below.

### Exemptions

Labor organizations are not required to separately identify any individual or entity on Schedule 1 from which the trust receives receipts of $10,000 or more, individually or in the aggregate, during the reporting period, if the receipts are derived from pension, health, or other benefit contributions that are provided pursuant to a collective bargaining agreement covering such contributions. Additionally, the labor organization is not required to itemize benefit payments on Schedule 2 from the trust to a plan participant or beneficiary, if the detailed basis on which such payments are to be made is specified in a written agreement.

Filers should not include on Schedules 1 and 2 the total amount from the sale or redemption of U.S. Treasury securities, marketable securities, or other investments that was promptly reinvested (i.e., "rolled over") in U.S. Treasury securities, marketable securities, or other investments during the reporting period "Promptly reinvested" means reinvesting (or "rolling over") the funds in a week or less without using the funds for any other purpose during the period between the sale of the investment and the reinvestment.

*Note: Disbursements to officers and employees of the trust who received more than $10,000 from the trust during the reporting period should be reported in Schedule 3, and need not also be reported in Schedule 2.*

**Example 1:** The trust has an ongoing contract with a law firm that provides a wide range of legal services to which a single payment of $10,000 is made each month. Each payment would be listed in Schedule 2.

**Example 2:** The trust received a settlement of $14,000 in a small claims lawsuit. The receipt would be individually identified in Schedule 1.

**Example 3:** The trust made three payments of $4,000 each to an office supplies vendor for office supplies during the reporting period. The $12,000 in disbursements to the vendor would be reported in Schedule 2 in line I of an Initial Itemization Page for that vendor.

Procedures for Completing Schedules 1 and 2

Complete an Initial Itemization Page and a Continuation Itemization Page(s), as necessary, for each payer/payee for whom there is (1) an individual receipt/disbursement of $10,000 or more or (2) total receipts/disbursements that aggregate to $10,000 or more during the reporting period. For each major receipt/disbursement, provide the full name and business address of the entity or individual, type of business or job classification of the entity or individual, purpose of the receipt/disbursement, date, and amount of the receipt/disbursement. Receipts/disbursements must be listed in chronological order.

An Initial Itemization Page must be completed for each payer/payee described above. Additional Itemization Page(s) for additional payers/payees can be generated and added to the end of Form T-1 by pressing the "Add More Receipts" or "Add More Disbursements" button located at the top of the first Initial Itemization Page. If the number of receipts/disbursements exceeds the number of space provided on the Initial Itemization Page a Continuation Itemization Page(s) can be generated and added to the end of the Form T-1 by pressing the "More Receipts for this Payee" or "More Disbursements for this Payer" button located below Column (A). The software will automatically enter the name, address, and type or classification of the payee/payer on the Continuation Itemization Page(s).

Enter in Column (A) the full name and business address of the entity or individual from which the receipt was received or to which the disbursement was made. Do not abbreviate the name of the entity or individual. If you do not have access to the full address, the city and state are sufficient.

Enter in Column (B) the type of business or job classification of the entity or individual, such as printing company, office supplies vendor, lobbyist, think tank, marketing firm, bookkeeper, receptionist, shop steward, legal counsel, union member, etc.

Enter in Column (C) the purpose of the receipt/disbursement, which means a brief statement or description of the reason the receipt/disbursement was made.

Enter in Column (D) the date that the receipt/disbursement was made. The format for the date must be mm/dd/yyyy. The date of receipt/disbursement for reporting purposes is the date the trust actually received or disbursed the money, rather than the date that the right to receive, or the obligation to disburse, was incurred.

Enter in Column (E) the amount of the receipt/disbursement.

The software will enter in Line (F) the total of all transactions listed in Column (E).

The software will enter in Line (G) the totals from any Continuation Itemization Pages for this payee/payer.

The software will enter in Line (H) the total of all itemized transactions with this payee/payer (the sum of Lines (F) and (G)).

Enter in Line (I) the total of all other transactions with this payer/payee (that is, all individual transactions of less than $10,000 each).

The software will enter in Line (J) the total of all transactions with the payee/payer for this schedule (the sum of Lines (H) and (I))

Special Instructions for Reporting Credit Card Disbursements

Disbursements to credit card companies may not be reported as a single disbursement to the credit card company as the vendor. Instead, charges appearing on credit card bills paid during the reporting period must be allocated to the recipient of the payment by the credit card company according to the same process as described above.

The Department recognizes that filers will not always have the same access to information regarding credit card payments as with other transactions. Filers should report all of the information required in the itemization schedule that is available to the labor organization.

For instance, in the case of a credit card transaction for which the receipt(s) and monthly statement(s) do not provide the full legal name of a payee and the trust does not have access to any other documents that would contain the information, the labor organization should report the name as it appears on the receipt(s) and statement(s). Similarly, if the receipt(s) and statement(s) do not include a full street address, the labor organization should report as much information as is available and no less than the city and state.

Once these transactions have been incorporated into the recordkeeping system they can be treated like any other transaction for purposes of assigning a description and purpose.

In instances when a credit card transaction is canceled and the charge is refunded in whole or part by entry of a credit on the credit card statement, the charge should be treated as a disbursement, and the credit should be treated as a receipt. In reporting the credit as a receipt, Column (C) of Schedule 1 must indicate that the receipt was in refund of a disbursement, and must identify the disbursement by date and amount.

Special Procedures for Reporting Confidential Information

Filers may use the procedure described below to report the following types of information:

- Information that would identify individuals paid by the trust to work in a non-union bargaining unit in order to assist the labor organization in organizing employees, provided that such individuals are not employees of the trust who receive more than $10,000 in the aggregate in the reporting year from the trust. Employees receiving more than $10,000 must be reported on Schedule 3;

- Information that would expose the reporting labor organization's prospective organizing strategy. The labor organization must be prepared to demonstrate that disclosure of the information would harm an organizing drive. Absent unusual circumstances, information about past organizing drives should not be treated as confidential;

- Information that would provide a tactical advantage to parties with whom the reporting labor organization or an affiliated labor organization is engaged or will be engaged in contract negotiations. The labor organization must be prepared to demonstrate that disclosure of the information would harm a contract negotiation. Absent unusual circumstances. information about past contract negotiations should not be treated as confidential;

- Information pursuant to a settlement that is subject to a confidentiality agreement, or that the labor organization or

trust is otherwise prohibited by law from disclosing; and,

- Information in those situations where disclosure would endanger the health or safety of an individual.

In Item 25 (Additional Information), the labor organization must identify each schedule from which any itemized receipts or disbursements were excluded because of an asserted legitimate interest in confidentiality. The notation must describe the general types of information that were omitted from the schedule, but the name of the payer/payee, date, and amount of the transaction(s) is not required.

A labor organization member, however, has the statutory right "to examine any books, records, and accounts necessary to verify" the financial report if the member can establish "just cause" for access to the information. 29 U.S.C. 431(c); 29 CFR 403.8. Any exclusion of itemized receipts or disbursements from Schedules 1 or 2 would constitute a *per se* demonstration of "just cause" for purposes of this Act. Consequently, any labor organization member (and the Department), upon request, has the right to review the undisclosed information in the labor organization's possession at the time of the request that otherwise would have appeared in the applicable schedule if the information is withheld in order to protect confidentiality interests. The labor organization also must make a good faith effort to obtain additional information from the trust.

Information that is withheld from full disclosure is not subject to the *per se* disclosure rule if its disclosure would consist of individually identifiable health information the trust is required to protect under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Regulation, violate state or federal law, violate a non-disclosure provision of a settlement agreement, or endanger the health or safety of an individual.

***NOTE:*** *Under no circumstances should a filer disclose the identity of the recipient of HIPAA-related payments. Likewise, a filer should not disclose the identity of the recipient of any payment where doing so would violate federal or state law, would violate a non-disclosure provision of a settlement agreement, or would endanger the health or safety of an individual. Filers should not include social security or bank account numbers in completing the form.*

**SCHEDULE 3 — DISBURSEMENTS TO OFFICERS AND EMPLOYEES OF THE TRUST**

List the names and titles of all officers of the trust, whether or not any salary or disbursements were made to them or on their behalf by the trust. Report all direct and indirect disbursements to all officers of the trust and to all employees of the trust who received more than $10,000 in gross salaries, allowances, and other direct and indirect disbursements from the trust during the reporting period. Benefit payments made to an officer or employee of the trust as a plan participant or beneficiary should not be reported as a payment to a particular individual if the detailed basis on which such payments are to be made is specified in a written agreement. Any such payments, instead, should be included in the total disbursements in Item 24. If no direct or indirect disbursements were made to any officer of the trust enter 0 in Columns (B) through (F) opposite the officer's name.

For purposes of completing the Form T-1,

- An "officer of the trust" means any person designated as an officer in the trust's governing documents, any person authorized to perform the executive functions of the trust, and any member of its executive board or similar governing body.

- An "employee of the trust" means any individual employed by the trust.

These definitions will require a fact-specific inquiry by filers to determine whether trustees, the trust administrator, and other

individuals performing service to the trust under its control or the trust administrator's control are officers or employees of the trust.

Continuation pages can be generated if needed by clicking on the "Add More Disbursements To Officers Of Trust" button located at the top of Schedule 3.

***NOTE:*** *A "direct disbursement" to an officer or employee is a payment made by the trust to the officer or employee in the form of cash, property, goods, services, or other things of value.*

*An "indirect disbursement" to an officer or employee is a payment made by the trust to another party for cash, property, goods, services, or other things of value received by or on behalf of the officer or employee. "On behalf of the officer or employee" means received by a party other than the officer or employee of the trust for the personal interest or benefit of the officer or employee. Such payments include payments made by the trust for charges on an account of the trust for credit extended to or purchases by, or on behalf of, the officer or employee.*

**Column (A):** Enter in Column (A) the last name, first name, and middle initial of each person who was either (1) an officer of the trust at any time during the reporting period or (2) an employee of the trust who received $10,000 or more in total disbursements from the trust during the reporting period. Also enter the title or the position held by each officer or employee listed. If an officer or employee held more than one position during the reporting period, in Item 25 (Additional Information) list each position and the dates during which the person held the position.

**Column (B):** Enter the gross salary of the officer or employee (before tax withholdings and other payroll deductions). Include disbursements by the trust for "lost time" or time devoted to trust activities.

**Column (C):** Enter the total allowances made by direct and indirect disbursements to the officer or employee on a daily, weekly, monthly, or other periodic basis. Do not include allowances paid on the basis of mileage or meals which must be reported in Column (D) or (E), as applicable.

**Column (D):** Enter all direct and indirect disbursements to the officer or employee that were necessary for conducting official business of the trust, except salaries or allowances which must be reported in Columns (B) and (C), respectively.

Examples of disbursements to be reported in Column (D) include: all expenses that were reimbursed directly to an officer or employee, meal allowances and mileage allowances, expenses for officers' or employees' meals and entertainment, and various goods and services furnished to officers or employees but charged to the trust. Such disbursements should be included in Column (D) only if they were necessary for conducting official business; otherwise, report them in Column (E). Include in Column (D) travel advances that meet the following conditions:

- The amount of an advance for a specific trip does not exceed the amount of expenses reasonably expected to be incurred for official travel in the near future, and the amount of the advance is fully repaid or fully accounted for by vouchers or paid receipts within 30 days after the completion or cancellation of the travel.
- The amount of a standing advance to an officer or employee who must frequently travel on official business does not unreasonably exceed the average monthly travel expenses for which the individual is separately reimbursed after submission of vouchers or paid receipts, and the individual does not exceed 60 days without engaging in official travel.

Do not report the following disbursements in Schedule 3, but they should be reported in Schedule 2 if they meet the definition of a major disbursement:

- Payments to individuals, other than officers and employees of

the trust, who perform work or service for the trust;

- Reimbursements to an officer or employee for the purchase of investments or fixed assets, such as reimbursing an officer or employee for a file cabinet purchased for office use;

- Indirect disbursements for temporary lodging (room rent charges only) or transportation by public carrier necessary for conducting official business while the officer or employee is in travel status away from his or her home and principal place of employment with the trust if payment is made by the trust directly to the provider or through a credit arrangement;

- Disbursements made by the trust to someone other than an officer or employee as a result of transactions arranged by an officer or employee in which property, goods, services, or other things of value were received by or on behalf of the trust rather than the officer or employee, such as rental of offices and meeting rooms, purchase of office supplies, refreshments and other expenses of meetings, and food and refreshments for the entertainment of groups other than the officers or employees on official business;

- Office supplies, equipment, and facilities furnished to officers or employees by the trust for use in conducting official business; and

- Maintenance and operating costs of the trust's assets, including buildings, office furniture, and office equipment; however, see "Special Rules for Automobiles" below.

**Column (E):** Enter all other direct and indirect disbursements to the officer or employee. Include all disbursements for which cash, property, goods, services, or other things of value were received by or on behalf of each officer or employee and were essentially for the personal benefit of the officer or employee and not necessary for conducting official business of the trust. Benefits payments to the trust officers and employees are not of the type required to be reported in Schedule 3 if the detailed basis on which such payments are to be made is specified in a written specific trust agreement.

Include in Column (E) all disbursements for transportation by public carrier between the officer or employee's home and place of employment or for other transportation not involving the conduct of official business. Also, include the operating and maintenance costs of all the trust's assets (automobiles, etc.) furnished to the officer or employee essentially for the officer or employee's personal use rather than for use in conducting official business.

**Column (F):** The software will add Columns (B) through (E) of each line and enter the totals in Column (F).

The software will enter on Line 10 the totals from any continuation pages for Schedule 3.

The software will enter on Line 11 the totals of Lines 1 through 10 for Columns (B) through (F).

## SPECIAL RULES FOR AUTOMOBILES

Include in Column (E) of Schedule 3 that portion of the operating and maintenance costs of any automobile owned or leased by the trust to the extent that the use was for the personal benefit of the officer or employee to whom it was assigned. This portion may be computed on the basis of the mileage driven on official business compared with the mileage for personal use. The portion not included in Column (E) must be reported in Column (D).

Alternatively, rather than allocating these operating and maintenance costs between Columns (D) and (E), if 50% or more of the officer or employee's use of the vehicle was for official business, the trust may enter in Column (D) all disbursements relative to that vehicle with an explanation in Item 25 (Additional

Information) indicating that the vehicle was also used part of the time for personal business. Likewise, if less than 50% of the officer or employee's use of the vehicle was for official business, the trust may report all disbursements relative to the vehicle in Column (E) with an explanation in Item 25 indicating that the vehicle was also used part of the time on official business.

The amount of decrease in the market value of an automobile used over 50% of the time for the personal benefit of an officer or employee must also be reported in Item 25.

## ADDITIONAL INFORMATION AND SIGNATURES

**25. ADDITIONAL INFORMATION —** Use Item 25 to provide additional information as indicated on Form T-1 and in these instructions. Enter the number of the item to which the information relates in the Item Number column if the software has not entered the number.

**26-27. SIGNATURES —** Before entering the date and signing the form, enter the telephone number at which the signatories conduct official business.

The completed Form T-1 that is filed with OLMS must be signed by both the president and treasurer, or corresponding principal officers, of the labor organization. If an officer other than the president or treasurer performs the duties of the principal executive or principal financial officer, the other officer may sign the report. If an officer other than the president or treasurer signs the report, enter the correct title in the title field next to the signature and explain in Item 25 (Additional Information) why the president or treasurer did not sign the report.

Before signing the form, enter the telephone number at which the signatories conduct official business and the date. Click the Validate button at the top of the form to ensure that the report passes validation.

To sign the form, click the signature spaces provided. Fill in the requested information in the screen that pops up.

## IX. TRUSTS THAT HAVE CEASED TO EXIST

If a trust has gone out of existence as a trust in which a labor organization is interested, the president and treasurer of the labor organization must file a terminal financial report for the period from the beginning of the trust's fiscal year to the date of termination. A terminal financial report must be filed if the trust has gone out of business by disbanding, merging into another organization, or being merged and consolidated with one or more trusts to form a new trust. Similarly, if a trust in which a labor organization previously was interested continues to exist, but the labor organization's interest terminates, the labor organization must file a terminal financial report for that trust.

The terminal financial report must be filed electronically with OLMS, via EFS, within 30 days after the date of termination.

To complete a terminal report on Form T-1, follow the instructions in Section VIII and, in addition:

- Enter the date the trust, or the labor organization's interest in the trust, ceased to exist in Item 2 after the word "Through."
- Select Item 3(c) indicating that the trust, or the labor organization's interest in the trust, ceased to exist during the reporting period and that this is the terminal Form T-1 for the trust from the labor organization.
- Enter "3(c)" in the Item Number column in Item 25 (Additional Information) and provide a detailed statement of the reason the trust, or the labor organization's interest in the trust, ceased to exist. If the trust ceased to exist, also report in Item 25 plans for the disposition of the trust's cash and other assets, if any. Provide the name and address of the person or organization

that will retain the records of the terminated organization. If the trust merged with another trust, report that organization's name and address.

Contact the nearest OLMS field office listed below if you have questions about filing a terminal report.

## *If You Need Assistance*

The Office of Labor-Management Standards has field offices located in the following cities to assist you if you have any questions concerning LMRDA and CSRA reporting requirements.

Atlanta, GA
Birmingham, AL
Boston, MA
Buffalo, NY
Chicago, IL
Cincinnati, OH
Cleveland, OH
Dallas, TX
Denver, CO
Detroit, MI
Grand Rapids, MI
Guaynabo, PR
Honolulu, HI
Houston, TX
Kansas City, MO
Los Angeles, CA
Miami (Ft. Lauderdale), FL
Milwaukee, WI
Minneapolis, MN
Nashville, TN
New Haven, CT
New Orleans, LA
New York, NY
Newark (Iselin), NJ
Philadelphia, PA
Pittsburgh, PA
St. Louis, MO
San Francisco, CA
Seattle, WA
Tampa, FL
Washington, DC

Consult the OLMS Web site listed below or local telephone directory listings under United States Government, Labor Department, Office of Labor-Management Standards, for the address and telephone number of the nearest field office.

Copies of labor organization annual financial reports, labor organization officer and employee reports, employer reports, and labor relations consultant reports filed for the year 2000 and after can be viewed and printed at http://www.unionreports.gov. Copies of reports for the year 1999 and earlier can be ordered through the Web site.

Information about OLMS, including key personnel and telephone numbers, compliance assistance materials, the text of the LMRDA, and related Federal Register and Code of Federal Regulations documents, is also available at:

**http://www.olms.dol.gov**

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